

TOWN OF KIAWAH ISLAND

ORDINANCE 2024-01

**AN ORDINANCE TO AMEND CHAPTER 12 - LAND USE PLANNING AND ZONING
ORDINANCE TO ESTABLISH TREE PRESERVATION AND LANDSCAPING STANDARDS.**

WHEREAS, the Town of Kiawah Island Municipal Code currently contains *Chapter 12 - Land Use Planning and Zoning*; and

WHEREAS, the Town of Kiawah Island now finds that, upon further review, it is in the public interest to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to establish landscape and tree preservation standards; and

WHEREAS, the Town of Kiawah Island desires to provide tree preservation and landscaping standards in order to consistently preserve and enhance Kiawah’s natural environment and to assure the continuance of significant trees and forests for present and future generations; and

WHEREAS, the text amendment would be consistent with the purposes and intent of the adopted Comprehensive Plan and would not be detrimental to the public health, safety, and welfare of the Town of Kiawah Island; and

WHEREAS, the Planning Commission held a meeting on December 6, 2023 at which time a presentation was made by staff, and an opportunity was given for the public to comment on the text amendment request; and

WHEREAS, the Planning Commission, after consideration of the staff report, subsequently voted to recommend to Town Council that the proposed amendment be approved; and

WHEREAS, Town Council held a Public Hearing on January 10, 2024 and February 6, 2024 providing the public an opportunity to comment on the proposed amendment.

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY THE AUTHORITY OF SAID COUNCIL.

Section 1 Purpose

The purpose of this Ordinance is to amend Chapter 12 - Land Use Planning and Zoning Ordinance to establish Landscape and Tree Preservation Standards for the Town of Kiawah Island.

Section 2 Ordinance

- (1) The Town hereby establishes Section 12-129. Tree Preservation and Landscaping Standards as shown in the attached **“Exhibit A”**.
- (2) The Town hereby amends Section 12-162. Site Plan Review as shown in the attached **“Exhibit B”**.
- (3) The Town hereby amends Section 12-165. Zoning Permits as shown in the attached **“Exhibit C”**.

(4) The Town hereby amends Section 12-374. Definitions as shown in the attached "**Exhibit D**".

(5) The Town hereby establishes Section 12-24.1 Landscape and Tree Preservation Board as shown in the attached "**Exhibit E**".

Section 3 **Severability**

If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance, or any provisions thereof, is held to be inapplicable to any person, group of persons, property, kind property, circumstances or set of circumstances, such holding shall not affect the circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property, or circumstances.

Section 4 **Effective Date and Duration**

This Ordinance shall be effective upon its enactment by Town Council for the Town of Kiawah Island.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS ___ DAY OF _____, 2024.

John Labriola, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading:

2nd Reading:

Town of Kiawah Island Zoning Ordinance Amendment Request Case AZO23-000004 History

Planning Commission Meeting: December 6, 2023
Public Hearing and First Reading: January 10, 2024
2nd Public Hearing and First Reading February 6, 2024
Second Reading: March 5, 2024

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 establish tree preservation and landscaping standards. The purpose of the proposed amendments is to provide tree preservation and landscaping standards for all properties within the Town of Kiawah Island's municipal boundaries in order to consistently preserve and enhance Kiawah's natural environment and to protect significant trees and forests for present and future generations. The proper care of trees, shrubs and other landscape plants is important to the implementation of this ordinance. It is the expectation that property owners, tree care professionals and design professionals utilize industry best practices in providing the proper care of trees for the overall health of the environment.

The Planning Commission began this process by establishing a subcommittee to focus on formalizing tree preservation standards for the Town of Kiawah Island. The Tree Preservation Subcommittee set a priority to focus on tree preservation standards for Phase One with the intent to also develop landscape standards in the next phase of this proposed ordinance.

The proposed ordinance format, structure and factors considered were reviewed based on issues relevant to the Kiawah community as existing tree preservation community concerns, overall permitting process, staff resources, implementation of the ordinance and the development process timeline. Additionally, Kiawah's Grow Native program was an important factor considered to help promote native species benefiting Kiawah's wildlife.

Key Factors of the Proposed Ordinance:

The proposed ordinance:

- a) Introduces tree preservation standards with mitigation standards for tree removal for the Town of Kiawah Island. This grants the Town the ability to administer tree removal. This does not prevent or excludes the rights for the KIARB to continue to administer tree removal under their guidelines. A property owner would need to also comply with the Town's standards now.
- b) Is principally applicable to all developments excluding single-family residential developments. Through the process of developing the draft ordinance for recommendation, the Planning Commission responded to concerns and admiration of the current review process specifically for single family residential. However, this is with the intent that the Town will determine the appropriate time if and when in the future, single-family residential developments would also need to comply with the ordinance.
- c) Is folded into the current Site Plan Review Process where a Tree Survey, Tree Preservation Plan and or Landscape Plan would be submitted along with site package for development for review.
- d) Exempts routine tree maintenance / pruning. The ordinance would not restrict routine maintenance of trees. The proposed ordinance intent does include the proper care for trees.

- e) Introduces a Landscape and Tree Preservation Board for additional layer of review and mechanism for relief from standards if needed.
- f) Aims to avoid duplication of processes to not significantly impact permitting/construction timeline resulting in delay.
- g) Defines additional key terms related to trees.
- h) Promotes Kiawah's Grow Native initiative.

As part of the process, the subcommittee met early on with Jim Jordan, TOKI Wildlife Biologist, to better understand Kiawah's Grow Native, Wildlife and Invasive species. *Designing with Nature* and various jurisdictions tree preservation ordinances were reviewed for understanding and compatibility.

An ordinance implication analysis was conducted several times prior to the Planning Commission's recommendation. This analysis was completed with Jennifer Hayes, Kiawah Island Architectural Review Board's Landscape Coordinator. This analysis allowed the Planning Commission to understand implications of the ordinance if the proposed ordinance became effective, as well as ensure a goal that the proposed ordinance not become more restrictive than the KIARB.

Design Community Input: Town staff held multiple workshops to present the proposed amendments. All landscape architects, architects, tree care and lawn maintenance companies and builders with a valid Town of Kiawah Island business license were notified of the workshops. Public workshops were held on November 8, 2023, November 18, 2023 and November 29, 2023. The workshops provided a dialogue medium for the design community to express concerns and make suggestions to improve the proposed ordinance.

Town staff has held multiple workshops to present the proposed amendments. All landscape architects, architects, lawn maintenance companies and builders with a valid Town of Kiawah Island business license were notified of the workshops. Public workshops were held on November 8, 2023, November 18, 2023 and November 29, 2023. Public comments received are included in the supplementary packet of materials.

Please see exhibits attached for the proposed language of the requested amendment. These include:
 (Sec. 12-129. *Tree Preservation and Landscape Standards*) *new section
 (Sec. 12-24.1 *Landscape and Tree Preservation Board*) *new section
 (Sec. 12-162. *Site Plan Review*) *amended section.
 (Sec. 12-165. *Zoning Permits*) *amended section.
 (Sec. 12-374. *Definitions*) *amended section.

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 AND APPLICANT'S RESPONSE

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;

The proposed amendment is consistent with the purposes and intent of the Town's Comprehensive Plan, where the proposed amendment aims to *"complete the Island's development in a way that maintains the Island's environmental integrity and natural beauty"* and *"maintains the existing quality of the natural resources on Kiawah Island."*

b. The proposed amendment is consistent with the purposes and intent of this article;

The proposed amendment is consistent with the purpose and intent of the Land Use Planning and Zoning Ordinance. The proposed amendment considers the conservation of land and building values, promotes desirable living, and implements land use policies that will preserve the natural character of the Town as outlined within this article.

c. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;

The proposed amendment acknowledges the many benefits of trees for the environment. The proposed amendment furthers the general health, safety and welfare of the Town of Kiawah Island by establishing tree removal and mitigation standards for the Town's development review process.

d. The proposed amendment corrects an error or inconsistency or meets the challenge of a changed condition.

The Town does not currently have a tree preservation ordinance. Historically the Town has relied on the Kiawah Island Architectural Review Board for tree removal. The proposed text amendment establishes minimum tree removal and mitigation standards for the Town to administer, providing the Town of Kiawah greater oversight to how trees are preserved. As many communities do, the Town at this time finds it critical to incorporate tree preservation standards. The application of this proposed ordinance helps meet a challenge to have required minimum tree removal standards on Kiawah independent of any other review entity.

PLANNING COMMISSION MEETING

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.

On December 6, 2023, the Planning Commission recommended approval of the proposed zoning text amendments. The proposed ordinances were recommended approval with the following votes:

(Sec. 12-129. Tree Preservation and Landscape Standards) recommended approval by a vote of 6-1.

(Sec. 12-24.1 Landscape and Tree Preservation Board) recommended approval by a vote of 7-0.

(Sec. 12-162. Site Plan Review) recommended approval by a vote of 7-0.

(Sec. 12-165. Zoning Permits) recommended approval by a vote of 6-1.

(Sec. 12-374. Definitions) **recommended approval by a vote of 7-0**

Along with the recommendation, the Planning Commission discussed understanding the implications of the next iteration of a review body for architectural standards on Kiawah Island on how it may or may not influence future town standards. The Planning Commission also discussed and highlighted the importance of adequate resources in staff to ensure implementation of the proposed ordinance.

Upon adoption, Planning department would host an open house to review the ordinance with design professionals and property owners.

Additional steps include developing a formal charter and establishing rules of procedure for the recommended Tree Preservation Board.

TOWN COUNCIL MEETING

Upon public hearing and first reading held on January 10, 2024, Town Council directed staff to make revisions to the proposed ordinance. As a result of substantial revisions to the ordinance, a second public hearing and First Reading has been scheduled for February 6, 2024.

The ordinance as revised mostly applies to non-single-family developments. With the revisions, single family residential is not entirely exempt. The removal of any Grand Tree would apply to single-family residential projects. In determining the phased approach of applicability to single-family residential development, planning staff recommends these components to the applicability of the ordinance to single-family residential developments be considered:

- The structure and review procedures of the Kiawah Island Architectural Review Board be solidified, to ensure processes are best aligned and does not create unintended consequences to the overall development process.
- Phase II of incorporated landscape standards are drafted and adopted. Tree preservation and landscape standards impact the overall timeline for the design process. This allows a trial period of the current ordinance which focuses on tree preservation to be properly evaluated with design teams.
- Ordinance effective date must align with establishment and training of newly established Landscape and Tree Preservation Board.

Next Steps:

The Planning Department will prepare for Phase II which focuses on incorporating landscape standards. A subcommittee of the PC will focus on ensuring the framework and drafted language is compatible to Kiawah standards and the intent aligns with the purpose and intent of the new tree preservation standards similarly to the foundation of Phase I. The review of landscaping standards is also incorporated within the department's proposed RFP scope to ensure consistency across the code.

Planning staff will schedule an open house with the community including design teams and property owners upon adoption to share the ordinance and new standards.

Formally establish Charter and Rules of Procedure for recommended Landscape and Tree Preservation Board which will be drafted for approval with Town Council 2nd and Final Reading.

Modify Planning Fee Schedule to incorporate applicable application fee and fines.

Advertisement, recruitment and training of TPB membership will need to occur prior to effective date of the ordinance.

Town of Kiawah Island

Town of Kiawah Island Municipal Center
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455

February 6, 2024



LANDSCAPE & TREE PRESERVATION

Why does the Town seek to establish a comprehensive landscape and tree preservation ordinance?

Kiawah's identity has been built on a concept of designing with nature. This represents an embrace of wildlife and nature and the idea that the built environment is truly balanced to the unbuilt environment. In application of this designing with nature concept, Kiawah as a community has historically relied on the Kiawah Island Architectural Review Board to fulfill and administer landscape and tree preservation standards and guidelines as much of Kiawah Island properties are subject to private covenant restrictions. The robust guidelines and standards of the Kiawah Island Architectural Review Board "Designing With Nature" are far more extensive than the minimal standards within the Town's current Land Use Planning and Zoning Ordinance, and they are far more restrictive than most standards within other communities. Holistically, this has resulted in a standard that many communities envy Kiawah by which developments are generally nestled within lush vegetation and magnificent landscapes.

As Kiawah continues to grow and mature, the strategies in which landscape and tree preservation guidelines and standards are deployed must also mature or evolve to ensure the concept of designing with nature is not compromised and that this concept is sustained as part the identity of Kiawah.

As we understand conditions are ever-changing, one of the most significant conditions of change is the sunseting of the long term executed development agreement with the master developer. With the Town not having its own comprehensive landscape and tree preservation ordinance that it administers; this creates an opportunity for the Town to cement new strategies and standards in Kiawah's next phase of ensuring designing with nature as a concept is sustained for generations.

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Who can develop landscape and tree preservation standards?

The Planning Commission has the power and duty to prepare and recommend for adoption to Town Council the following to implement plans and programs within the Town:

- a. A zoning ordinance that includes zoning district maps and appropriate revisions thereof;
- b. Regulations for the subdivision or development of land and appropriate revisions thereof, and to oversee the administration of the regulations that are adopted by Town Council;
- c. An official map and appropriate revision of it showing the exact location of existing or proposed public streets, highways, and utility rights-of-way, and public building sites; regulations to control the erection of buildings or other structures; changes in land use within rights-of-way, building sites, or open spaces within the Town or specified areas within the Town;
- d. **A landscaping ordinance setting forth required planting, tree preservation, and other aesthetic considerations for land and structures;**
- e. A capital improvements program setting forth projects required to implement plans which have been prepared and adopted, including an annual listing of priority projects for consideration by the Town Council or other governmental bodies responsible for implementation prior to preparation of their capital budget; and
- f. Policies or procedures to facilitate implementation of planning elements.

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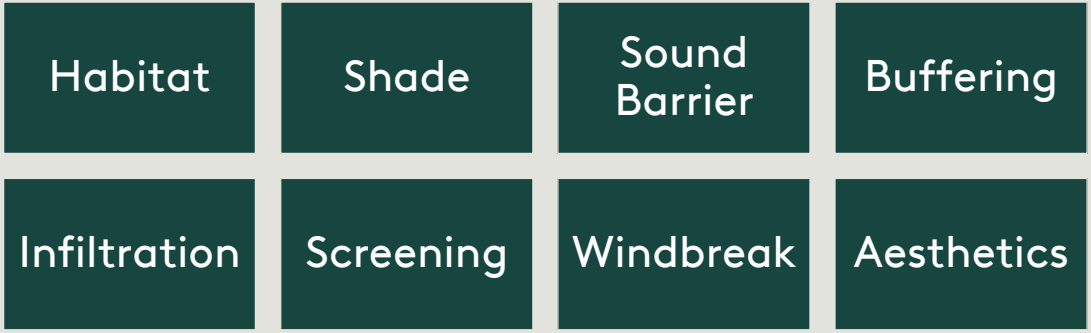
Are there standards the Town currently administers?

The Town does not have a comprehensive landscape or tree preservation ordinance. However, there are standards which express some landscape or tree preservation elements for Kiawah.

- Sec. 12-104. - Accessory uses, buildings/structures.
- Sec. 12-127. - Compatibility buffering standards.
- Sec. 12-128. - Access, parking and loading regulations.

Protecting Trees Yields Satisfying Results...

Trees are an essential natural resource, an invaluable economic resource, and a priceless aesthetic resource. Trees play a critical role in purifying air and water, providing wildlife habitat, and enhancing natural drainage of stormwater and sediment control. They also help conserve energy by providing shade and buffering different land uses and beautifying the landscape.





7

What elements might a landscape and tree preservation ordinance consider?

- Landscaping Plant and Tree Types
- Landscape Material Specifications
- Street Trees
- Parking Area Landscapes
- Access and Parking Standards
- Vision Clearance and Sight Distance Visibility
- Site Lighting
- Right of Way Buffers
- Compatibility Buffers Types
- Fencing
- Tree Surveys
- Screening
- Installation, Maintenance and Replacement
- Review Procedure and Inspections
- Tree Replacement
- Tree Removal
- Residential vs Commercial

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8

Factors for Kiawah To Consider During This Process...

- **“Designing with Nature” Existing Standards and Guidelines**
 - There is a blueprint to successful metrics already familiar to the Kiawah landscape and design professionals.
- **Native Plants**
 - Inserting Grow Native elements is an opportunity to advance the Town’s objective of more native plant species.
- **KiawahNext**
 - How might changes with Town’s Comprehensive Plan impact these standards?
- **Applicability to Contrasting Neighborhoods**
 - Neighborhoods across Kiawah are unique. Should this exercise continue to capture the unique elements of landscape when comparing the various neighborhoods and developments on Kiawah?
- **Capacity Building for Review and Enforcement**
 - A new arena of robust landscape and tree preservation standards for the Town require accountability mechanisms. What measures should the Town take to ensure review and enforcement?
- **Standards for Rights of Way**
 - Specific standards can be developed for the main access route onto Kiawah Island as the KIP as well as Beachwalker Drive.

9

9

Getting Started

What is the purpose and intent of this ordinance?

How should the ordinance be structured?

- Tree Removal
- Landscape Standards
- Define Key Terms
- Processes & Application

How will the ordinance changes be memorialized and communicated effectively?

- Land Use Planning and Zoning Ordinance Amendment (New Section)
- Procedural Requirements
- Landscaping Design Guide

Who are the best players to involve?

- Design Teams (LAs, Arborists)
- Kiawah Island Architectural Review Board
- Wildlife Department / Environmental Committee

What additional resources are needed?

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How did we get here?

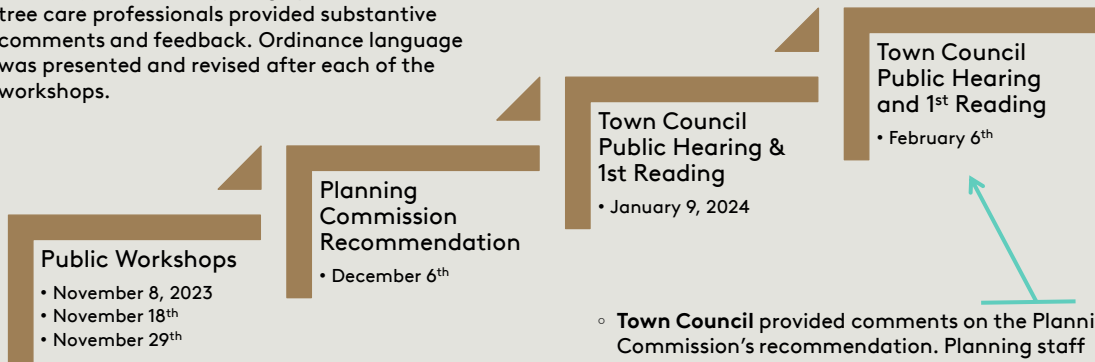
- The Tree Preservation Subcommittee set a priority to focus on tree preservation standards for **Phase One** with the intent also develop landscape standards in the next phase.
- Ordinance format, structure and factors to consider were reviewed based on **issues relevant to the Kiawah community**.
 - Existing tree preservation community concerns, overall permitting process, staff resources, implementation, development timeline, etc.
- **Kiawah Context:** Grow Native, Wildlife, Invasive Species (Jim Jordan, TOKI Wildlife Biologist)
- **Designing with Nature** and various jurisdictions tree preservation ordinances were reviewed for understanding and compatibility.
- **Ordinance Implication Analysis** (Jennifer Hayes, KIARB Landscape Coordinator)
- **Design Community Input**
 - Landscape Architects, Architects, Builders, Arborists, Lawn Maintenance Companies

11

11

Public Meetings

- **Planning Workshops** | Design professionals and tree care professionals provided substantive comments and feedback. Ordinance language was presented and revised after each of the workshops.



- **Town Council** provided comments on the Planning Commission’s recommendation. Planning staff revised the draft ordinance based on received comments. With substantial revisions made the draft ordinance, the public hearing and first reading were readvertised.

12

12

REVIEW DRAFT ORDINANCE LANGUAGE

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What is the purpose?

The purpose of these regulations is to provide tree preservation and landscaping standards for all properties within the Town of Kiawah Island’s municipal boundaries in order to **consistently preserve and enhance Kiawah’s natural environment** and to assure the **continuance of significant and specimen trees and forests** for present and future generations.

The **proper care of trees, shrubs and other landscape plants** is important to the implementation of this ordinance. It is the expectation that property owners, tree care professionals and design professionals **utilize industry best practices** in providing the proper care for the overall health of the trees.

14

14

Key Factors of Proposed Ordinance

- **Introduces tree preservation standards with mitigation standards for tree removal for the Town of Kiawah Island**
- **Applicable to all real property within municipal boundaries, excluding single-family residential developments unless otherwise specifically noted.**
 - This is with the intent that the Town will determine the appropriate time in the future where single-family residential developments would also need to comply.
- **Exempts normal tree maintenance / pruning**
- **Introduces Tree Preservation Board for additional layer of review and mechanism for relief from standards if needed**

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Key Factors of Proposed Ordinance

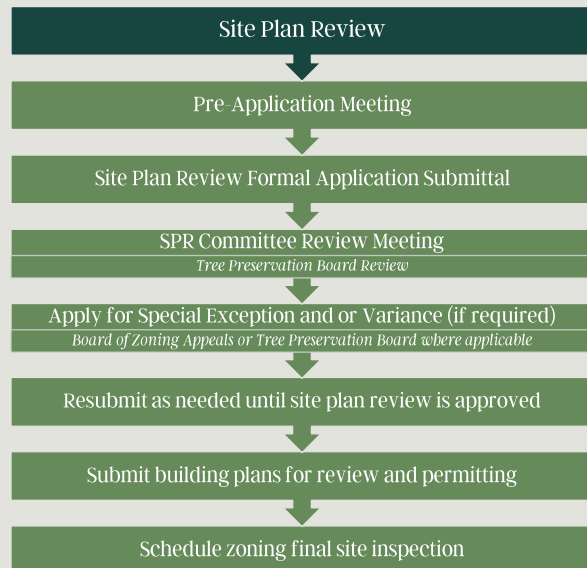
- **Aims to avoid duplication of process**
- **Aims to not significantly impact permitting/construction timeline resulting in delay.**
 - Amended language may result in additional review time, with the incorporation of review Landscape and Tree Preservation Board for approval.
- **Defines additional key terms related to trees**
- **Promotes Kiawah's Grow Native initiative**
- **Folded into current Site Plan Review Process**
 - Tree Survey, Tree Preservation Plan and or Landscape Plan would be submitted along with site package for development, or during submission.

16

16

Tree Removal as part of Site Plan Review

- Tree Survey, Tree Preservation Plan, Landscape document would be an added required document (based on ordinance) to the list of application requirements during the site plan review process.
- If a project requires approval from the Landscape and Tree Preservation Board that would come before issuance of final site plan review approval.



17

17

Planning Commission Recommendation

- **Planning Staff finds the amendment request meets the approval criteria pursuant to §12-158(6) of the *Land Use Planning and Zoning Ordinance. (6) Approval Criteria.***
 - 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.*
- **The Planning Commission on December 6th recommended approval.**

18

18

Case # AZO23-000004:

Zoning Ordinance Text & Map Amendment Applications: Recommendation by the Planning Commission

Section 12-158(3) of the Zoning Ordinance states “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 the Planning Commission members present and voting shall be required to approve the amendment.”**

19

Case # AZO23-000004:

Zoning Ordinance Text and Map Amendment Applications: Decision on Amendment by the Town Council

Section 12-158(5) states “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.”**

20

Considerations for Phased Implementation & Next Steps

- The ordinance as revised mostly applies to non-single-family developments. With the revisions, single family residential is not entirely exempt. The removal of any Grand Tree would apply to single-family residential projects. Staff recommends two critical components to the applicability of the ordinance to single-family residential developments be considered:
 - 1) The structure and review procedures of the Kiawah Island Architectural Review Board be solidified, to ensure processes are best aligned and does not create unintended consequences to the overall development process.
 - 2) Phase II of incorporated landscape standards are drafted and adopted. Tree preservation and landscape standards impact the overall timeline for the design process. This allows a trial period of the current ordinance which focuses on tree preservation to be properly evaluated with design teams.
 - 3) Ordinance effective date must align with establishment and training of newly established Landscape and Tree Preservation Board.
- Prepare for Phase II which focuses on incorporating landscape standards.
 - A subcommittee of the PC will focus on ensuring the framework and drafted language is compatible to Kiawah standards and the intent aligns with the purpose and intent of the new tree preservation standards.
 - Review of landscaping standards is incorporated within proposed RFP scope to ensure consistency across the code.

21

21

Next Steps

- Schedule Open House with community including design teams and property owners upon adoption to share the ordinance and new standards.
- Formally establish Charter and Rules of Procedure for recommended Landscape and Tree Preservation Board. To be drafted for approval with Town Council 2nd and final reading.
- Modify Planning Fee Schedule to incorporate application fee and fines
- Advertisement, recruitment and training of TPB membership.

22

22

Section 12-129. Tree Preservation & Landscaping Standards

Purpose & Intent

The purpose of these regulations is to provide tree preservation and landscaping standards for all properties within the Town of Kiawah Island's municipal boundaries in order to consistently preserve and enhance Kiawah's natural environment and to ~~assure protect the continuance of significant and specimen~~ trees and forests for present and future generations. The proper care of trees, shrubs and other landscape plants is important to the implementation of this ordinance. It is the expectation that property owners, tree care professionals and design professionals utilize industry best practices in providing the proper care ~~of trees~~ for the overall health of the ~~environment~~trees. The intent of these regulations are to:

- a. Preserve the natural character of neighborhoods;
- b. Ensure the health and wellbeing of Kiawah's native trees and maritime forests;
- c. Protect the health and safety of residents;
- d. Protect water quality and minimize stormwater runoff;
- e. Help prevent erosion or flooding;
- f. Promote integrated development with nature to minimize tree loss and environmental degradation;
- g. Establish a minimum standard for tree preservation and mitigation of environmental impacts resulting from tree removal;
- h. Screen noise, dust and glare;
- i. Maintain and or improve aesthetic and property values; and
- j. Promote the planting of native trees and shrubs.
- k. Encourage best practices for proper tree care.

(1) *Applicability & Exemptions.* The provisions of this Article apply to all real property within the municipal limits of the Town of Kiawah Island, ~~excluding~~ single family residential developments, except as otherwise expressly exempted.

- a. The following are exempt from the provisions of this Article:
1. Pruning of trees or shrubs for regular maintenance including dune maintenance
 2. The trimming or removal of trees or vegetation for safe sight distance and visibility within or adjacent to a right of way for pedestrian, bicycle and or vehicular travel.
 3. Routine maintenance as pruning and trimming of trees on golf courses. The removal of Specimen Trees on golf courses shall not be exempt from the provisions of this article.
 4. The removal of trees for emergency work
 5. The removal of invasive tree species as defined within this Article.
 6. Tree work completed by utility companies, electric suppliers, or governmental agencies. This Article shall not restrict utility and electric suppliers from maintaining safe clearance around existing utility equipment, and existing easements in accordance with applicable state laws. The siting and construction of future gas, telephone, communications, electrical lines or other utilities shall be exempt from the provisions of this Article provided that the applicable company, supplier or agency has consulted with the Town and received zoning approval from the Planning Director prior to the commencement of construction or major maintenance projects to develop a strategy to:
 - i. Minimize trimming of Protected Trees that do not substantially interfere with the intended purpose of construction or maintenance;
 - ii. Prioritize the protection of Protected Trees as a factor to be considered in the design process;
 - iii. Specify that trees to be removed from the rights-of-way by electric utilities and other utilities may be required to be replaced by such entity.
 7. Nothing in this article shall be construed to prevent the ordinary trimming and maintenance of trees provided that a permit is obtained if required and such trimming is ~~not~~ so excessive so as to constitute an abuse as described in this section.

(2) *Required Permit.*

- a. No person shall cut down, top, remove, relocate, damage, destroy, or in any manner abuse any ~~protected-Protected T~~tree or ~~Sspecimen T~~tree on any lot or right-of-way unless authorized by the terms of this Article.

- b. The removal of any ~~p~~Protected Tree or ~~S~~specimen Tree on any site prior to the issuance of a Zoning Permit by the Town of Kiawah Island is prohibited. A ~~Z~~zoning ~~P~~permit shall be required for the removal, relocation or destruction of ~~P~~protected Trees or Specimen Trees in accordance with the procedures set out in this Article. Permits for tree removal may be approved when the Planning Director has determined that one or more of the following conditions exist:
1. The tree removal is part of a ~~greater~~ development plan or site plan for which a Tree Preservation Plan prepared by a licensed surveyor, civil engineer, forester, arborist, or landscape architect has been reviewed and approved ~~by the Planning Director~~ pursuant to this Article; or
 2. The tree(s) to be removed has been approved by the Landscape and Tree Preservation Board.
 3. The density of trees is great enough that removal of a tree would be beneficial to the overall area and or health of a ~~protected~~Protected Tree and or an environment as determined by a certified arborist.
 4. Trees that are determined to be causing structural damage to a structure greater than 200 square feet or sidewalks and driveways, where said damage cannot be remedied without removing the tree may be removed as determined by a certified arborist . When there is a question of whether tree removal is necessary, the Planning Director may require documentation from a certified arborist with Tree Risk Assessment Qualifications that said damage cannot be successfully halted through root pruning and the installation of a root barrier while maintaining the structural integrity of the tree.
 5. An approved ~~Z~~zoning ~~P~~permit for tree removal may be ~~issued~~approved with conditions as determined by the Planning Director or Landscape and Tree Preservation Board.

- c. A permit shall not be required for tree(s) to be removed that have been determined to be dead, diseased, irreparably damaged, hazardous, or clearly causing damage to the property or injury to a person in the opinion of a certified arborist or Tree Risk Assessment Qualified (TRAQ) Arborist. ~~if one or more of the following conditions exists, however~~ Notification shall be made to the Town's Planning Department of such condition(s) prior to tree removal:
- ~~1. The tree(s) to be removed is dead, diseased, irreparably damaged, hazardous, or clearly causing damage to the property or injury to a person in the opinion of a certified arborist or Tree Risk Assessment Qualified (TRAQ) Arborist;~~
- 2.1. Notification to the Planning Department should include photos of the subject tree(s) and any supporting documentation to describe the conditions.

(3) *Tree Surveys, Tree Preservation Plans, and Landscape Plans.*

- a. A tree survey showing all existing trees throughout the portion of any site or right-of-way proposed for disturbance and including any area counted as required open space area shall be submitted as part of any site plan for Zoning Permits for new construction, substantial improvements, or renovations; or any preliminary and final subdivision plats in accordance with the requirements below. Tree Survey submittal requirements can be found in *Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements* of this article.
1. Tree surveys shall include the name, phone number, address, signature, and seal of a licensed surveyor, civil engineer, forester, arborist, or landscape architect.
 2. The tree survey must be certified and dated within two (2) years of its submittal.
 3. A topographical and tree survey must be to an architectural or engineers scale and is required to show the legal description of the property, including the following:
 - i. Recorded property lines, easements, and setbacks.

- ii. The topographical contours of the lot, along with spot elevations for existing curbs, the street, and neighboring lot curbing.
 - iii. The location, genus, and species of all oak trees over 3" caliper DBH and other trees more than 6" caliper DBH.
 - iv. Any prominent natural features of the site.
 - v. Adjacent residences with roof heights from mean sea level (MSL), garages, and driveways.
 - vi. Current Ocean and Coastal Resource Management's Certified Critical Line which must be certified with five years of submittal.
 - vii. Utility locations
- b. A Tree Preservation Plan is a plan that shows all trees in the area to be developed or within the property, the trees to be protected or preserved, the measures taken to preserve them and those scheduled to be removed, including dead and damaged trees. Tree Preservation Plans may be required to be submitted to meet the requirements of this Article as specified in Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements.
1. The Tree Preservation Plan will include calculations to determine the number of replacement trees as required by the tree removal, mitigation, and replacement section of this article and a proposed reforestation landscape plan.
 2. The Tree Preservation Plan shall be developed by a forester, arborist, landscape architect or other horticultural registered professional.
 3. The Tree Preservation Plan shall reflect the applicant's best effort to determine the most feasible and practical layout of buildings, parking lots, driveways, streets, storage, and other physical features, so that the fewest ~~specimen-Specimen~~ and ~~protected-Protected~~ Trees are destroyed or damaged and to minimize the negative environmental impact to the site.

4. The Tree Preservation Plan should consider how the subject property along with adjacent properties, tree densities and landscape can contribute to develop and or maintain wildlife habitat.
5. The Tree Preservation Plan shall consider the grade quality of trees greater than 8" DBH where all Grade A and Grade B trees should be prioritized for preservation.
6. Required Tree Protection Fencing: Tree protection fencing shall be shown on the plan, placed around all trees designated to be saved, prior to the start of development activities or grading. Such barriers shall be erected at a recommended minimum distance from the base of ~~P~~protected ~~T~~rees according to the following standards:
 - i. Tree protection fencing shall be placed at a minimum distance equal to 10 feet from the base of a ~~S~~specimen ~~t~~ree~~T~~ree. All vegetation on the site that is not impacted by construction shall be protected using tree protection fencing.
 - ii. Tree protection fencing shall consist of barriers approved by the Planning Department (a minimum of 4 feet in height). The Planning Department shall not require that chain link fences be used.
 - iii. Protective barricades shall remain in place until development activities are complete. The area within the tree protection fencing shall remain free of all building materials, stockpiled soil, or other construction debris. Construction traffic, storage of vehicles and materials, and grading shall not take place within the protective areas of the existing trees. Any violations must be addressed immediately, or a stop work will be issued.

- iv. Construction access to a site should occur where an existing or proposed entrance/exit is located, except for driveway access points, sidewalks, and curb and gutter, land disturbance within a tree dripline is prohibited.

- c. Landscape Plans may be required to be submitted to meet the requirements of this Article as specified in Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements.
 - 1. A required landscape plan shall be drawn to engineer’s scale which contains dimensions and details for revegetating an area.
 - 2. The landscape plan shall contain trees and shrubs species depicted at maturity, fencing, and other site elements along with details of landscape materials including hard and soft scape elements.
 - 3. Landscape plans shall be prepared by a licensed, registered Landscape Architect whenever the area of land disturbance or development activity exceeds one half acre or when the total area of disturbance proposed building footprint exceeds 2,500 square feet.

- d. *Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements* in subsection (3) of this section shows the minimum requirements for submittal of various plans.

Table 4I. Tree Survey, Preservation and Landscape Plan Submittal Requirements			
Improvement Type	New Construction and Lot Preparation	Major Improvement ¹	Minor Improvement
Tree Survey	Required	Not Required ³	Not Required ³
Tree Preservation Plan	Required	Required ²	Not Required ²
Landscape Plan	Required	Required	Not Required ³

Submittal Requirement Notes:

- (1) A major improvement shall include any repair, renovation, reconstruction, alteration or improvement where the footprint of the structure is being modified or where the proposed improvement creates any earth disturbing activity greater than 25 percent of the lot.
- (2) A Tree Preservation Plan shall be required if a proposed development requires the removal of a Specimen or Protected tree(s).
- (3) At the discretion of the Planning Director a landscape plan or tree survey may be required for any improvement which has been determined to create a potential adverse impact.

(4) Specimen and Protected Trees.

- a. Specimen Trees and Protected Trees are species chosen as a point of focus in a landscape which usually has an unusual shape, texture, color or other feature that distinguishes it from other trees and shrubs in the area excluding invasive species. These trees have a life expectancy of greater than ten years, have a relatively sound and solid trunk with no extensive decay or hollow, and have no major insects, pathological problem, or defects. Specimen trees are valued for their size and their legacy.
- b. Under the provisions of this article, the following trees are considered Specimen Trees and shall be prohibited from being removed unless approval is granted by the Planning Director or designee in accordance with the requirements of this Article:
 1. Grand Trees: Any tree with a diameter breast height of twenty-four (24) inches or greater in size; and
 2. Live Oak Trees with a diameter breast height of sixteen (16) inches or greater
- c. Under the provisions of this article, the following trees are considered Protected Trees and shall be prohibited from being removed unless approved by the Planning Director or designee in accordance with the requirements of this Article:
 1. Any tree with a diameter breast height of eight (8) inches or greater.

(5) Native Species

- a. Using native plants in landscaping has a direct impact on the local ecosystem which include benefits as the protection of water resources, allowing gardeners to reduce fertilizers, pesticides, and irrigation practices which otherwise can contribute to stormwater runoff pollution and degradation of downstream water quality; sustaining pollinators which are

vital for fruit production and provide high-quality food and shelter; providing essential watershed protection, helping natural aquifers recharge, serving to filter water naturally flowing into rivers and estuaries, lessening erosion and flooding; and resistance to saltwater intrusion from flooding and storm surge.

a.b. Native plant mitigation requirements for this Article are specified in Table 4J. Tree Preservation Requirements and Mitigation Standards

b.c. Native plants can be found in the Town of Kiawah Island's online Grow Native Plant Database. The Grow Native Plant Database is a searchable online database of native trees, shrubs, perennials, vines, ferns, and grasses that provides detailed information on growing conditions, size, flowering information, salt tolerance, deer resistance, and the wildlife value for each plant. The database was designed to help promote the use of native plants on the island and serve as a resource for residents, landscapers, landscape architects, landscape designers, and other entities.

(6) Invasive Species.

- a. Invasive species means species that are not native to South Carolina and cause economic or environmental harm or harm to human health. Invasive species may be found in the Nonnative Invasive Plants of Southern Forests registry published by the US Department of Agriculture or list provided by Clemson University Cooperative Extension.
- b. Submitted landscape plans shall not indicate the use of any invasive plant species. These species shall be removed during site development if existing on the property.

(7) Tree Removal and Tree Impacts.

- a. For the purpose of this Article, the term "Tree Removal" shall include, but not be limited to, damage inflicted to the root system by machinery; girdling; storage of materials and soil compaction, changing the natural grade above or below the root system or around the trunk; damage inflicted on the tree permitting fungus infection or pest infestation; excessive pruning; excessive thinning; excessive paving with concrete, asphalt or other impervious

material within such proximity as to be harmful to the tree; excessive grading; or any act of malicious damage to a tree. The final determination of tree removal shall be made by the Planning Director.

1. Tree Pruning:

- i. Pruning or thinning more than 25 percent of the leaf surface on both the lateral branch and the overall foliage of a mature tree that is pruned within a growing season shall be considered excessive. Additionally, one-half of the foliage of a mature tree should remain evenly distributed in the lower two thirds of the crown and individual limbs upon completion of any pruning.
- ii. Pruning or thinning such as the removal of branches six inches or greater in diameter shall also be considered excessive.
- iii. Crape Myrtle Trees shall be excluded from the requirements of tree pruning.

2. Tree Root Zone Protection:

- i. Paving or grading within five (5) feet of the base of the tree or paving or grading 50% or greater of the circumference of the tree shall also be considered excessive as determined by the Planning Director.

(8) *Tree Mitigation and Replacement.*

- a. Tree mitigation shall adhere to the following standards in which the applicant shall mitigate loss or removal of Protected Trees and Specimen Trees by planting replacement trees in appropriate areas on the property in accordance with the tree replacement requirements as listed in *Table 4J. Tree Preservation Requirements and Mitigation Standards* and the approved tree preservation plan.

Table 4J. Tree Preservation Requirements and Mitigation Standards

Tree Size	Location /Context	Preservation Requirements	Mitigation Standard
Individual Tree Removal (Post Occupancy)			
Specimen Trees (Grand Trees (24 inches or greater & Live Oaks 16 inches DBH or greater)	All areas	Removal prohibited except as approved by the Landscape and Planning Director <u>Tree Preservation Board or designee</u> and in accordance with required tree preservation plan and the mitigation standards.	Must replant trees with a minimum combined DBH equal to 100% of the tree(s) removed with the discretion of the Landscape and Planning Director <u>Tree Preservation Board</u> . Replanted trees shall be 70% native species. This mitigation standard shall only be required for applicable Grade A Grade B graded trees.
Protected Trees (8 inches or greater)	Outside of the Building Footprint of the Structure	Removal prohibited except as approved by the Planning Director or designee and in accordance with the required tree preservation plan and mitigation standards.	Must replant trees equal to 70% of the total quantity of tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
All trees	Edge of marsh, ponds or dunes and or at the Critical line on the landward side	Removal prohibited except as approved by the Planning Director or designee and in accordance with the required tree preservation plan and mitigation standards.	Must replant trees with a minimum combined DBH equal to 70% of the tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
Tree Removal for Construction Activity/Site Development			
Specimen Trees	Within Building Footprint of Structure	Removal prohibited except as approved by the Landscape and Planning Director or designee <u>Tree Preservation Board</u> and in accordance with required tree preservation plan and the mitigation standards.	Must replant trees with a minimum combined DBH equal to 100% of the tree(s) removed with the discretion of the Landscape and Planning Director <u>Tree Preservation Board</u> . Replanted trees shall be 70% native species. This mitigation standard shall only be required for applicable Grade A Grade B graded trees.
Protected Trees (8 inches or greater)	Outside of Buildable Area	Full preservation of all Protected Trees is required in all yards (front, side and rear) except for any required or permitted driveways, roads, easements, stormwater retention/detention areas or drainage structures.	Must replant trees equal to 70% of the total quantity of tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
All Trees (8 inches or greater)	Within the Buildable Area and Outside of the Building Footprint of Structure	Removal prohibited except as approved by the Planning Director or designee and in accordance with required tree preservation plan and the mitigation standards.	Must replant trees equal to 70% of the total quantity of tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.
All trees	Edge of marsh, ponds, or dunes and or at the Critical line on the landward side	Removal prohibited except as approved by the Planning Director or designee and in accordance with the mitigation standards.	Must replant trees with a minimum combined DBH equal to 70% of the tree(s) removed with the discretion of the Planning Director. Replanted trees shall be 70% native species.

<p>Preservation and Mitigation Standard NotesCriteria:</p> <ol style="list-style-type: none"> (1) The preferred density should be equal to a combined DBH greater than or equal to twenty trees per acre or 160 inches per acre, whichever is greater. Preservation and mitigation trees should equal 70% of the total number trees on the lot. (2) Mitigation for Sspecimen trees shall only be required for grade quality Grade A and Grade B trees as determined by a certified arborist. (3) Edge of marsh, ponds shall be defined as the area within three (3) feet of a marsh, pond line. (4) The trees required to be replaced pursuant to this ordinance shall be in addition to any other trees required to be planted pursuant to any other provision of the Town’s ordinance. (5) Palm trees, Palmetto trees, Pine trees, and Sweet Gums within the buildable area shall not require mitigation. (6) Mitigation may not be required for removal of trees within storm water retention/detention areas at the discretion of the Planning Director. (7) Mitigation trees shall measure a minimum of three (3) inches in caliper DBH. (8) The grade quality of trees may be considered in the preservation requirements. (9) Removal without mitigation may be permitted if necessitated by emergencies, death, disease, or damage not caused by the property owner as determined by the Planning Director. Removal without mitigation is also permitted for the removal of invasive species. (10) To prevent a monoculture among plantings, the Town-applicant’s plan shall includerequire a diversity in the trees planted for mitigation. No single plant species shall represent more than 40 percent of the total landscape plantings per plant type, except for projects whose landscape requirements for Canopy Trees are less than 10 Trees. (11) Depending on the number of trees planted, there shall be a diversity of the plantings. The following diversity of trees is recommended: <ul style="list-style-type: none"> 5 to 10 trees: minimum 2 types of trees to be planted; 10 to 20 trees: minimum 4 types of trees to be planted; 20 to 100 trees: minimum 7 types of trees to be planted; Greater than 100 trees: minimum 10 types of trees to be planted (12) The replacement tree and plants utilized for mitigation shall be native species. Submitted landscape plans used to satisfy the requirements of this Article, shall be 70% native species. The replacement tree preferred shall be native species such as oak, magnolia, palmetto, or hickory. (13) Palmetto Trees may be used to fulfill the Canopy Tree requirements. These trees are to be planted at a ratio of three Palmetto Trees for each Canopy Tree and are to be planted in groupings of three. 			

(14) Where mitigation trees will not fit on a lot, the ~~Town may consider~~ alternative locations adjacent to the subject property or, planning area may be considered. Coordination of an alternative location may include but is not limited to right of way enhancement, open space, adjacent property or other public or common areas within or adjacent the Town limits as determined by the Planning Director. The Planning Director may coordinate with the Public Works Director, Kiawah ~~Island~~ entities, or other broader community stakeholders. Coordination should also consider how mitigation trees may be maintained.

(15) Where mitigation trees are planted on the subject property, they shall be guaranteed for one (1) full year after planting. Any trees that die within this time period must be replaced by the applicant and/or property owner. Mitigation trees which may be planted in an alternative location are not required to be guaranteed.

(9) *Maintenance of Trees.*

- a. Following development, the property owner shall be responsible for maintaining the trees that were saved and/or planted. Proper tree care should use ANSI A300 (Tree, Shrub, and Other Woody Plant Maintenance – Standard Practices) for best practices.

(10) *Administration.*

- a. Plan Alterations or Revisions: Due to seasonal planting problems and/ or a lack of plant availability, approved plans may require minor revisions. Minor revisions to planting plans may be approved by Town Staff if:
 1. There is no reduction in the quantity of plant material;
 2. There is no significant change in size or location of plant materials; and
 3. The new plants are of the same general category (i.e., shade tree, ornamental tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

(11) Landscaping and Tree Preservation Board.

- a. The Landscaping and Tree Preservation Board shall review with the authority to approve, approve with conditions, or disapprove a proposed Tree Preservation Plan for proposed commercial or multifamily residential developments in accordance with the provisions of the Article.
- b. The Landscaping and Tree Preservation Board shall review and approve the removal of any Grand Tree in accordance with the provisions of the Article.

a.—The Landscape and Tree Preservation Board shall also be in place to hear special circumstances regarding tree removal or where strict interpretation of the ordinance has been made by the Planning Director. An applicant may apply to be granted relief or exception to this ~~article~~ Article as reviewed and approved by the Landscape and ~~Town of Kiawah Island~~ Tree Preservation Board.

~~b.c.~~ The applicant should make their appeal case to the Landscape and Tree Preservation Board pursuant to Section 12-24.1 Landscape and Tree Preservation Board, in which the Landscape and Tree Preservation Board shall review and make a decision based on the applicant's submission and approval criteria.

(12) Inspections, ~~and~~ Violations and Fines.

a. The Planning Director or Landscape and Tree Preservation Board may approve a delayed schedule for planting materials (provided by the Applicant's contractor) when the immediate planting schedule would impair the health of plants. When a delayed planting schedule is approved, the Applicant shall provide a bond equivalent to one and one-half times the projected cost of the planting materials and installation in accordance with the American Association of Nurserymen Standards. This is designed to include severe weather, such as droughts, heat waves, and floods. The ~~Applicant~~ applicant shall provide a minimum of two quotes from local (tri-county area) contractors for review and the bond amount shall be determined by the Planning Director.

b. The Town reserves the right to inspect the site or property at any reasonable time for compliance with tree preservation requirements. Town staff may inspect the site one year after the issuance of a permanent Certificate of Occupancy in order to ensure compliance with the approved tree plan.

c. If the Town finds a development in violation of this ordinance or if an applicant fails to satisfy any condition that was imposed as part of the original or revised approval of the Zoning Permit or Tree Preservation Plan or that was made pursuant to the provisions of this Article, the applicant or property owner shall be in violation of this Article.

d. Any applicant or property owner in violation of this ordinance shall be subject to fines or penalties as prescribed in this Article and or other remedies and enforcement actions pursuant to Sec. 12-214.

~~If the Town finds a development in violation of this ordinance, the Town may consider remedies and enforcement actions pursuant to Sec. 12-214.~~

e.1. The illegal removal of a tree(s), in accordance with the provisions of the Article shall constitute a violation and the property owner shall be subject to a penalty fine of \$1,080.00 per tree.

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Sec. 12-162. Site plan review.

The purpose of a site plan review is to ensure that all applicable requirements of this article are complied with prior to the issuance of a zoning and building permit.

- (1) *Applicability.*
 - a. *Generally.* The site plan review process, administered by the Department of Planning, shall be required for all new construction, exterior remodeling involving a change in the building footprint, parking areas or other impervious surfaces, change of use that results in a more intense use, and additions to any structure used for any purpose (except detached single-family residences). No zoning or building permit shall be issued for a development subject to site plan review until the site plan has been approved in accordance with the provisions contained within this article.
 - b. *Single-family detached residential.* The site plan review process, requiring site plan review application, will not apply to detached single-family residences. However, a review by planning staff to determine compliance with all applicable zoning regulations is required.
- (2) *Application.* The property owner or designated representative may initiate site plan review by filing an application with the Planning Director. The contents of the application shall be included on a form developed by the Town. If more than one use in a project or more than one use located on a single tract of land is subject to site plan review, the necessary applications may be submitted in phases; provided, however, that the overall concept is first reviewed with the Planning Director and the Planning Commission. A letter of intent shall be submitted by the applicant describing the proposed use.
- (3) *Procedures for issuance of site plan approval.*
 - a. Site plans for permitted uses shall be reviewed by the Planning Director in conjunction with the zoning permit process. The Planning Director's review and action shall be based on the conformity of the site plan with district regulations, approved plats and the comprehensive plan.
 - b. Site plans for special exceptions shall be reviewed by the Planning Director prior to the application being presented to the Board of Zoning Appeals pursuant to section 12-159.
 - c. Tree Preservation Plans shall be reviewed and approved by the Landscape and Tree Preservation Board pursuant to Section 12-129 prior to the issuance of site plan review approval.
 - ~~e~~. Site plans for planned developments shall be reviewed by the Planning Director, Planning Commission and Town Council pursuant to section 12-158 when the planned development does not contain a detailed site plan.
 - ~~e~~. A site plan may be approved, approved with conditions, or denied.
- (4) *Submittal requirements.* A site plan must be drawn to engineers scale and contain the following information:
 - a. The shape and dimensions of the zoning lot;
 - b. The size and location of all existing structures;
 - c. The lines within which any proposed structures shall be erected, altered, or moved; and the locations of any officially approved building setback lines;
 - d. The heights of all proposed structures and parts thereof;

- e. The existing and proposed use of each structure and part thereof;
- f. The uses and zoning of adjoining properties;
- g. The number of dwelling units in each existing building and the number of dwelling units that each proposed building is intended to accommodate;
- h. The size and location of all proposed driveways, off-street loading areas and off-street parking areas containing more than six parking spaces;
- i. Finished first floor elevation above mean sea level requirement and the flood hazard zone designation if in a special flood hazard A or V zone;
- j. Review comments from the St. John's Fire District;
- k. Tree Survey, Tree Preservation Plan, and or Landscape Plan as required by this Article; and
- ~~k.~~ Such other reasonable and pertinent information with regard to the zoning lot or neighboring lots as the Planning Director may find necessary to carry out the purposes and intent of this article.

(Code 1993, § 12A-508; Ord. No. 94-12, § 2(12A-507), 9-26-1994; Ord. No. 2005-08, § 12A-508, 10-12-2005)

Sec. 12-165. Zoning permits.

The purpose of zoning permits is to confirm that the intended use fully complies with the provisions of the zoning district.

- (1) *Required.* A zoning permit shall be required before any of the following are permitted:
 - a. The issuance of a building permit under the Town of Kiawah Island building code;
 - b. New construction;
 - c. Additions to existing structures;
 - d. Relocation of any house;
 - e. Excavation, clearing, and/or grubbing preparatory to constructing a structure for which a building permit is required;
 - f. Improvement any lot by grading, filling, or surfacing or by constructing driveways or by constructing or enlarging parking areas containing six or more parking spaces;
 - g. Change in the use classification of any part of a structure or lot including any increase in the number of families or dwelling units occupying a building or lot;
 - h. Installation of any sign as specified within this article;
 - i. Utility construction;
 - j. Obtainment of a business license;
 - k. Tree removal pursuant to Section 12-129 Tree Preservation and Landscaping Standards; or
 - ~~l.~~ Any earth disturbing activity.
- (2) *Zoning permit application forms.* Requests for approval of zoning permit applications shall be made on forms provided by the Town. The Town may promulgate submittal requirements, instructions for completing forms, internal procedures for acceptance and filing of development applications, and provisions for waiver through the establishment of administrative guidelines.
- (3) *Submission and determination of a complete zoning permit application.* All zoning permit applications shall be submitted to the Planning Director or authorized designee. If all required information is included per section 12-155, the application shall be deemed complete and accepted, along with any established fees. A determination of completeness shall not constitute a determination of compliance with the substantive requirements of this article. Submittal of a complete application initiates the application process.
- (4) *Official filing date.* All time limits for processing or acting upon development applications shall commence on the date that a completed application, along with any established fees, are submitted to the Planning Director. Substantial modification of an application by the applicant following the filing of the zoning permit application but prior to the expiration of the period within which the Town is required to act shall extend the period for a like time following the Planning Director's determination that the modified zoning permit application is complete.
- (5) *Time of expiration.* Zoning permits shall become invalid if a building permit is required but not issued within 12 months of the date of issuance of the zoning permit or if a building permit is not required.

(Code 1993, § 12A-511; Ord. No. 2005-08, § 12A-511, 10-12-2005)

Sec. 12-374. Definitions.

- (a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

AASHTO means the American Association of State Highway and Transportation Officials.

Accessory means a use, structure or part of a structure customarily incidental and subordinate to the principal use of a zoning lot or of a structure. An accessory use is located on the same zoning lot as the principal use, except in the cases of of-street parking and temporary construction facilities.

Accessory dwelling unit means, in a residential or attached housing district, a subordinate dwelling, attached to or detached from the main building, without separate utilities, which is not used for commercial purposes nor rented but which may contain servants quarters, a washroom, a storage room for domestic storage only, and/or space for one or more automobiles. In any district, a subordinate dwelling, the use of which is incidental to and used only in conjunction with the main building.

Addition means a structure added to the original structure at some time after the completion of the original, or an extension, alteration or increase in floor area or height of a building or structure.

Adjacent means next to or within 100 feet. Adjacent properties include those properties which abut a property, as well as properties with any portion being located within 100 feet of any boundary of the subject property.

Administrative and business office means the use of a building or a portion of a building for the provision of executive, management, or administrative services.

Administrative decision means any order, requirement, decision or determination by the Planning Director or designee relating to the administration or enforcement of this chapter.

Administrative permit means a permit which may be granted by the Planning Director or other designated administrative official.

Adult day care facility means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC) for adults 18 years of age or older, which offers in a group setting a program of individual and group activities and therapies. The program is directed toward providing community-based day care services for those adults in need of a supportive setting. The program shall provide a minimum of four and a maximum of 14 hours of operation a day. (See SCDHEC Regulation No. 61-75, standards for licensing day care facilities for adults.)

Agricultural processing.

- (1) The term "agricultural processing" means the preliminary processing and packaging of agricultural products, such as a packing shed.
- (2) The term "agricultural processing" does not include slaughterhouses, butcheries, tanneries or rendering plants.

Agricultural sales and service means an establishment engaged in the retail or wholesale sale from the premises of feed, grain, fertilizers, pesticides and similar goods.

Agriculture means the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including, but not limited to:

- (1) Forages and sod crops;

- (2) Dairy animals and dairy products;
- (3) Poultry and poultry products;
- (4) Livestock, including beef cattle, sheep, horses, ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals;
- (5) Bees and apiary products;
- (6) Fur animals;
- (7) Trees and forest products;
- (8) Fruits of all kinds, including grapes, nuts and berries;
- (9) Vegetables;
- (10) Nursery, floral, ornamental, and greenhouse products; or
- (11) Lands devoted to a soil conservation or forestry management program.

Alley means minor right-of-way used primarily for vehicular access to the rear or side of properties otherwise abutting a street at the front.

Alteration, structural.

- (1) The term "structural alteration" means any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders, or in the dimensional or configurations of the roof or exterior walls.
- (2) The term "structural alteration" does not include the application of exterior siding to an existing building for the purpose of beautifying and modernizing.

Ambient air quality standard means an acceptable concentration of an air pollutant in a community.

Animal.

- (1) The term "animal" means any live or dead dog, cat, nonhuman primate, guinea pig, hamster, rabbit or any other warm blooded animal, which is being used, or is intended for use for research, teaching, testing, experimentation, or exhibition purposes, or as a pet. With respect to a dog, the term "animal" means all dogs, including those used for hunting, security or breeding purposes.
- (2) The term "animal" excludes birds, rats of genus *Rattus* and mice of the genus *Mus* bred for use in research, and horses not used for research purposes and other farm animals, such as, but not limited to, livestock or poultry, used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber.

Animal aquaculture means land devoted to the hatching, raising, and breeding of fish, shrimp or other aquatic animals for commercial purposes. The term "animal aquaculture" includes those accessory uses and activities customarily associated with this type of operation, as determined by the Planning Director.

Animal, exotic, means any animal not identified in the definition of the term "animal" that is native to a foreign country or of foreign origin or character, but is not native to the United States, or was introduced from abroad. The term "exotic animal" specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos, water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

Animal production.

- (1) The term "animal production" means the raising of animals on pasture land or production of animal products on an agricultural or commercial basis. The term "animal production" includes those accessory uses and activities customarily associated with this type of operation, as determined by the Planning Director.
- (2) The term "animal production" does not include concentrated animal feeding operations, slaughter houses or butcheries.

Apartment means one or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing two or more dwelling units.

Applicant means an owner of property or a developer submitting an application for an approval pursuant to articles II, III or V of this chapter.

Application means the relevant application form and all accompanying documents required by articles II, III or V of this chapter for approval of a use or development plan.

ARB means the Kiawah Island Architectural Review Board that is operational pursuant to the declaration of rights, restrictions, affirmative obligations and conditions applicable to all property in Kiawah Island, as amended.

Arboretum. See *Botanical gardens.*

Arborist, certified, means a person certified by the International Society of Arboriculture.

Archive. See *Library.*

Art gallery means room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the public.

ASTM means the American Society for Testing Materials.

Aviation means airports, landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security. The term "aviation" also includes facilities for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express between modes of transportation.

Bank means a financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Banner means a strip of cloth containing a message or advertisement.

Bar or lounge means a use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, where 25 percent or more of the gross receipts are for sale of alcohol. This use includes taverns, cocktail lounges, and any member exclusive bars or lounges.

Barn.

- (1) The term "barn" means a farm building used for storing farm products or sheltering livestock.
- (2) The term "barn" excludes any residential use or nonagricultural use.

Base building height elevation (BBHE) means the elevation using the NGVD29 Datum as shown on the Charleston County, South Carolina Flood Insurance Rate Map with an effective date of November 17, 2004. Such elevations will be determined without respect to the flood zone classification and shall only rely on those numerals expressed within the parenthesis found on the flood insurance rate maps dated November 17, 2004.

Base course means the layers of specified or selected material of designated thickness or rate of application, placed upon a subbase or subgrade to comprise a component of the pavement structure, to support the pavement or subsequent layer of construction.

Base flood elevation (BFE) means the computed elevation to which floodwater is anticipated to rise during the base flood. Base flood elevations (BFEs) are shown on flood insurance rate maps (FIRMs) and on the flood profiles.

Beachfront or oceanfront property means property situated along or having direct access to a beach.

Bed and breakfast means a portion of an owner occupied dwelling unit or detached accessory structure offering transient lodging, with or without breakfast, to paying guests on an overnight basis, usually staying less than seven days.

Berm.

- (1) The term "berm" means a manmade landscape feature generally consisting of a linear mound of soil.
- (2) The term "berm" does not include temporary soil stockpiles and retaining walls.

Block means an area within the town enclosed by streets and occupied by or intended for buildings; or, if said word is used as a term of measurement, it shall mean the distance along a side or street between the nearest two streets which intersect said street on said side.

Board of Zoning Appeals (BZA) means the Board of Zoning Appeals for the Town of Kiawah Island, South Carolina is also referred to as the "Board" or "BZA."

Boat slip means a docking space alongside a pier, wharf or mooring dolphins in which a waterborne boat may be moored. For purposes of this ordinance and in the absence of an authorized quantity of boat slips by state or federal regulating agencies, a boat slip shall be considered a minimum length of 25 feet for side mooring and 15 feet for stern moorings.

Boatyard.

- (1) The term "boatyard" means a land-based operation primarily for the repair and service of boats, including any incidental storage of boats in the process of being repaired.
- (2) The term "boatyard" does not include boat building.

Botanical garden means a place, generally open to the public for a fee, where a wide variety of plants are cultivated for scientific, educational, or ornamental purposes.

Bridge means a structure, including supports, erected over a depression or an obstruction, and having a track or passageway for carrying traffic or other moving loads.

Buffer, critical line, means an area of varying width providing a visual, spatial, and ecological transition zone between the OCRM critical line and land development.

Buffer, landscape, means a vegetated area of varying width designed exclusively to provide screening between adjoining properties, rights-of-ways, parking lots and structures.

Bufferyard means a strip of land, identified on a concept plan, site plan or development plan, established to protect one type of land use from another land use or to provide screening. Normally, a buffer is landscaped and kept in open space uses.

Building means a structure which is permanently affixed to the ground, has a roof supported by columns or walls, and is used for human, animal, or chattel enclosure. When a portion thereof is completely separated from

every other portion by a dividing wall or firewall, when applicable, without openings or an unenclosed breezeway, then each such portion shall be deemed to be a separate building.

Building area means that portion of the established parcel which can be devoted to buildings and structures identified by the setback standards of the parcel.

Building code means a recorded description of building and structural specifications prepared and approved in compliance with the building code of this Code of Ordinances.

Building cover means the proportion, expressed as a percentage, of the area of a zoning lot covered by all buildings located thereon, including the area covered by all overhanging roofs.

Building height means the vertical distance between the base building height elevation (BBHE), or ground level if the structure is not in a flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and is measured in feet and stories. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. Unless otherwise stated in this ordinance, height in feet means:

- (1) The average height level between the eaves and ridge line of a gable, hip or gambrel roof;
- (2) The highest point of a mansard roof; or
- (3) The highest point of the coping of a flat roof.

In measure the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio and television towers, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height.

Building line means any line parallel or approximately parallel to the street line or other property line and beyond which buildings may be erected.

Building official means the officer or other designated authority charged with the administration and enforcement of this chapter.

Building permit means an official document or certificate issued under the building code for any carpentry, masonry, roofing, or related construction or repair. A building permit is not required for construction under \$1,000.00, unless the construction or repair involves a structural modification or work done by a contractor.

Building, principal, means a building in which is conducted the principal use of the zoning lot on which it is situated. In a residential district, any dwelling shall be deemed to be a principal building on which the lot is situated.

Bulk standards means regulations that establish the maximum size of buildings and structures on a lot and the buildable area within the building or structure may be located.

Bus passenger stand means a small, roofed structure, usually having three walls, located near a street and designed primarily for the protection and convenience of bus passengers.

Business means and includes retail, commercial and manufacturing uses and districts as herein defined.

Business, vocational or trade school means a use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college, or university.

Caliper inch means a measurement used for nursery stock and in this division refers to replacement trees. It is the unit of measurement for defining the diameter of the tree trunk measured six inches above the soil surface

for tree trunks six (6) diameter inches or less and measured 12 inches above the soil surface for tree trunks greater than six (6) diameter inches.

Canopy means a roofed structure constructed of fabric or other material supported by the building or by support extending to the ground directly under the canopy and placed so as to extend outward from the building providing a protective shield for doors, windows and other openings and for protection from sun or weather.

Canopy tree means a tree, with a diameter of at least 2½ inches (as measured six inches above grade) at the time of planting, which will grow to a minimum height of 50 feet at maturity.

Capital improvements program means a proposed schedule setting forth all future capital facility projects in order of construction priority, together with cost estimates and the anticipated means of financing such projects which are required to implement the comprehensive plan.

Caretaker means an individual or family who resides on premises as an accessory use for the purpose of maintaining, protecting or operating a permitted principal use on the premises.

Catering service means an establishment that prepares and provides food and related services to off-premises locations.

Causeway means an earthen structure with at least one side adjacent to a depression, wetland, or marsh that supports a road for carrying traffic or other moving loads.

Cemetery means land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoriums, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

Centerline of street means the line surveyed and monumented as the centerline of the street; or if such centerline has not been surveyed, it shall be the line running midway between the curbs or ditches of such street.

Charter boat or other recreational watercraft rental means a land-based operation primarily for the rental or leasing of boats or other recreational watercraft.

Child day care facility means a facility or dwelling unit that regularly (more than twice a week, for more than four hours, but less than 24 hours) provides child day care for seven or more children. The term "child day care facility" includes child care centers and group day care homes, which are licensed by the South Carolina Department of Social Services (DSS).

Church means a place of assembly and worship by a recognized religion including synagogues, temples, churches, instruction rooms and the place of residence for ministers, priests, rabbis, teachers and directors of the premises, but does not include a parochial or similar school.

Cocktail lounge means a business establishment which sells alcoholic beverages for consumption on the premises as its primary trade.

College or university facility means an educational institution that offers courses of general or specialized study leading to a degree.

Common open space means open space, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development. Common open space shall be substantially free of structures, but may contain such improvements as are approved as a part of the development plan for such district and are appropriate for the residents of the district.

Communication service means an establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, but excludes those classified as major utility facilities.

Communications tower.

- (1) The term "communications tower" means a tower of any size that supports communication equipment, transmission or reception, and is utilized by commercial, governmental, or other public or quasi-public users.
- (2) The term "communications tower" does not include communication towers for amateur radio operators licensed by the Federal Communications Commission which are exempt from local zoning restrictions or communications towers under 100 feet in height used solely for educational communications purposes.

Community character means the image of a community or area as defined by such factors as its built environment, natural features and open space elements, type of housing, architectural style, infrastructure, and the type and quality of public facilities and services.

Community recreation means a recreational facility that is the principal use of a parcel of land and that is for use by residents and guests of the following: a particular residential development, planned development, church, private primary or secondary educational facility, community affiliated non profit organization. The term "community recreation" can include both indoor and outdoor facilities.

Community recreation center means a public or quasi public building designed for and used as a social, recreation, and cultural center. As a part of such recreation centers, there may be included craft rooms, music rooms, game rooms, meeting rooms, auditoriums, swimming pools and kitchen facilities. Kitchen facilities and dining areas shall be used for special events only.

Community residential care facility means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC), which offers room and board and provides a degree of personal assistance for a period of time in excess of 24 consecutive hours for ten or more persons, 18 years old or older, unrelated to the operator. The term "community residential care facility" includes any facility (other than a hospital), which offers a beneficial or protected environment specifically for the mentally ill, drug addicted or alcoholic, or provides or purports to provide any specific procedure or process for the cure or improvement of that disease or condition. A community residential care facility with nine or fewer residents shall be considered a family. (See SCDHEC Regulation No. 61-84, standard for licensing community residential care facility.)

Comprehensive plan means the master plan adopted pursuant to the South Carolina Code.

Concentrated animal feeding operation means a confined area or facility within which the property is not grazed or cropped annually, and which is used and maintained for the purposes of engaging in the business of the reception and feeding of:

- (1) More than 50 beef or dairy cattle;
- (2) More than 50 horses;
- (3) More than 150 hogs, sheep or goats;
- (4) 1,000 or more birds, such as turkeys, chickens, ducks or geese; or
- (5) More than 1,000 small animals, such as guinea pigs, rabbits and minks.

The term "concentrated animal feeding operation" also includes commercial feed lots.

Conditional approval means the official action of the Zoning and Planning Commission conferring certain rights subsequent to preliminary approval but prior to final approval after specific elements of a preliminary plat have been agreed upon by the Commission and the applicant.

Conditional use permit means a permit formerly issued by the Planning Department authorizing a particular use in a specified location within a zoning district, upon demonstrating that such use complies with all the conditions and standards specified by article II of this chapter.

Congregate living means a residential facility providing 24-hour supervision and assisted living for no more than 15 elderly residents (age 60 or older), not needing regular medical attention.

Construction permit means a series of permits that may include building, electrical, plumbing, HVAC (heating, ventilating and air conditioning) or gas permits.

Construction plan means complete construction drawings of a facility or improvement, including but not limited to road plans and profiles and drainage plans.

Construction services means any of the activities commonly referred to as construction and shall include without limiting thereby, plumbing, heating, roofing, interior remodeling, excavating.

Consumer convenience service means an establishment providing services, primarily to individuals, of a frequent or recurrent nature.

Contextual zoning means zoning that regulates the height and bulk of new buildings, their setback from the street line, and their width along the street frontage, to conform with the character of the neighborhood.

Convalescent service.

- (1) The term "convalescent service" means a use providing bed care and in patient services for persons requiring regular medical attention, but excluding a facility providing surgical or emergency medical services. Typical uses include nursing homes.
- (2) The term "convalescent service" excludes facilities providing care for alcoholism, drug addiction, mental disease or communicable disease.

Convenience store.

- (1) The term "convenience store" means establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages, newspapers, and limited household supplies, to customers who generally purchase only a few items.
- (2) The term "convenience store" does not include fuel pumps or the selling of fuel for motor vehicles.

Convention center or visitors bureau means a formal meeting place where the building or rooms are rented or leased to the members, representatives, or delegates of a particular group. These centers can usually accommodate large groups.

Council means the Town Council of the Town of Kiawah Island, South Carolina ("Town Council") is also referred to as the "Council."

Counseling service means an establishment providing counseling, guidance, or similar services to persons requiring rehabilitative or vocational assistance. The term "counseling service" includes job training and placement services.

Country club means land area and buildings containing golf courses, recreational facilities, a clubhouse, and other customary accessory uses, open only to members and their guests.

County means Charleston County, South Carolina.

County Health Department means the Charleston County Health Department.

County Public Works Department means the Charleston County Department of Public Works.

Courtyard means an open unoccupied space, other than a yard, on the same zoning lot with a building, unobstructed from floor or ground level to the sky.

Crop production.

- (1) The term "crop production" means the raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis. The term "crop production" includes those accessory uses and activities customarily associated with these types of agricultural operations, as determined by the Planning Director.
- (2) The term "crop production" excludes any agricultural uses that are more specifically defined in this section.

Cul-de-sac means the turnaround at the end of a dead-end street, but can be used to describe a street with only one means of ingress and egress and having a turnaround at the end.

Culvert means any structure not classified as a bridge which provides an opening under any roadway, including pipe culverts and any structure so named in the plans.

Curb means a stone, concrete or other improved boundary usually marking the edge of a road or other paved area.

Data processing services means establishments primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing a mainframe computer.

Decibel (dB) means a unit which describes the sound pressure level or intensity of sound. A sound level meter is calibrated in decibels.

Decision-making body means the entity that is authorized to finally approve or deny an application or permit as required under this chapter.

Dedication means the action of a property owner, developer or subdivider to transfer property, or an interest in property, to the Town or other service provider. The approval of a land development plan or subdivision plat may not be deemed to automatically constitute or effect an acceptance by the Town of a proposed dedication of a street, easement, or other ground shown on the plat. Acceptance of the dedication must be by action of the Town Council by ordinance, independent of the action on the application.

Density, dwelling unit capacity means the determination of dwelling unit capacity for group dwellings is calculated as six persons per dwelling unit.

Density, dwelling units per acre means the number of dwelling units per acre. The determination of dwelling units per acre is calculated exclusive of water bodies and land below the mean high water level.

Design professional means an individual or firm appropriately licensed and registered in the State of South Carolina.

Detention means the temporary holding back of stormwater and releasing it at a controlled rate.

Developer means the legal or beneficial owner of a lot or of any land included in a proposed development; or the holder of an option or contract to purchase, or any other person having an enforceable proprietary interest in such land.

Development means the planning for or carrying out of a building activity or mining operation, the making of material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels.

Development agreement means the current development agreement with Kiawah Resort Associates (KRA) or their successors.

Development application means a request for any development approval, including all supplementary information specified in the code or on the application form.

Diameter breast height (dbh) means the total diameter, in inches, of a tree trunk or trunks measured at a point 4½ feet above existing grade (at the base of the tree). In measuring dbh, the circumference of the tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

Director of Public Works means the Director of the Charleston County Department of Public Works of the Town of Kiawah Island or his authorized representative.

District means a section of the Town for which the regulations governing the area, height or use of the building are uniform.

Dock means a structure extending into or upon a waterway, marshland or other natural water feature that provides docking space for ten boats or less.

Dock, community, means any docking facility that provides access for more than four families, has effective docking space of no more than 250 linear feet and is not a marina. The term "effective docking space" means adequate length and water depth to dock a 20-foot boat.

Dock, fixed, means a structure that can either be a portion of a dock that does not float, but is fixed, e.g., the walkway and pierhead, or it is the fixed pierhead which is the deck area at the end of a walkway.

Dock, floating, means a structure that is part of a pier or dock that floats and provides easy access to moored boats.

Dock, joint use, means any private dock intended for the use of two to four families.

Dock, private, means any facility that provides access for one family, and is not a marina.

Drainage means the removal of surface water or groundwater from land by drains, grading or other means.

Dripline means an imaginary vertical line extending from the outermost circumference of the branches of a tree to the ground.

Driveway means a minimum ten-foot wide vehicular travel way of any surface treatment (pervious or impervious) from the property line to the garage. This includes guest parking and required back-up and turn-around areas required for safe vehicular movement as determined by the Planning Director.

Dry stack storage for watercraft means a facility for storing boats out of water. This is principally a land operation, where boats are dry stored or stacked until such time as they are transferred to the water for use.

Duplex means a building designed as a single structure, containing two separate living units, each of which is designed to be occupied as a separate permanent residence for one family.

Dwelling, accessory residential.

- (1) The term "accessory residential dwelling" means a dwelling unit which is accessory to a primary use and intended for occupancy in support of the primary use, such as caretakers or family members.
- (2) The term "accessory residential dwelling" does not include units that are rented or leased independently of the primary structure.

Dwelling, multifamily, means a building or portion thereof containing three or more dwelling units and used for occupancy by three or more households living independently of each other.

Dwelling, single-family attached, means two or more dwelling units, constructed with common or abutting walls and each located on a separate lot; also known as townhouses or rowhouses.

Dwelling, single-family detached, means one dwelling unit that is not attached to any other dwelling units and is located on an individual lot.

Dwelling unit means one or more connecting rooms, designed, occupied or intended for occupancy as a separate living quarter for occupancy by a single household, which have direct access to the outside or to a common hall, with cooking, sleeping and sanitary facilities provided within the dwelling unit. Dwelling units are usually located in dwellings, but may be included as a mixed or accessory use in buildings or in group quarters.

Earth roads means those in which the traveled roadway is constructed of compacted earth material.

Easement means a privilege or right of use, access or enjoyment granted on, above, under or across a particular tract of land by the landowner.

Easement, drainage, means the right of access of stormwater runoff from the adjacent natural drainage basin into the drainageway within the drainage easement.

Educational nursery. See *Preschool*.

Elderly residential care facility means a facility which provides fulltime residential care, for not more than ten elderly persons who are unrelated to the operator, and require personal assistance (personal assistance is defined by SCDHEC Regulation No. 61-84, standards for licensing, community residential care facility, as amended May 24, 1992).

Electric substation means structures and appurtenant facilities used for the distribution of electric energy in voltages less than 115,000 volts.

Enlargement means an increase in the size of an existing structure or use, including physical size of the property, building, parking, or other improvements. The term "enlargement" would also include the addition of other structures or uses on the lot.

Escrow means a surety bond, certified check, or other instrument readily convertible to cash, provided by the applicant, payable to the Town, and held by a responsible third person until the fulfillment of a specified condition.

Facade means the entire building wall, fascia, windows, doors, canopy and on any complete elevation.

Family means an individual, or two or more persons related by blood or marriage living together; or a group of not more than six individuals, including live-in servants, not related by blood or marriage but living together as a single housekeeping unit. Residents of community residential care facilities licensed by the South Carolina Department of Health and Environmental Control (DHEC) for nine or fewer individuals shall be considered a family.

Family day care home means an occupied residence in which child day care is provided on more than two days a week for periods of less than 24 hours, but more than four hours, for no more than six children, including those children living in the home and children received for day care who are related to the resident caregiver. Family day care homes are licensed by the South Carolina Department of Social Services (DSS). (See S.C. Code 1976, § 20-7-2700, as amended.)

Family, immediate, means the property owner's or property owners spouse's, parents, children, grandparents, grandchildren, nieces, nephews, aunts or uncles.

Farm means a parcel of land five acres or more that is used for one or more of the following: the tilling of the land, the raising of crops, fruits, and vegetables, and the raising and keeping of animals and plants.

FEMA means the Federal Emergency Management Agency, which promulgates flood boundary and floodway maps.

Fence or *wall* means an upright barrier or structure, including any gate which is part thereof, comprised of any material, including without limitation, hedgerow or other plant material, which serves to enclose, divide, protect, confine, screen, or mark the boundary of an area or structure or any portion thereof, or, in the case of a wall, also to support.

Financial guarantee means surety intended to ensure that all improvements, facilities or work required by this chapter will be completed, restored or maintained in compliance with this chapter.

Financial service means an establishment primarily engaged in the provision of financial and banking services.

Finished grade means the average elevation of a lot after construction.

Flag means a piece of fabric or other flexible material, usually rectangular and of distinctive design which is used as a symbol, such as for a nation, state, locality, or corporation.

Flag lot. See *lot, flag.*

Flexible zoning means zoning techniques designed to allow flexibility in use and/or density of project design, including, but not necessarily limited to, cluster development, floating zones, performance zoning, planned development, overlay zones and conditional uses.

Floodplain means any land with a one percent chance of being inundated by water from any source in any given year, as identified by the Federal Emergency Management Agency (FEMA) or other credible floodplain storage.

Floor area.

- (1) The term "floor area" means the sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls or from the centerlines of walls separating two buildings, computed as follows:
 - a. Floor space devoted to the principal use of the premises, including accessory storage areas located within selling or working space, such as counters, racks, or closets;
 - b. Any basement floor area devoted to the production or processing of goods or to business or professional offices.
- (2) The term "floor area" does not include space devoted primarily to storage purposes (except as otherwise noted herein), off street parking or loading facilities, including ramps, and maneuvering space, or basement floor area, other than area devoted to retailing activities, the production or processing of goods, or business or professional offices.

Floor area ratio (FAR) means the ratio of the total usable floor space of all buildings on a parcel divided by the total highland area.

Florist means a commercial activity offering for sale cut flowers, ornamental plants, floral arrangements, real or artificial, and related accessories including cards, figurines and indoor ornamental fixtures.

Food sales means an establishment primarily engaged in the retail sale of food for home consumption. These establishments may include the sale of beer and wine in unopened containers for off-premises consumption where the sale of products other than beer and wine comprise at least 51 percent of the gross sales of the establishment, and at least 51 percent of the total display or shelf space is devoted to products other than beer and wine.

Funeral service means an establishment engaged in undertaking services such as preparing the human or animal dead for burial and arranging and managing funerals.

Garage apartment means a single dwelling unit located over a private detached garage and containing square footage no greater than that of the garage.

Garage, private, means an accessory structure or space on a lot with a dwelling unit devoted to or designed for the storage of automobiles and small (three-quarter-ton capacity or less) trucks and boats less than 20 feet in length and not used for business purposes or occupancy.

Garden supplies center.

- (1) The term "garden supplies center" means a commercial activity offering for sale indoor or outdoor plants, garden fixtures, packaged plant food, pesticides or garden tools, manually or power-operated with associated parts and accessories.
- (2) The term "garden supplies center" does not include farm equipment elsewhere provided for in this chapter.

Gasoline service station.

- (1) The term "gasoline service station" means any premises used primarily for the retail sale of fuel for automobiles, light and medium trucks, motorcycles, recreational vehicles, and other consumer motor vehicles. The term "gasoline service stations" may include light maintenance such as engine tuneups, lubrication, minor repairs, and carburetor cleaning, but shall not include heavy vehicle maintenance activities such as engine overhauls, automobile painting, and body fender work. The term "gasoline service station" may also include the sale of motor vehicle accessories or used tires taken in trade on the premises.
- (2) The term "gasoline service station" does not include vehicle, moving truck, or trailer sales or rental.

General contractor means an establishment that has the ability to furnish a variety of building materials and provide multiple construction services at a specified price.

Geographical information system (GIS) means a computer-based system for generating maps comprised of different informational elements.

Golf course means a tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways and hazards, and that may include a clubhouse and shelter.

Governing body. See *Town Council*.

Government office means federal, state, county or city offices, administrative, clerical or public contact services, together with incidental storage and maintenance of necessary vehicles.

Grade means, for the purpose of determining building height:

- (1) For buildings adjoining one street only, it is the elevation of the sidewalk directly opposite the center of that wall which adjoins the street; in such case where the average elevation of the finished ground surface adjacent to the exterior walls of the building is lower than the elevation of the sidewalk grade, or where there is no sidewalk grade, or where there are no sidewalks, the grade shall be the average elevation of the ground on the lowest side adjacent to the exterior walls of the building.
- (2) For buildings adjoining more than one street, it is the elevation of the sidewalk directly opposite the center of the wall adjoining the street having the lowest sidewalk elevation.

- (3) For buildings having no wall adjoining the street, it is the average level of the finished ground surface adjacent to the exterior walls of the building.
- (4) All walls which are approximately parallel to and not more than 25 feet from a front lot line shall be considered as adjoining the street. In alleys, the surface of the paving shall be considered to be the sidewalk elevation. Where the elevation of the sidewalk or alley paving has not been established, the Public Works Director shall determine such elevation for the purpose of this chapter.

Grand Tree means any tree with a diameter breast height of twenty-four (24) inches or greater in size excluding pine trees.

Greenhouse means a partially or fully enclosed structure which is used for the growth of plants.

Greenhouse production means ornamental plants or food crops grown for wholesale sale within an enclosed structure or under cover.

Gross floor area.

- (1) The term "gross floor area" means the total enclosed area of all floors in a building with a clear height of more than six feet, measured to the outside surface of the exterior walls. The term "gross floor area" includes the dock area of loading areas.
- (2) The term "gross floor area" does not include parking facilities, driveways and airspace above the atria ground floor which are excluded from gross floor area calculations. Enclosed loading areas and off-street maneuvering area also are excluded.

Gross leasable area (GLA).

- (1) The term "gross leasable area (GLA)" means the total floor area for which the tenant pays rent and that is designed for the tenant's occupancy and exclusive use.
- (2) The term "gross leasable area (GLA)" does not include public or common areas, such as utility rooms, stairwells and malls.

Ground cover means low-growing plant material less than 18 inches in height.

Ground floor level means the natural ground or the lowest floor elevation for structures as set forth in the town's floodplain management ordinance, whichever is higher provided, however, that ground floor level for structures shall not exceed 14 feet above natural ground. This definition shall not be construed to prevent an owner from constructing a first floor higher than ground floor level, provided, however, that height is measured from ground floor level or base flood elevation (BFE) when located within a flood zone.

Group care home, residential, means a staffed residence, licensed by the South Carolina Department of Social Services (DSS), with a population of fewer than 20 children who are in care apart from their parents, relatives, or guardians on a full-time basis. Group care homes are classified by different levels of care ranging from independent to assisted living.

Group residential/quarters.

- (1) The term "group residential/quarters" means the residential use of a site, on a weekly or longer basis, for occupancy by groups of more than six persons not defined as a family, such as fraternity or sorority houses, dormitories, or residence halls.
- (2) The term "group residential/quarters" does not include roominghouses or boardinghouses.

Hardware store means a retail store where items such as plumbing, heating, and electrical supplies, sporting goods, and paints are sold.

Head-in parking spaces means parking spaces which are directly accessed from street right-of-way that require the user to drive backwards in the right-of-way to enter or exit this space.

Heavy construction services means services involved in road, bridge, building, or other infrastructure construction.

Height See building height.

Height of signs means the vertical distance measured from ground level at the base of the sign structure to the highest point of sign structure.

Highland means the area of land above the OCRM critical line.

Historical site means a structure or place of outstanding historical and cultural significance and designated as such by the Town of Kiawah Island, the State of South Carolina, or the National Register of Historic Places.

Hobby shop means an accessory use housed in a dwelling or in an accessory building in which the residents of the premises engage in recreation activities, none of which shall disturb the neighbors on either side or in the rear thereof, and which no goods may be publicly displayed, offered for sale, or advertised for sale, nor may any sign be used in connection therewith.

Home health agencies means a public, nonprofit or proprietary organization licensed by the South Carolina Department of Health and Environmental Control (DHEC) which furnishes or offers to furnish home health services. These services include parttime or intermittent skilled nursing care, as ordered by a physician and provided by or under the supervision of a registered nurse, and at least one other therapeutic service. The majority of home health services are furnished on a visiting basis in a place of temporary or permanent residence used as the individual's home. (See SCDHEC Regulation No. 61-77, standards for licensing home health agencies.)

Home improvement center means a facility with over 5,000 square feet of floor area engaged in the retail sale of various basic hardware lines, such as tools, builders' hardware, paint and glass, house wares and household appliances, and garden supplies. Facilities under 5,000 square feet shall be considered a hardware store.

Home occupation means an accessory use of a dwelling unit or its accessory structure for gainful employment.

Homeowners' or property owners' association means a formally constituted nonprofit association or corporation made up of the property owners and/or residents of a fixed area. The homeowners' or property owners' association may take responsibility for costs and upkeep of common open space or facilities, or enforce certain covenants and restrictions.

Horticultural production.

- (1) The term "horticultural production" means land used to grow horticultural and floricultural specialties (such as flowers, shrubs, or trees intended for ornamental or landscaping purposes) for wholesale or retail sale in order to be transplanted to a different location. Retail sales shall not comprise more than 25 percent of gross sales.
- (2) The term "horticultural production" excludes crop and greenhouse production that have been identified elsewhere in this chapter.

Horticulture and landscaping services means and includes landscaping, tree trimming, tree removal and other similar services together with associated equipment and machinery directed toward the care of trees, plants or lawns.

Hospital means a licensed facility primarily providing in-patient medical, surgical, or psychiatric care for a period exceeding 24 hours. Hospital facilities may also include outpatient services and the following types of

accessory activities: outpatient diagnostic and treatment centers, rehabilitation facilities, offices, laboratories, teaching facilities, meeting areas, cafeterias, maintenance and parking facilities. The term "hospital" includes general hospitals, specialized hospitals, chronic hospitals, psychiatric and substance abuse hospitals or hospices. (See SCDHEC Regulation No. 61-16, standards for licensing hospital and general infirmaries, and Regulation No. 61-78, standards for licensing hospices.)

Hotel or inn means a building or arrangement of buildings designed and occupied as a temporary abiding place of individuals who are lodged with or without meals, in which the rooms are usually occupied singularly for hire, and in which there are six or more sleeping rooms.

Hydroponics means land used to produce, for wholesale sale, plants grown in nutrient-enriched water, where no soil is used.

Impact fees means charges assessed against newly developing property that attempt to recover the cost incurred by a local government in providing the public facilities required to serve the new development.

Impervious surface means any material which prevents, impedes or slows infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation bearing soils, including buildings, asphalt, concrete, gravel and other surfaces as determined by the Planning Director.

Improvements means street pavements, curbs, sanitary and storm sewers, permanent street monuments, sidewalks, drainage, culverts, utilities, water lines and connections, sewer lines and connections, lighting fixtures and other similar capital and public facility projects.

Incentive zoning means the granting by the approving authority of additional development capacity in exchange for a public benefit or amenity.

Indigenous produce.

- (1) The term "indigenous produce" means fresh fruit, vegetables and agronomic crops (crops such as field corn, soybean, wheat, and oats) grown in, or are characteristic of Charleston County.
- (2) The term "indigenous produce" specifically excludes livestock, animals or seafood.

Infill development means the addition of new housing or other buildings on scattered vacant sites in a built-up area.

Inoperable vehicle means any motor driven vehicle, regardless of size, which is incapable of being self propelled upon the public streets of the Town or which does not meet the requirements for operation upon the public streets, including a current motor vehicle registration.

Invasive species means species that are not native to South Carolina and cause economic or environmental harm or harm to human health. Invasive species may be found in the Nonnative Invasive Plants of Southern Forests registry published by the US Department of Agriculture or list provided by Clemson University Cooperative Extension.

Island-based employee means employees that are employed full or part time on Kiawah Island, yet reside off the Island.

Kennel means a facility that provides boarding for three or more dogs, cats, or other household pets for a fee, and may include grooming, breeding, training, or selling of animals.

Kiawah Island means the area within the Town of Kiawah Island, South Carolina, including its surrounding marshes and nearby islands and includes all lands and areas encompassed within the boundaries of the low lands, high lands, marsh lands and waterways. Kiawah Island is bounded by the Atlantic Ocean to the East, the Kiawah River to the South and the Stono River to the North.

KICA means the Kiawah Island Community Association, Inc.

KICA covenants refers to the Declaration of Covenants and Restrictions of the Kiawah Island Community Association, Inc. recorded in the RMC Office for Charleston County in Book M 114, Page 407, and amendments thereto.

Kindergarten means a school for children of pre-public school age in which constructive endeavors, object lessons and helpful games are prominent features of the curriculum.

Land development means changing of land characteristics through redevelopment, construction, subdivision into parcels, condominium complexes, apartment complexes, commercial parks, shopping centers, industrial parks, mobile home parks, and similar developments for sale, lease or any combination of owner and rental characteristics.

Land surveyor means to determine the boundaries, area, or elevations of (land or structures on the earth's surface) by means of measuring angles and distances, using the techniques of geometry and trigonometry.

Library means a room or building for exhibiting, or an institution in charge of, a collection of books; artistic, historical, or scientific objects.

Liquor, beer or wine sales means an establishment primarily engaged in the retail sale of alcoholic beverages for off-premises consumption. The term "liquor, beer or wine sales" includes all retail stores where the sale of alcoholic beverages comprises 49 percent or more of gross sales.

Living area means that portion of the dwelling unit utilized for living purposes within the exterior walls of the structure and does not include porches, breezeways, garages and carports.

Lodginghouse means a building other than a hotel, where lodging for five or more persons is provided for compensation.

Lot means the development parcel identified in a subdivision plat recorded in the Charleston County, RMC office; also referenced to as zoning lot, parcel, plot or tract.

Lot area means the area of the lot shall be the net horizontal area of the lot and shall not include portions of streets, alleys and areas below mean high-water and water bodies.

Lot, corner, means either a lot bounded entirely by streets or a lot which adjoins the point of intersection or meeting of two or more streets.

Lot coverage means the total percentage of lot area that is impervious to stormwater, including buildings, decks, walls, driveways, front walkways, and other impervious surfaces as defined by this ordinance and determined by the Planning Director.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot, double-frontage, means an interior lot that abuts on two parallel streets or that abuts on two streets that do not intersect at the boundaries of the lot. Lots with access on a street and alley shall not be considered double-frontage lots.

Lot, flag, means a legally platted lot that is designed specifically to have a portion that is buildable (the "flag" area) and a portion that [is] unbuildable (the "pole" area) that is used solely for access on the parcel.

Lot frontage means the distance for which a zoning lot abuts on a street.

Lot, interior, means a lot other than a corner lot.

Lot line means a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot line, front, means the lot line separating a lot from a street right-of-way.

Lot line, interior, means the lot line other than a front lot line.

Lot line, rear, means the lot line opposite and most distant from the front lot line.

Lot line, side, means any lot line other than a front or rear lot line.

Lot, through, means an interior lot which abuts on two or more streets.

Lot width means the width of:

- (1) A corner lot, if there are:
 - a. Two street yard lines, the shorter of such lines;
 - b. More than two street yard lines, the average length of the two shortest of such lines.
- (2) An interior lot, the length of the front yard line.
- (3) A through lot, a width determined on the basis of a reasonable division of the lot into segments fronting on several streets.

Lot, zoning, means any lot that falls within the jurisdiction of this chapter.

Lots of record, approved, means platted parcels of land created and recorded with the Register of Mesne Conveyance of Charleston County since January 1, 1955, in conformance with article III of this chapter, subdivision regulations and bearing the Planning Commission or Council stamp of approval, or identical parcels created and recorded by plat or meets and bounds prior to January 1, 1955.

Main utility lines means those facilities including piping, conduits, outlets, and other appurtenances necessary for the proper functioning of essential services to a development including water, electricity, gas, sanitary sewer, storm sewer, cable, communications, etc.

Maintenance agreement means an agreement which may be required and accepted by the Town or another designated governmental agency to ensure that necessary improvements are maintained and will function as required for a specific period of time.

Maintenance guarantee means any security which may be required and accepted by the Town or another designated governmental agency to ensure that necessary improvements are maintained and will function as required for a specific period of time.

Major recreational equipment means and includes, but is not limited to, boat, boat trailer, recreational vehicle, and containers for transporting such equipment, whether occupied thereby or not.

Manufactured housing unit.

- (1) The term "manufactured housing unit" means any residential dwelling unit constructed to standards and codes set forth by the United States Department of Housing and Urban Development, including the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401).
- (2) The term "manufactured housing unit" does not include recreational vehicles, travel trailers or motorized homes licensed for travel on highways, nor manufactured housing units designed and built to meet applicable requirements of South Carolina Modular Buildings Construction Act.

Manufacturing and production means an establishment engaged in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, manmade, raw, secondary or partially completed materials may be used. Products may be finished or semifinished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, this is a subordinate part of sales. Relatively few customers come to the site.

Marina means any of the following, as defined by OCRM:

- (1) Locked harbor facility;
- (2) Any facility which provides fueling, pump-out, maintenance or repair services (regardless of length);
- (3) Any facility which has permanent docking space of 250 linear feet or greater;
- (4) Any water area with a structure which is used for docking or otherwise mooring vessels and constructed to provide temporary or permanent docking space for more than ten boats; or
- (5) A dry stack facility.

Maximum extent feasible means the point at which all possible measures have been undertaken by the applicant, at which point further measures would involve physical or economic hardships that would render a development project unfeasible or would be unreasonable in the judgment of a review or decision-making body.

Mean sea level means elevation 0.0 as determined by NGVD 29 datum.

Medical clinic, outpatient services.

- (1) The term "outpatient services medical clinic" means an office or clinic for the private practice of health care professionals licensed by the State of South Carolina. The majority of patient encounters in the office or clinic involve examination, diagnosis, treatment or surgical procedures on an outpatient basis not extending beyond a 24-hour period.
- (2) The term "outpatient services medical clinic" excludes any facilities that have been more specifically defined in this chapter.

Medical office means an office used exclusively by a physician, dentist, and/or similar personnel for the treatment and examination of patients solely on an outpatient basis, provided that no overnight patients shall be kept on the premises.

Medical services means any services provided by a licensed medical practitioner.

MHW means the mean high-water line.

Mini-warehouse means a structure containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Mixed-use structure means a structure containing both residential and nonresidential uses.

MLW means the mean low-water line.

Modular building unit means a building including the necessary electrical, plumbing, heating, ventilating and other service systems, manufactured off site and transported to the point of use for installation or erection, with or without other specified components, as a finished building and not designed for ready removal to another site. A modular building unit must meet the applicable requirements of the South Carolina Modular Buildings Construction Act. The term "modular building unit" is not to be limited to residential dwellings.

Motion picture/live theater means a structure that contains audience seating, one or more screens/auditoriums, and a lobby and refreshment stand.

Motor vehicle means every vehicle that is self-propelled that can be licensed and registered to be driven on public streets, roads or rights-of-way, except mopeds, and every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

MSL means the mean sea level.

Mulching operation means an operation that produces mulch. Mulch consists of organic substances placed on the earth as a protective covering around plants to retard weed growth and prevent moisture evaporation and freezing of roots.

Multifamily. See *Dwelling, multifamily*.

Museum means a registered nonprofit organization displaying, preserving, and/or exhibiting objects of community and cultural interest in one or more of the arts and sciences.

Natural ground means the average elevation of a lot or development parcel prior to development activity.

Nature exhibition.

- (1) The term "nature exhibition" means a public display of materials or living things of the outdoors, including the re-creation of native natural wildlife habitats.
- (2) The term "nature exhibition" does not include facilities, such as zoos, where the primary purpose is the display of live animals.

News syndicate services means a publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest.

NGVD means the National Geodetic Vertical Datum.

Noncommercial copy means material written for informational purposes only. This material is nonpromotional and does not advertise a business or service.

Nonconforming lot means a tract of land, designated on a duly recorded subdivision plat, or by duly recorded deed, or by other lawful means, that complied with the lot area, lot width and lot depth standards of the zoning district in which it was located at the time of its creation, but which does not comply with the minimum lot area, lot width or lot depth requirements of the zoning district in which it is now located.

Nonconforming sign means a sign that was legally established but which no longer complies with the sign regulations of this chapter.

Nonconforming structure means a structure or portion thereof which was lawfully erected or altered, but which does not comply with the regulations applicable to new structures in the zoning district in which it is located.

Nonconforming use means a use which was lawfully established and maintained, but which does not comply with the use regulations applicable to new uses in the zoning district in which it is located; the use of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

Office means a building used primarily for conducting the affairs of a business, profession, service, industry, or government or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, and child care facilities.

Office of Coastal Resource Management (OCRM) critical line area means the line defined by the South Carolina Department of Health and Environmental Control's Office of Ocean and Coastal Resource Management at the date of application and determines their jurisdiction.

Office/warehouse complex means a structure or group of structures offering compartments of varying size for rental to different tenants for the storage of commercial goods or wares, conducting of certain retail trade activities, or provision of those personal or business services permitted by zoning.

Open space means an area that is not divided into building lots, streets, driveways, parking lots or rights-of-way and is intended to provide light and air, and is designed for either environmental resource protection, wildlife habitats, scenic views or recreational purposes as allowed.

Open storage.

- (1) The term "open storage" means the location of bulk items, assemblies or sub-assemblies in areas exposed to weather, in whole or in part, for the end use of further manufacturing process, sale or transportation. The term "open storage" shall include, but not be limited to, open display of transportation vehicles, marine craft, aircraft, mobile homes, modules, recreation vehicles, junkyards or "piggy-back" containers.
- (2) The term "open storage" does not include uses that are totally enclosed.

Outdoor living space.

- (1) The term "outdoor living space" means uncovered, horizontal open space on a zoning lot, which space:
 - a. Is paved, landscaped, or otherwise improved to make it suitable for passive or active outdoor recreational use and in the case of roofs and balconies is so arranged as to be safe for use by children;
 - b. Is readily accessible to the residents of the building for which it is required; and
 - c. May include land, balcony and roof areas.
- (2) The term "outdoor living space" does not include loading or parking areas, driveways or refuse storage area and is so arranged as to prevent entry by motor vehicles.

Outside storage means the keeping, in an unroofed area, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours.

Owner means an individual, firm, association, syndicate, partnership or corporation having a sufficient proprietary interest in land to seek development of the land.

Parcel means a contiguous lot or tract of land owned and recorded as the property of the same persons, or controlled by a single entity.

Park means an open space with natural vegetation and landscaping; may include recreational facilities.

Parking garage means a building where residents, tourists, customers or employees park their motor vehicles on a temporary or daily basis with a service charge or fee being paid to the owner or operator.

Parking lot means an open area providing off-street parking for the motor vehicles of residents, tourists, customers, or employees on a temporary, daily, or overnight basis.

Parks and recreation means parks, playgrounds, swimming pools, recreation facilities, and open spaces available to the general public, either without a fee or under the management or control of a public agency.

Parole or probation office means an office for those who supervise parolees or persons placed on probation by a court in criminal proceedings.

Patio home means a detached one-family dwelling on a separate lot with open space setbacks on three sides and with a court.

Paved streets means those in which the traveled roadway is constructed of a layer or layers of materials with the surface usually being constructed of Portland cement concrete or asphaltic concrete.

Pavement means the uppermost layer of material placed on the street usually as the wearing or riding surface. This term is used interchangeably with surface course or surfacing and will usually imply Portland cement concrete or asphalt concrete.

Pending ordinance doctrine means the Zoning Administrator has the authority to refuse a permit for a use which is repugnant to the terms of a proposed zoning ordinance or amendment pending at the time of application for the permit. An ordinance is legally pending when the governing body has resolved to consider a particular scheme of rezoning and has advertised to the public its intention to hold public hearings on the rezoning.

Pennants, streamers and other moving devices means pennants, ribbons, streamers, spinners, light bulbs, or other similar moving devices when part of a sign, or when used to draw attention to a business or its signs.

Person means an individual, proprietorship, partnership, corporation, association or other legal entity.

Personal improvement education.

- (1) The term "personal improvement education" means an establishment primarily engaged in the provision of information or instruction relating to a particular subject or hobby.
- (2) The term "personal improvement education" excludes any educational services more specifically defined in this chapter.

Personal improvement service.

- (1) The term "personal improvement service" means an establishment primarily engaged in the provision of informational, instructional, personal improvements or similar services.
- (2) The term "personal improvement service" excludes any services that have been more specifically defined in this chapter.

Personal services establishment means an establishment that provides nonmedically related services, including, but not limited to, beauty shops and barbershops; clothing rental; dry cleaning pickup stores; shoe repair shops; tanning salons. These uses may also include accessory retail sales of products related to the services provided.

Pervious surface means an unimproved portion of land maintained in its natural condition or an improved portion of land covered by a material that permits infiltration or percolation of stormwater into the ground as determined by the Planning Director.

Pet grooming salons means an establishment primarily engaged in the grooming of household pets.

Pet, household, means domestic animals typically kept for company or enjoyment within the home. The term "household pets" includes, but not be limited to: domestic cats; domestic dogs; domestic ferrets; gerbils; guinea pigs; hamsters; domestic laboratory mice; domestic rabbits; goldfish, canaries and parrots.

Pet store means an establishment primarily engaged in the retail sale of household pets.

Pier means a structure that accesses water for any number of uses that consists of walkway, pierhead and floating dock.

Planned development district means a zoning district established under the provisions of section 12-73.

Planning Commission means the Planning Commission of the Town of Kiawah island as created by the Town Council and given the responsibilities set forth in the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 (the "Act"). See the Act, sections 6-29-340 through 6-29-380; may also be referred to as "Commission," "Local Planning Commission" or "Planning and Zoning Commission."

Planning Director means the Director of the Charleston County Planning Department, or his authorized representative, who shall also serve as the zoning enforcement officer.

Plants means and includes seed, seedlings, nursery stocks, roots, tubers, bulbs, cuttings and other plant parts used in the propagation of field crops, vegetables, fruits, flowers or other plants.

Plat means a recorded graphic description of property prepared and approved in compliance with article III of this chapter, as amended.

Plat, conditional, means a plat proposed in accordance with the provisions of article III of this chapter, which provides detailed land development specifications and is submitted subsequent to an approved preliminary plat and construction plan.

Plat, final, means a plat proposed in accordance with the provisions of article III of this chapter, which is in the proper format for filing and recordation. Approval is granted upon completion or installation of all improvements, or the posting of a performance guarantee assuring completion or installation.

Plat, final plat approval means the official action of the Commission approving or conditionally approving a preliminary, conditional or final plat.

Plat, preliminary, means a plat prepared in accordance with the provisions of article III of this chapter, which is submitted for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it.

Postal Service, United States, means the postal services, including post offices, bulk mail processing, or sorting centers operated by the United States Postal Service.

Preliminary approval means the official action of the Zoning and Planning Commission conferring certain rights prior to final approval after specific elements of a preliminary plat have been agreed upon by the Commission and the applicant.

Preschool means a school, with an accredited training program and staffed with certified teachers, for children who are not old enough to attend kindergarten.

Preserved means to remain relatively unchanged. In relation to open space, the term "preserved" means land placed in a conservation easement with a permanent deed restriction that prohibits further development.

Principal use means the primary or predominant use to which a property is or may be devoted and to which all other uses on the premises are accessory.

Private club means a privately owned, by-invitation only association of two or more members who may have the use of land and facilities owned or leased by the club and made available to members, their guests and others, as the club owners may allow from time to time; membership may be for social, civic, recreational and/or other lawful purposes with such membership conditioned upon the receipt of dues, fees or other charges as are levied by the club owners.

Private postal or mailing services means a commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal Service and private service), and provides mailboxes for lease.

Professional office.

- (1) The term "professional office" means a use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.
- (2) The term "professional office" does not include "medical office or clinic" or "parole or probation office."

~~*Protected tree* means any tree with a diameter breast height of 24 inches or greater, excluding pine trees, and any tree with a diameter breast height of six inches or greater within required buffers or any other required landscape areas.~~

Public or community health care center.

- (1) The term "public or community health care center" means a publicly owned facility or not-for-profit organization providing health services for ambulatory patients. These centers can include related facilities, such as laboratories, clinics, and administrative offices typically operated in connection with such care centers.
- (2) The term "public or community health care center" does not include facilities to treat mental health or substance abuse.

Public project means any project by or for a public agency using real property, as owner or tenant that falls within the jurisdiction of the Town of Kiawah Island. These public agencies include:

- (1) Agencies and departments of the State of South Carolina;
- (2) Counties, county agencies and departments; and
- (3) Municipalities, municipal agencies, and departments.

Public Works Director means the Director of the Department of Public Works of the County of Charleston or an authorized representative.

Publicly designated area means an area set aside for public use, by any federal, state, or local government.

Rack means a storage slip for a boat in a dry stack storage facility.

Radio and television broadcasting studio.

- (1) The term "radio and television broadcasting studio" means an establishment containing one or more broadcasting studios for over-the-air, cable or satellite delivery of radio or television programs, or studios for the audio or video recording or filming of musical performances, radio or television programs or motion pictures.
- (2) The term "radio and television broadcasting studio" does not include a transmission tower.

Recreation and entertainment, indoor.

- (1) The term "indoor recreation and entertainment" means participatory and spectator-oriented recreation and entertainment uses conducted within an enclosed building.
- (2) The term "indoor recreation and entertainment" excludes any sexually oriented businesses.

Recreation and entertainment, outdoor.

(1) The term "outdoor recreation and entertainment" means participatory and spectator-oriented recreation and entertainment uses conducted in open, partially enclosed, or screened facilities.

(2) The term "outdoor recreation and entertainment" excludes any sexually oriented businesses.

Recreation center means a building designed for and used as a social, recreation, and cultural center. As a part of such recreation centers there may be included craft rooms, music rooms, game rooms, meeting rooms, auditoriums, swimming pools and kitchen facilities.

Recreation or vacation camp.

(1) The term "recreation or vacation camp" means an area or tract of land primarily used for recreational purposes that retains an open air or natural character. Accommodations for temporary occupancy, such as cabins and tents, may be located or placed in these areas.

(2) The term "recreation or vacation camp" does not include areas for recreational vehicles or motorized campers.

Recreational equipment means equipment associated with indoor and/or outdoor participatory and spectator-oriented recreation and entertainment uses.

Recreational vehicle.

(1) The term "recreational vehicle" means a highway vehicular, portable structure designed as a temporary dwelling for travel, recreational, and vacation uses. The term includes camping trailer, motor home, travel trailer, and truck campers.

(2) The term "recreational vehicle" does not include manufactured housing units.

Recreational vehicle park.

(1) The term "recreational vehicle park" means any lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy as temporary living quarters for purposes of recreation or vacation.

(2) The term "recreational vehicle park" does not include any premises on which unoccupied recreational vehicles, whether new or used, are parked for the purposes of inspection, sale, storage, or repair.

Recycling center means an establishment engaged in the processing, collection and transfer of recyclable materials. Typical recyclable materials include: glass, paper, plastic, cans, motor oil or other source material that is separated and of nondecayable materials.

Recycling collection dropoff facility means a facility used for the collection and transfer, but not the actual processing, of any of the following recyclable materials: glass, paper, plastic, cans, or other source separated, nondecayable materials. Recyclable materials at a recycling collection facility shall not include motor oil, chemicals, household appliances, tires, automobiles, automobile parts or decayable materials.

Rehabilitation facility means a facility operated for the primary purpose of assisting in the rehabilitation of disabled individuals through an integrated program of medical, psychological, social or vocational evaluation and services under competent professional supervision.

Religious assembly means a church, synagogue, temple, monastery, convent, retreat center or any permanent or temporary building providing regular, organized religious worship of any denomination and religious education incidental thereto, but excluding private primary or secondary educational facilities day care facilities. A property tax exemption obtained pursuant to State Law shall constitute prima facie evidence of religious assembly use.

Relocated tree means a protected tree that has been relocated in accordance with the requirements of this chapter.

Remodel.

- (1) The term "remodel" means the internal or external alteration or change, in whole or in part, of a structure or thing that changes its characteristic appearance or the fundamental purpose of its existing design or arrangement and the uses contemplated.
- (2) The term "remodel" does not include the terms "enlargement" and "extension."

Repair service, commercial, means an establishment engaged in the repair or servicing of industrial, business or consumer machinery, equipment, tools, scientific or professional instruments, or similar products or byproducts. Firms that service consumer goods do so mainly by providing centralized services for separate retail outlets.

Repair service, consumer, means an establishment primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding vehicle and commercial repair services.

Required tree means the term used to refer, either collectively or separately, to all trees required to be retained or replaced.

Residential building or use means a residential building is a building containing only residential uses and uses accessory thereto.

Residential, short-term, means any real property rented except dwelling units rented less than two weeks per annum.

Residential treatment facility for children and adolescents means a facility licensed by the South Carolina Department of Health and Environmental Control (DHEC) operated for the assessment, diagnosis, treatment, and care of two or more children and/or adolescents in need of mental health treatment. The services include a special education program, recreational facilities, and residential treatment. This definition excludes facilities that are appropriately licensed by the State Department of Social Services. (See SCDHEC Regulation No. 61-103, standards for licensing residential treatment facilities for children and adolescents.)

Responsible entity means either:

- (1) The unit of local government responsible under State Law for the maintenance of the roadway; or
- (2) In the case of private roadways (nonpublicly maintained), the owner of the property on which the roadway is located, or a homeowners association, if existing, previously created to maintain the roadway.

Restaurant, fast-food, means an establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried or griddled quickly, or heated in a device such as a microwave oven. A fast-food restaurant generally has one or more of the following characteristics:

- (1) It serves ready to eat foods, frozen deserts, or beverages in edible or paper, plastic or disposable containers;
- (2) It serves foods that customers carry to the restaurant's seating facilities, to motor vehicles, or off premises;
- (3) It serves foods through a pass-through window, (which includes any and all drive in restaurants); or
- (4) Alcoholic beverages shall not comprise more than 25 percent of gross receipts.

Restaurant, general.

- (1) The term "general restaurant" means an establishment engaged in the preparation and retail sale of food and beverages for on premises consumption, where the sales of alcoholic beverages does not comprise more than 25 percent of gross receipts.
- (2) The term "general restaurant" does not include fast-food restaurants.

Retail sales and services, general.

- (1) The term "general retail sales and services" means an establishment primarily engaged in the sale of new or used products to the general public.
- (2) The term "general retail sales and services" excludes those establishments more specifically defined in this chapter.

Retirement housing means the use of a site for one or more dwelling units designed for independent living and marketed specifically for the elderly, persons with physical disabilities or both.

Review body means the entity that is authorized to recommend approval or denial of an application or permit required under this chapter.

Right-of-way means land that has been, or is being, dedicated for the construction and maintenance of a street. Right-of-way may also be used to identify an area dedicated for use as part of a drainage system or utility corridor.

Road code means a recorded description of right-of-way specifications prepared and approved in compliance with article V of this chapter, the road code.

Roadside stand means a small open air structure for the retail sale of sweetgrass baskets or indigenous produce grown or produced on the farm where the roadside stand is located.

Roadway means the entire area between the outside limits of construction, including appertaining structures, all slopes, ramps intersections, drive, and side ditches, channels waterways, etc., necessary for proper drainage. This term shall in general be considered synonymous with "street" or "road."

Rock road means those in which the traveled roadway is constructed of compacted rock material creating a rock driving surface.

Roominghouse means a dwelling other than a hotel where for compensation and by pre-arrangement for definite periods, lodging is provided for three or more, but not exceeding 20, persons on a weekly or monthly basis.

Rowhouse. See Townhouse.

Safety service means facilities for the conduct of public safety and emergency services.

School, primary, means a public, private or parochial school offering instruction at the elementary school level in the branches of learning and study required to be taught in the public schools of South Carolina.

School, secondary, means a public, private or parochial school offering instruction at the middle (junior) and senior high school levels in the branches of learning and study required to be taught in the public schools of South Carolina.

Scrap and salvage service or junkyard means an establishment primarily engaged in the storage, retail or wholesale sale, assembling, dismantling, sorting, distributing, or other processing of scrap, used equipment, mechanical components, or waste materials.

Screening means various combinations of walls, fences, earthen berms, trees, shrubbery, and landscape materials which comprise a screening plan approved by the Planning Director or designee to fulfill the requirements and serve the purposes of this chapter.

Screening, semi-opaque, means a combination of screening elements to partially obscure horizontal views between abutting or adjacent properties.

Self-service storage or mini-warehousing.

- (1) The term "self-service storage" or "mini-warehousing" means storage services primarily for personal effects and household goods within enclosed storage areas having individual access.
- (2) The term "self-service storage" or "mini-warehousing" excludes uses such as workshops, hobby shops, manufacturing or commercial activity.

Servants' quarters means an accessory building or portion of a main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile.

Service station, gasoline, means a facility limited to retail sales to the public of gasoline, motor oil, lubricants, motor fuels, travel aides, and minor automobile accessories.

Setback means a required minimum distance from a lot line or street right-of-way that establishes an area within which a structure shall not be erected.

Setback, front, means the setback measured from all street rights-of-way.

Setback, interior, means the setback measured from any interior lot line.

Setback line means a line measured from and parallel to a lot line.

Setback, rear, means the setback measured from the rear lot line.

Setback, side, means any setback other than a rear or front setback.

Sewer means any pipe or conduit used to collect and convey sewage or stormwater runoff from the generating source to treatment plants or receiving streams.

Sewer, lateral, means pipes conducting sewage from individual buildings to larger pipes called truck or interceptor sewers that are generally located in street rights-or-way.

Sewer main means any system of continuous piping, the principal artery of the water or sewer system to which branches or lines may be connected.

Shopping center means a group or cluster of stores or buildings, divided for separate commercial or service facilities, organized in a balanced arrangement for retail trade, with provisions for parking.

Shrub means a self-supporting perennial plant of low stature characterized by multiple stems and branches running continuous from the base.

Sight triangle means a triangular-shaped portion of land established at street intersections in which nothing is permitted which limits or obstructs the sight distance of motorists entering or leaving the intersection. The sides of the triangle measure 25 feet from the intersection of the projected edge of pavement lines.

Sign means any device or representation for visual communication that is used to announce, direct attention, or advertise, and which is located on or attached to the premises, real property, structures on real property, or a vehicle, and which is visible from a public street or way.

Sign, abandoned, means a sign advertising a person, business, service, event or other activity that is no longer available or a sign containing inaccurate or outdated information.

Sign, animated, means any sign so designed as to facilitate or permit the rotation, oscillation, or other movement of the sign or of any of its visible parts.

Sign, area of, means the entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The area of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letters or devices. Any area devoted to required house numbers shall not be included in the calculation of maximum sign area. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be constructed so that both faces are either parallel or have an interior angle of less than 90 degrees, and the two faces shall not be more than 12 inches apart.

Sign, flashing.

- (1) The term "flashing sign" means any lighted or electrical sign that emits light in sudden transitory bursts. For purposes of this chapter, strobe lights in window fronts visible from public rights-of-way are included in this definition.
- (2) The term "flashing sign" does not include on/off time and temperature signs and message boards, for the purpose of this chapter.

Sign, freestanding, means a sign supported by a sign structure secured in the ground and which is wholly independent of any building, other than the sign structure, for support. A sign on a fence shall be considered a freestanding sign.

Sign, height of, means the vertical distance measured from ground level at the base of the sign structure to the highest point of sign structure.

Sign, illuminated, means a sign designed to give forth artificial light or to reflect artificial light from a source incorporated in or associated with such sign.

Sign imitating traffic devices (signals) means signs of such size, location, movement, content, coloring or of a manner of illumination that could be confused with or construed to be traffic control devices; or hide from view any traffic or street signal; or obstruct the view in any direction from a street intersection.

Sign imitating traffic signs means signs that imitate official traffic signs or signals or signs that contain the word "stop," "go," "danger," "slow," "caution," "warning," or similar word, in such a fashion as to imitate official traffic signs or signals.

Sign in disrepair means any sign that contains damaged or defective parts, or otherwise presents an unsightly appearance due to lack of maintenance.

Sign in marshes means a sign erected or displayed in a marsh area or on land subject to periodic inundation by tidal action.

Sign, monument, means a freestanding sign with a sign (support) structure that is:

- (1) Designed as one architecturally unified and proportional element with the sign itself;
- (2) At least 90 percent of the width of the sign face; and
- (3) Solid from grade at the base of the sign to the top of the sign structure.

Sign, off-premises, means any sign located or proposed to be located at any place other than within the same platted parcel of land on which the specific business or activity being identified on such sign is itself located or conducted.

Sign, on-premises, means a sign which directs attention to a business or profession conducted, or to a principal commodity, service or entertainment sold or offered on the premises where such sign is located.

Sign, pedestal, means a freestanding sign with a sign (support) structure that is:

- (1) Designed as one architecturally unified and proportional element with the sign itself;
- (2) At least 50 percent of the width of the sign face; and
- (3) Solid from grade at the base of the sign to the top of the sign structure.

Sign, portable, means signs which usually rest on the ground on wheels or metal legs, and may be temporarily anchored by weights and/or cables attached to stakes driven into the ground.

Sign, real estate, means temporary sign advertising the real property upon which the sign is located for rent or lease or sale; advertising a business or businesses to be located on the premises; or advertising the architect, contractor, developer, finance organization, subcontractor or material vendor upon which property such individual is furnishing labor, services or material.

Sign, roof, means any sign erected upon, against, or directly above a roof or roof eave, or on or above any architectural appendage above the roof or roof eave.

Sign, snipe, means a nonpermitted sign pasted or attached to utility poles, trees, fences, or other locations.

Sign, temporary, means signs that are not permanently attached to a building, other structures or the ground and do not meet structural standards recognized and enforced by the Building Inspections Services Department.

Sign, vehicle, means a permanent or temporary sign affixed, painted on, or placed in or upon any parked vehicle, parked trailer or other parked device capable of being towed, which is displayed to attract the attention of the motoring public or pedestrian traffic.

Sign, wall/facade, means a sign painted on or attached to the outside of a building, and erected parallel to the face of a building and supported throughout its length by such building.

Single-family, detached dwelling means a building containing one dwelling unit that is not attached to any other dwelling unit and is surrounded by yards or open space.

Social or civic organization.

- (1) The term "social or civic organization" means an establishment providing meeting, recreational, or social facilities for a nonprofit association, primarily for use by members and guests of youth organizations, fraternal organizations, and other similar groups.
- (2) The term "social or civic organization" does not include any type of use that is a residential facility, such as fraternity or sorority houses.

Social club or lodge means a building, structure, or grounds, or portion thereof, which is owned by or leased to private organizations, social clubs, or nonprofit associations for meeting, recreational, or social purposes. The use of such premises is restricted to the members of these organizations and their guests.

Special exception use means a use which may be permitted by the BZA pursuant to section 12-161.

Special trade contractor means an establishment that specializes in a specific aspect of construction, such as carpentry, electrical, painting, plumbing, roofing or tile.

Specimen tree means any Grand Tree or any Live Oak Tree with a diameter breast height of sixteen (16) inches or greater in size.

Stable means a building or land where horses are kept for private or commercial use including boarding, sale, rental, breeding or raising of horses.

Standard cubic foot (scf) means a cubic foot of gas at standard temperature and pressure, which are 68 degrees Fahrenheit and 29.92 inches of mercury.

Stealth tower means a communications tower not exceeding 120 feet in height designed to unobtrusively blend into the existing surroundings so as not to have the appearance of a communication tower and is designed to hide, obscure or conceal the presence of the towers and antennas. Examples of stealth towers include, but are not limited to, antenna tower alternative structures, architecturally roof-mounted antennas, building-mounted antennas painted to match the existing or proposed trees and landscaping, antenna structures designed to look like light poles or electrical utility poles, artificial trees, clock towers, flagpoles, steeples, water towers or water tanks.

Story means that part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor of the building.

Story, first, means the first habitat interior floor of a structure above the required flood elevation.

Story, one-half, means a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.

Street means a vehicular way which may also serve in part as a way for pedestrian traffic, whether called a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, alley, mall or other designated.

Street, arterial, means a street used primarily or designed for through traffic, usually on a continuous route.

Street, collector, means a street used or designed to carry traffic from minor streets to arterial or major streets.

Street, cul-de-sac, means a street with only one means of ingress and egress and having a turnaround at the end.

Street line means a lot line separating a street from a lot or parcel.

Street, local, means a street other than an arterial or collector used or designated primarily to provide access to abutting property. Marginal access streets, cul-de-sacs and loop streets are examples of types of local streets. See also *Street, minor*.

Street, loop, means a local street that has its only ingress and egress at two points on the same (collector) street.

Street, minor, means a street other than an arterial or collector used or designated primarily to provide access to abutting property. Marginal access streets, cul-de-sac streets, and loop streets are examples of types of minor streets.

Street, stub, means a street that intersects with a local street and extends, usually one lot deep, to the property line of the development or rear of the block being developed.

Structural alterations means any change in the supporting member of a building such as a bearing wall, column, beams or girders.

Structure means anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having a more or less permanent location on the ground.

Subdivider means any person, firm, corporation, partnership or association acting individually or as a unit who causes land to be divided for the use of himself or others.

Subdivision means the division of a lot, block, tract, or parcel into two or more lots, blocks, tracts or parcels or any division of land involving the dedication of a new street or other public right-of-way or a change in existing streets, alleys, easements, water, sewer or other public improvements. The term "subdivision" also includes the resubdivision of a previously subdivided lot, block, tract or parcel. Subdivision regulations ("land development regulations") are defined pursuant to S.C. Code 1976, § 6-29-1110(2).

Subdivision improvement agreement means an agreement which may be required and accepted by the town or another designated governmental agency to ensure that necessary improvements required as part of an application for development will be satisfactorily completed.

Subdivision regulations means a recorded description of development standards prepared and approved in compliance with article III of this chapter.

Subgrade means the top surface of a roadbed upon which the pavement structure and shoulders are constructed.

Swale means a depression in the ground that channels runoff.

Swale, major, means a drainage system with a drainage swale one foot in depth or greater.

Swale, minor, means a drainage system with a drainage swale not exceeding one foot in depth.

Tear-down means the construction or remodeling of single-family homes to the maximum allowable size permitted by land use and zoning regulation in neighborhoods distinctly characterized by considerably smaller homes.

Temporary means existing or continuing for a limited period of time as determined by a decision-making body.

Temporary building means a building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction or utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

Tobacconists means tobacco retailers whose business exclusively or primarily involves the sale of tobacco products and related goods.

Town means the Town of Kiawah Island, South Carolina, a municipal corporation organized and existing under the Laws of the State of South Carolina.

Town Council means the Town Council of the Town of Kiawah Island, South Carolina; also referred to as the "Council."

Townhouse means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from another unit by one or more vertical common fire-resistant walls.

Tract means the entire land area of a proposed subdivision.

Traffic mitigation measures means improvements and/or transportation management strategies to restore or maintain acceptable levels of service for a roadway segment or segments, including, but not limited to turn lane

additions, acceleration/deceleration lanes, a new off-Island Reception Center/security checkpoint, other road widening alternatives, vanpools and other alternatives to decrease traffic volume or increase roadway capacity.

Traffic mitigation plan means a plan to restore or maintain acceptable levels of service for a roadway segment or segments.

Tree means any self supporting woody plant having a single trunk or trunks of two inches dbh or greater and usually having branches.

Tree preservation plan means a plan that shows all trees in the area to be developed or within the property. The plan shall include all significant and specimen trees to be preserved and measures taken to preserve them. The plan will also include calculations to determine the number of replacement trees as required by the tree removal and mitigation.

Tree protection fencing means a fence or wall at least four feet in height that ensures the protection of protected and Grand trees during development.

Understory tree means a tree, ten to 12 feet tall at the time of planting, which will grow to a minimum height of 20 feet at maturity.

Use means the purpose or activity for which land and buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

Use, multiple, means the development of land or buildings for a variety of complementary or integrated residential, nonresidential or community service uses.

Use permitted by right means a principal use permitted without the requirement of a special exception.

Utility means a provider of electricity, gas, water, sewage service, telephone, cable or other similar service for principal development, and the provider of the service is publicly regulated.

Utility service, major, means facilities and structures that are necessary for the generation, transmission, and/or distribution of utilities to support principal development, such as generation facilities, electrical and telephone switching facilities, electric substations, pumping stations, sewage collection or disposal facilities, water or sewage treatment plants, water storage tanks, sewage collector or trunk lines, water mains, and similar facilities.

Utility service, minor, means minor structures, such as lines and poles that are necessary to distribute utilities and provide service.

Variance means a relaxation by the Board of Zoning Appeals, of the dimensional regulations of the ordinance, where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of actions or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship; and such variance is consistent with S.C. Code 1976, § 6-29-800.

Vehicle repair, consumer.

- (1) The term "consumer vehicle repair" means an establishment that primarily provides service to automobiles, light and medium trucks, motorcycles or recreational vehicles. These services include the maintenance, repair, or refinishing of motor vehicles, including both minor and major mechanical overhauling, paint and body work. Generally, the customer does not wait at the site while the service or repair is being performed.
- (2) The term "consumer vehicle repair" excludes any dismantling or scrap and salvage service.

Vehicle service, limited, means an establishment that provides direct services to motor vehicles where the driver or passengers generally wait in the vehicle or nearby while the service is performed.

Vehicle storage.

- (1) The term "vehicle storage" means an establishment offering long or short-term storage of operating vehicles or vehicles contracted for repair.
- (2) The term "vehicle storage" excludes any dismantling, scrap and salvage service, or junked vehicle yards.

Veterinary service means an establishment offering veterinary services and hospitals for animals.

Vibration means the periodic displacement or oscillation of the earth.

Wall or fence means a structural device erected to serve as an architectural element, landscape element, visual screen or physical barrier.

Waste-related use.

- (1) The term "waste-related use" means uses that collect or receive solid or liquid waste for disposal, treatment, transfer to another location, or production of energy from the waste.
- (2) The term "waste-related use" does not include uses otherwise defined as utilities.

Water and sewage treatment facility means and includes facilities providing service, maintenance, or repair of essential public utilities to one or more developments including, but not limited to wells, pumping stations, boosters, reservoir, repeaters, water storage tanks, lift stations, regulators, and other similar facilities.

Water body means property determined to be under water no less than 11 months of the year and under such standing water for a continuous period of no less than nine months of the year.

Water main means any system of continuous piping, the principal artery of the water or sewer system to which branches or lines may be connected.

Waterfront property means property within 500 feet of any river, tidal wetland or waterway, including saltwater marshes. Property abutting freshwater wetlands shall not be considered waterfront property.

Wetlands, freshwater, means those areas of land that are inundated or saturated by fresh water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions and delineated as freshwater wetlands by the U.S. Army Corps of Engineers.

Wholesale sales means an establishment engaged in the wholesale sale of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on site or delivered to the customer.

Written interpretation means any review or evaluation by the Planning Director, in written form, concerning this chapter, the comprehensive plan or any other relevant documents.

Yard means an open, unoccupied space other than a court, on the lot in which a building is situated, and which is unobstructed from the ground to the sky.

Yard, front, means an open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the front line of the principal building to the front property line of the lot.

Yard, front depth means the minimum horizontal distance from the front line of the principal building to the front line of the lot.

Yard, rear, means an open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the rear line of the principal building to the rear property line of the lot.

Yard, rear depth means the minimum horizontal distance from the rear line of the principal building to the rear line of the lot.

Zoning district means a specifically delineated geographic area or zone in the Town of Kiawah Island within which uniform development regulations and requirements govern the use, density and the placement, spacing, or size of buildings.

Zoning permit means a permit issued by the Planning Department that acknowledges that the intended land use, structure, building, or construction complies with the provisions of this chapter or authorized variance therefrom. A zoning permit shall be required prior to the activities described in section 12-165.

(b) All definitions not found in this section are defined as they appear in the latest edition of the Black's Law Dictionary.

(Code 1993, art. 12D; Ord. No. 94-12, § 2(12D-102), 9-26-1994; Ord. No. 2005-08, art. 12D, 10-12-2005; Ord. No. 2006-08, § 2.3, 11-7-2006; Ord. No. 2010-02, § 2.1, 3-2-2010; Ord. No. 2015-04, § 2, 4-14-2015; Ord. No. 2021-01, § 2, 3-2-2021)

Sec. 12-24.1 Landscape and Tree Preservation Board.

- (a) *Creation.* The Town of Kiawah Island Landscape and Tree Preservation Board ("TPB") has been created and is authorized to act pursuant to S.C. Code 1976, §§ 6-29-870—6-29-910.
- (b) *Composition and appointment of term of office of members.*
- (1) The Landscape and Tree Preservation Board shall consist of ~~five-seven~~ members. The TPB shall consist of a cross section of design professionals (~~two-three~~ minimum) and property owners ~~resident members~~ who have demonstrated knowledge of the diversity of issues concerning trees and an interest the concept of designing with nature, all to be appointed by the Mayor with the consent of the Town Council. At least three of these property owners shall be resident members. The term "resident member" means a person who resides permanently on Kiawah Island for not less than eight months of each calendar year.
- (2) The term of office for members shall be for three years from the date of appointment. Any vacancies shall be filled for the unexpired term by the Mayor with the consent of the Town Council. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties, provided the Town Council has approved such expenditures in advance.
- ~~(2)~~(3) No member shall serve more than three consecutive terms of office; provided, however, that such member shall be eligible to hold such office after a break in service of twenty-four months.
- ~~(3)~~(4) No member shall hold an elected public office in the Town of Kiawah Island or Charleston County.
- ~~(4)~~(5) The ~~Tree Preservation Board~~TPB shall elect a chair and vice-chair for one (1) year terms.
- ~~(5)~~(6) The Planning Director or designee shall serve as Secretary of the Board.
- (c) *Administrative office.* The Office of the TPB shall be located in the Town Municipal Center. All applications or requests and other papers to be filed with the Board are to be filed with the Planning Director of the Kiawah Island Planning Department not less than 30 working days prior to the Board meeting at which the matter will be heard.
- (1) Meetings of the Board shall be at the call of the Chairperson and at such other times as the Board may determine. All meetings of the Board shall be open to the public.
- (d) *Rules of procedures and records.* The ~~Tree Preservation Board~~TPB shall adopt rules of organizational procedure and shall keep a record of its resolutions, findings, and determinations, which record must be a public record. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such actions, all of which shall immediately be filed in the office of the Board and shall be a public record. The ~~Tree Preservation Board~~TPB may purchase equipment and supplies and may employ or contract for such staff and such experts as it considers necessary and consistent with funds appropriated by Town Council.
- (e) *Functions and powers.* The Landscape and Tree Preservation Board shall have the following powers:
- (1) The ~~Tree Preservation Board~~TPB shall be in place to review and approve, approve with conditions or disapprove a proposed Tree Preservation Plan for all proposed commercial or multifamily residential developments pursuant to Sec. 12-129. Tree Preservation and Landscaping Standards.

~~(2)~~ The TPB shall be in place to review and approve, approve with conditions or disapprove the removal of any Grand Tree pursuant to Sec. 12-129. Tree Preservation and Landscaping Standards.

~~(1)~~~~(3)~~ The TPB shall be in place to hear and approve, approve with conditions or disapprove applications of special circumstances regarding tree removal as determined by the Planning Director.

~~(2)~~~~(4)~~ The ~~Tree Preservation Board~~TPB shall be in place to hear or approve, approve with conditions or disapprove variance request from strict interpretation of landscaping and tree preservation standards as pertaining pursuant to Section 12-129. Tree Preservation and Landscape Standards of this Article.

~~(3)~~~~(5)~~ The ~~Tree Preservation Board~~TPB may propose-recommend such legislation as may be needed and practicable to pursue the purpose for which the Board was established.

~~(4)~~~~(6)~~ The ~~Tree Preservation Board~~TPB may serve as an advisory board for the Town for matters pertaining to landscape standards and tree preservation.

(f) Filing of applications to the Landscape and Tree Preservation Board.

(1) All applications and matters brought before the Tree Preservation BoardTPB shall be heard in the order of filing at the regular meeting of the Tree Preservation BoardTPB; provided, however, that the Tree Preservation BoardTPB shall set its meeting agenda and determine the number of applications it will hear. The Chairperson may call a special meeting of the Landscape and Tree Preservation Board.

(2) In the event that such a special meeting is called, the Chairperson, at his discretion, shall give notice to interested parties that any or all pending matters before the Tree Preservation BoardTPB will be heard and considered at such special meeting.

Published notice for hearings of the Landscape and Tree Preservation Board. Applications considered for a appeals decision shall be provided in accordance the notice provisions of this article. of the TPB shall be held pursuant to notice provisions as specified in Section 12-156.

(g) _____

(h) Decisions of the Landscape and Tree Preservation Board. The TPB shall render decisions on applications submitted pursuant to this Article and Section 12-129. The TPB may grant a variance only if exceptional circumstances exist, and where practical difficulty or unnecessary hardship is so substantial, serious, and compelling that relaxation of the general restrictions ought to be granted. No approval of such considered application shall be granted approval unless the applicant shall show and the Landscape and Tree Preservation Board shall find that:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;

(2) These conditions do not generally apply to other property in the vicinity;

(3) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonable restrict the utilization of the property;

(4) The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;

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- (5) The TPB shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map;
- (6) The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;
- (7) Granting the variance will not be contrary to the public or neighborhood interest nor will not adversely affect other property in the vicinity, nor interfere with the harmony, spirit, intent, and purpose of this article; and
- (8) Granting of the variance does not substantially conflict with the comprehensive plan or the purposes of this article.
- (i) Stipulations, conditions or safeguards. In granting a variance, the TPB may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare.
- ~~(1)~~ Lapse of approval. An approved zoning variance shall lapse and be of no further effect 12 months after the date that the variance was approved by the TPB unless a completed application of a zoning permit is submitted in accordance with section 12-155(4), or if no zoning permit is required, unless construction or development has commenced and is being diligently pursued.
- (i) _____
- ~~(2)~~(k) Minutes of the Tree Preservation Board. The decisions of the Landscape and Tree Preservation Board shall be in writing and signed by the Chairperson or designee. The minutes of the ~~Tree Preservation Board~~TPB shall show the vote of each member upon each question, or if a member is absent or fails to vote, the minutes shall indicate such fact. The decisions of the ~~Tree Preservation Board~~TPB shall be filed in the offices of the ~~Tree Preservation Board~~TPB and the Planning Director. True copies thereof shall be sent by registered mail to each of the interested parties, and shall show the date of the filing and of the decision. These decisions shall be a public record.
- ~~(g)~~(l) Appeals from Landscape and Tree Preservation Board decisions. Any person who may have a substantial interest in any decision of the ~~Tree Preservation Board~~TPB or any officer, board, or bureau of the Town may appeal from any decision of the ~~Tree Preservation Board~~TPB to the Circuit Court in and for the County by filing with the Clerk of such court a petition in writing setting forth plainly, fully and distinctly wherein such decision is contrary to law. Such appeal shall be filed within 30 calendar days after the decision of the Landscape and Tree Preservation Board is rendered.