

**Town of Kiawah Island Zoning Ordinance Amendment Request**  
**Case AZO25-000002 History**

**Planning Commission Meeting: March 5, 2025**  
**Public Hearing and First Reading:**  
**Second Reading:**

**CASE INFORMATION**

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to modify Section 12-160. Development Agreements.

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-160. Development Agreements is to clearly outline the review procedure for development agreements allowing for a pre-application meeting with applicants to review these requirements, a Planning Commission workshop to allow for discussion and feedback prior to a formal Planning Commission review and recommendation to Town Council. State Development Agreement Act requires that Town Council hold two public hearings prior to voting on the proposed Development Agreement. In addition, this amendment outlines approval criteria and definition and process to address major and minor modifications to the agreement.

**RECOMMENDATION BY THE PLANNING COMMISSION**

Pursuant to §12-158(3) of the *Land Use Planning and Zoning Ordinance* "The Planning Commission shall review the proposed text amendment and/or zoning map amendment and take action, recommending that the Town Council approve or deny the proposed amendment. The Planning Commission may hold a public hearing in accordance with the procedures in section 12-156. The Planning Commission's recommendation shall be based on the approval criteria of subsection (6) of this section. The Planning Commission shall submit its recommendation to the Town Council within 30 working days of the Planning Commission meeting at which the amendment was introduced. A simple majority vote of Planning Commission members present, and voting shall be required to approve the amendment."

**DECISION ON AMENDMENT BY THE TOWN COUNCIL**

Pursuant to §12-158(5) of the *Land Use Planning and Zoning Ordinance* "After receiving the recommendation of the Planning Commission, the Town Council shall hold one or more public hearings, and any time after the close of the public hearing, take action to approve, approve with modifications, or deny the proposed amendment based on the approval criteria of subsection (6) of this section. A simple majority vote of Town Council members present, and voting shall be required to approve the amendment. Zoning map amendments shall not be approved with conditions. Prior to action on a proposed code text amendment, the Town Council may, in the exercise of its legislative discretion, invoke the "pending ordinance doctrine" by ordinance so that no building permits shall be issued for structures which would be affected by the proposed amendment until the Town Council has rendered its decision on the proposed amendment.

**APPROVAL CRITERIA**

Pursuant to §12-158(6) of the *Land Use Planning and Zoning Ordinance*, (6) Approval criteria. Text and zoning map amendments to the ordinance may be approved if the following approval criteria have been met:

- a. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;
- b. The proposed amendment is consistent with the purposes and intent of this article;

- c. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;
- d. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.

**Planning staff finds the proposed amendment satisfies the approval criteria pursuant to §12-158(6) and recommends approval.**

**PLANNING COMMISSION MEETING FEBRUARY 5, 2025**

Notifications: Notice of this meeting has been published and posted in accordance with the Freedom of Information Act and the requirements of the Town of Kiawah Island.

**PLANNING STAFF REVIEW**

A clear process for review, approval and administration of Development Agreements is critical to encourage a developer to make a major capital facilities investment commitment based on comprehensive long term planning. Further, it ensures the adequate provision of public facilities for development, encourages the efficient use of resources and potentially reduces the economic cost of development.

The proposed development agreement procedure includes a pre-application meeting with the Planning Director to discuss the review and approval process for Development Agreements as outlined in the ordinance.

A formal submittal will be reviewed by the Planning Director for completeness and a Planning Commission Workshop is scheduled to allow the proposed agreement to be discussed and the Planning Commission provide feedback without taking any action. A formal presentation is then scheduled for review and recommendation by the Planning Commission.

After receiving the Planning Commission recommendation, Town Council shall hold at least two public hearings prior to voting on the approval of the proposed Development Agreement. The proposed ordinance also provides consistent approval criteria for which Town Council shall render a decision.

The proposed ordinance clarifies that all major modifications to the Development Agreement must have Planning Commission provide a review and recommendation to Town Council prior to being approved by Town Council. Where minor modifications for the purposes which do not impact development standards or term period of the development agreement and are ministerial may be approved by Town Council without Planning Commission review and recommendation.

**TOWN COUNCIL MEETING PUBLIC HEARING TO BE SCHEDULED**

## Sec. 12-160. Development agreements.

The purpose and intent of the development agreement process encourages a developer to make a major capital facilities investment commitment based on comprehensive long term planning. Further, it ensures the adequate provision of public facilities for development, encourages the efficient use of resources, and potentially reduces the economic cost of development.

(1) *Minimum requirements.*

- a. The Town of Kiawah Island may enter into a development agreement with a developer pursuant to the South Carolina Local Government Development Agreement Act of 1993, as amended, provided that the property contains a minimum of 25 acres or more of highland and the development will have a maximum build-out time as shown in the following table:

Acres of Highland	Maximum Years to Complete Development
25—250	5
251—1,000	10
1,001—2,000	20
2,001+	Negotiable

- b. Each development agreement must be approved by the Town of Kiawah Island through the adoption of an ordinance after complying with all of the provisions contained in the South Carolina Local Government Development Agreement Act of 1993, as amended.

(2) *Contents of agreement.* Development agreements must include the following:

- a. *Description and owners.* A legal description of the property and names of legal and equitable owners.
- b. *Duration.* Development must be projected to take place over a period authorized by subsection (1) of this section. The termination date may be extended by agreement.
- c. *Uses.* Land uses, including population and building densities and heights.
- d. *Public facilities.* Description of public facilities to serve development; who they will serve and when.
- e. *Dedication.* Reservation or dedication of land for public purposes and environmental protection provisions.
- f. *Permits.* A description of all local development permits needed or approved. A statement shall be included that failure to list a permit does not relieve the developer from complying with the law.
- g. *Comprehensive plan.* A statement that the development is consistent with the Town of Kiawah Island Comprehensive Plan and this chapter.
- h. *Conditions.* Conditions, terms, restrictions or requirements necessary for public health, safety or welfare.
- i. *Historic preservation.* Description of provisions for preservation and restoration of historic structures.
- j. *Time.* Specific time for completion of development or any other phase.

k. *Responsible government.* If more than one local government is a party to the agreement, the local government responsible for overall administration of the agreement shall be specified.

l. *Review Period.* A time period no less than every twelve months from the approved date when the applicant shall submit to the Town a formal letter of compliance to the terms of the agreement.

l.m. *Other matters.* Include any other matter not inconsistent with the law. A provision shall be included for application of new laws.

~~(3) *Amendment.* Development agreements may be amended or terminated by consent of the parties involved.~~

~~(3) *Development Agreement Procedure.*~~

a. *Pre-application meeting.* Before submitting a Development Agreement, the applicant shall confer with the Planning Director and any other officials designated by the Planning Director. The purpose of this pre-application meeting is to discuss the proposed development agreement review and approval procedures.

b. *Formal submittal.* Upon receiving input from staff at the pre-application meeting, the applicant shall submit the development agreement and the required submittal materials where the Planning Director will review the submission for completeness.

c. *Development Agreement Planning Commission Workshop.* Development Agreement applicants shall present the Development Agreement to the Planning Commission for discussion and feedback purposes only and no action shall be taken at the workshop.

(i) At least 10 business days prior to the Planning Commission Workshop the applicant shall submit the proposed development agreement.

(ii) The Planning Director may also recommend additional workshops, as necessary before a formal application is to be considered by the Planning Commission.

~~(4) *d. Planning Commission review and recommendation.* The Planning Commission shall review the proposed development agreements for consistency with the comprehensive plan and this article and shall make a recommendation to Town Council to approve, approve with conditions or deny the proposed development agreement. -The Planning Commission shall submit its recommendations to the Town Council within 30 calendar days of the Planning Commission meeting at which the development agreement was formally introduced.~~

~~(5) *e. Public hearings required.* After receiving the recommendation of the Planning Commission, -The Town Council shall hold at least two public hearings. The Planning Commission may be authorized to conduct the hearings. The time and place of the second hearing shall be announced at the first hearing.~~

~~(6) *f. Public hearing notice.* Published, personal, and parties in interest notice of the public hearings shall be provided in accordance with the requirements of section 12-156. The published notice shall state the location of the property, proposed uses, and where copies of the agreement may be obtained.~~

~~(4) *Approval Criteria.* Development Agreements approval may be approved only if the Town Council determines the following criteria are met:~~

a. The development agreement complies with the standards contained in this article;

b. The development agreement is consistent with the comprehensive plan and other policy documents

c. The Town and other applicable agencies will be able to provide necessary public services, facilities and programs.

Town Council will also consider:

- a. The potential impact on health, safety and general welfare of the public;
- b. The potential adverse impact on the natural environment, including air, water, noise, stormwater management, wildlife and vegetation;
- c. The potential adverse impact on existing infrastructure including potential cost of construction, land acquisition or any other necessary infrastructure improvements.
- d. Any other factors that the Town Council deems appropriate to consider.

~~(57)~~ *Decision on development agreement by Town Council.* A simple majority vote of Town Council members present and voting shall be required to approve the development agreement. Each development agreement shall be approved by adoption of an ordinance.

~~(6)~~ All major modifications to the Development Agreement must have Planning Commission provide a review and recommendation to Town Council and must be approved by Town Council by a simple majority vote. Any modification to the development standards (use standards, setbacks, buffers, building heights, lot coverage, etc.) or development schedule or term period -outlined in the development agreement would be considered a major modification. Items which are clerical or ministerial in nature are considered minor modification to the Development Agreement and may be reviewed and approved by the Town Council by a simple majority vote without review and recommendation of the Planning Commission. -The Planning Director and legal counsel shall determine whether a proposed modification to the previously approved Development Agreement is considered a minor or major modification.

~~(7)~~ Amendment. Development agreements may be amended or terminated by consent of the parties involved.

(8) *Recording development agreements.* Development agreements shall be recorded in the land records of Charleston County within 14 days after the execution of the agreement.

(9) *Required review of development agreement.* Each development agreement shall be reviewed one time at least every 12 months by the Planning Director.

(10) *Compliance with State and Federal Laws.* Development agreement provisions shall be modified or suspended to comply with State and/or Federal Laws enacted after the agreement is executed.

(Code 1993, § 12A-506; Ord. No. 2005-08, § 12A-506, 10-12-2005)