

MAYOR:
Bradley D. Belt

TOWN ADMINISTRATOR:
Stephanie Tillerson

TOWN ATTORNEY:
Stafford J. McQuillin III



MAYOR PRO TEMPORE:
Russell A. Berner

COUNCIL MEMBERS:
E. Luke Farrell
Madeleine Kaye
Lance Spencer

TOWN COUNCIL
Municipal Center Council Chambers
April 1, 2025, 1:00 pm

AGENDA

- I. Call to Order:**
- II. Pledge of Allegiance**
- III. Roll Call:**
- IV. Approval of Minutes:**
 - A. Minutes of the Special Call Town Council Meeting of February 18, 2025 [Tab 1]
 - B. Minutes of the Town Council Meeting of March 4, 2025 [Tab 2]
 - C. Minutes of the Special Call Town Council Meeting of March 17, 2025 [Tab 3]
- V. Citizens' Comments (Agenda Items Only):**
- VI. Updates:**
 - A. Mayor
 - B. Council Members
 - C. Administrator
- VII. Old Business:**
 - A. To Consider Approval of **Ordinance 2025-03** – An Ordinance to Establish Guidelines for Encroachments and Permit Requirements on Kiawah Island Parkway and Beachwalker Drive - **Second and Final Reading** [Tab 4]
 - B. To Consider Approval of **Ordinance 2025-07** - An Ordinance to Repeal and Replace Article 4 – Finance and Taxation, Chapter 4. – Purchasing – **Second and Final Reading** [Tab 5]
- VIII. New Business:**
 - A. To Consider Approval of **Ordinance 2025-04** – An Ordinance to Amend Section 12-165. – Zoning Permits and Section 12-374. - Definitions to Clarify Items in which a Zoning Permit Shall Be Required – **Public Hearing and First Reading** [Tab 7]
 - B. To Consider Approval of **Ordinance 2025-05** – An Ordinance to Amend Section 12-160. - Development Agreements to Modify Review Procedures for Development Agreements – **Public Hearing and First Reading** [Tab 8]
 - C. To Consider Approval of **Ordinance 2025-06** – An Ordinance to Amend Section 12-76. – Waterfront Development Standards Applying to Properties Adjacent to Saltwater Marshes, Wetlands, Waterways, and Section 12-374. - Definitions to Modify Required Buffer Standards and Modify Lot Coverage and Associated Definitions – **Public Hearing and First Reading** [Tab 9]
 - D. To Consider Approval of the Fiscal Year 2025/2026 Charitable Grants Funding Amounts [Tab 10]
 - E. To Consider Approval of the 2025 Resiliency Committee Appointments [Tab 11]

*Each speaker shall be limited to five minutes. No more than 30 minutes shall be allowed for citizen presentations, comments, and/or questions, and the time shall be divided equally among those requesting to speak.

FOIA: 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

- F. To Consider Approval of the Public Safety Appointments
- G. To Consider Approval of the Planning Commission Appointment
- H. Discussion of the TOKI Code Enforcement Policy

[Tab 12]

[Tab 13]

[Tab 14]

IX. Citizens' Comments:

X. Council Member Comments:

XI. Adjournment:

*Each speaker shall be limited to five minutes. No more than 30 minutes shall be allowed for citizen presentations, comments, and/or questions, and the time shall be divided equally among those requesting to speak.

FOIA: 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.



TAB 1

TOWN COUNCIL

Agenda Item

SPECIAL CALL TOWN COUNCIL

Municipal Center Council Chambers

February 18, 2025, 9:00 am

Minutes

I. **Call to Order:** *Mayor Belt called the meeting to order at 1:00 pm.*

II. **Pledge of Allegiance:**

III. **Roll Call:**

Present at the Meeting:

Bradley Belt, Mayor
Russell Berner, Mayor Pro Tem
Luke Farrell, Council Member
Madeleine Kaye, Council Member
Lance Spencer, Council Member

Also Present:

Stephanie Tillerson, Town Administrator
Brian Gottshalk, Public Works Manager
Jim Jordan, Wildlife Biologist

IV. **Citizens' Comments (Agenda Items Only):**

None

V. **Old Business:**

A. To Consider Approval of **Ordinance 2025-01** - An Ordinance To Amend Article 16 – Beach Management, Chapter 5. - Control Of Pets – **Second and Final Reading**

Mayor Belt stated that the second and final reading of Ordinance 2025-1, which adjusts the off-beach leash off-season period by two weeks, was time-sensitive and discussed at the last Council meeting.

Council Member Kaye made a motion to approve the second and final reading of Ordinance 2025-01 to Amend Article 16 – Beach Management, Chapter 5. - Control Of Pets. Mayor Pro Tem Berner seconded the motion.

Council Member Farrell confirmed the effective date as February 28th and questioned whether the Town was prepared with updated signage and if additional signs could be placed east of the Ocean Course to clearly indicate that the entire east end of the beach is off-limits to dogs.

Mr. Jordan stated that there should be two critical habitat signs, one immediately at the access point and another 100 yards further out, noting that it periodically gets washed out. He discussed the request for additional or improved signage in that area.

Mayor Belt mentioned the ongoing pushback regarding excessive signage on the beach. At a meeting, the ARB discussed issues related to signage and trash receptacles on the beach, as well as the formation of an informal work group to address these concerns. He noted that operational and public safety-related issues were paramount, and aesthetic considerations would be secondary.

Following the discussion, the motion was unanimously approved.

B. To Consider Approval of the Proposal for the Leisure Trail Project on Kiawah Island Parkway and Beachwalker Drive

Mayor Belt introduced the proposal, stating that it had been deferred from the previous council meeting due to Mayor Pro Tem Berner noting several issues related to the bid proposals received by staff.

Mr. Gottshalk provided an update on the concerns raised regarding the bid proposals. He stated that after compiling Mayor Pro Tem Berner's questions and concerns, they were submitted to the contractor. The answers provided explanations regarding the elevation of the Parkway and Beachwalker Drive leisure trail, compaction of the sub-base, and a justification of the pricing. Displaying a good, clear understanding of his bid proposal, Mr. Gottshalk recommended that Proper Paving design and construct the project as per the proposal submitted last month.

Council Member Farrell made a motion to approve the proposal for Proper Paving for the Leisure Trail Project on Kiawah Island Parkway and Beachwalker Drive. Mayor Pro Tem Berner seconded the motion.

Mayor Pro Tem Berner addressed the disparity in bids, followed by a discussion of his ongoing concern regarding the required increase in the bike path's elevation to mitigate flooding, the amount specified in the bid proposal, and the potential for change orders. He also noted that the existing bike path paving has already begun to crumble and fall away, which could lead to further complications.

The idea of separating the project into two parts was also discussed to address the flooding issue more effectively. However, Mayor Pro Tem Berner cautioned that the pricing may differ due to the project's smaller scope.

Council Member Kaye shared her observations after a recent heavy rainstorm, emphasizing the serious safety concerns posed by flooding on the trail. From her perspective, if the project needs to be modified or incurs additional costs, she would rather that so that the project proceeds.

Council Member Farrell appreciated the time spent on the extra work reviewing the project and proposal. Acknowledging that any potential change orders for extra fill, compaction, or border are well within the scope of what should be done from a safety and longevity standpoint, he noted that the cost difference is still so great that he felt the Town would ultimately be better off with Proper Paving and supported the project.

Mayor Belt agreed with the comments and discussed his observation that two hours after the rainstorm, all the water had gone in what had been the most problematic portion of the Parkway, which could be attributed to addressing drainage issues. However, it remains a low area that will allow water to accumulate, at least for a period of time.

After clarifying the area that had been referenced, Mayor Pro Tem Berner pointed out that more data were needed on how much and where the water was accumulating and whether the area coincided with the current scope of work.

Council Member Spencer recalled that the Ways and Means Committee recommended appending this contract when awarded to include the bend before the bridge towards Cassique. Mayor Belt stated that the Ways and Means Committee's recommendation was to approve the Proper Paving proposal, with the ability for the Mayor to approve a change order of up to \$30,000, but this was for out-of-scope work rather than any change orders.

The discussion included whether to proceed with the work on Beachwalker Drive now and potentially rebid the project to include all areas that flood, which are currently outside the scope of work, with improved specifications, then undertake the work in the fall. Members agreed on the importance of mitigating flooding and addressing safety issues, with Council Member Farrell noting

that the proposal included surveying the existing surface, which should identify the problem areas.

Council Member Spencer made a motion to amend the Ways and Means recommendation to approve the proposal from Proper Paving, with the Mayor having authorization to approve a change order up to \$50,000. Council Member Kaye seconded the motion, and it was unanimously approved.

The motion to approve the proposal for Proper Paving for the Leisure Trail Project on Kiawah Island Parkway and Beachwalker Drive, as amended, was unanimously approved.

VI. New Business:

A. To Consider Approval of the Barrier Island Ocean Rescue One-Year Contract Extension Request for Code Enforcement Services

Mayor Belt introduced the proposal for a one-year extension of the Barrier Island Ocean Rescue (BIOR) Code Enforcement services contract.

Mayor Belt discussed the current contract's focus, which was primarily on short-term rental (STR) compliance and the need for flexibility in staffing. A one-year extension is being proposed, as per the contract term, with some minor modifications, which include adjusting the coverage hours by moving them up an hour each day and shifting the focus to not only short-term rental compliance.

Mayor Belt also discussed the recent litigation filed by property owners in Folly Beach and Isle of Palms against both municipalities, which are both using the same outsourced parking enforcement service provider. The basis of the lawsuit, in part, was a reference to an Attorney General's opinion from last fall, which stated categorically that parking enforcement constitutes the exercise of a municipal police power that could not be delegated to a third party. If the property owners prevail, then code enforcement may also be considered as not being delegated to a third party.

Mayor Pro Tem Berner raised concerns that when extending an existing agreement, the terms cannot be changed. Mayor Belt clarified that both parties must agree to any changes with which Council Members Farrell and Kaye were in agreement.

Council Member Kaye made a motion to approve the Barrier Island Ocean Rescue One-Year Contract Extension as proposed to be amended. Council Member Farrell seconded the motion.

Mayor Belt stated that the BIOR contract had primarily been for evening or nighttime code enforcement, focusing on short-term rentals, which primarily involved parking violations, as well as bikes and beach paraphernalia left out overnight. He stated that one of the issues was that, with fewer violations of the STR ordinances than in the past, and current violations primarily being issued as warnings, there was still a lack of emphasis on other municipal code enforcement activities. Also at issue was the cost, considering that the Town could hire additional code enforcement officers at a lower cost; however, it did not account for expenses such as training, supervision, and vehicles. Moving forward with the extension would allow a year to evaluate the efficacy of the contract.

Further discussion included BIOR coordination with the Community Association patrols, the selection of code enforcement patrol areas, the effect of lower gas prices on the contract's budget, and encouraging greater visibility of evening patrols across the island.

Barrier Island Ocean Rescue presented a detailed overview of its history, operations, accreditation, and the effectiveness of its code enforcement efforts. The presentation included data on patrol activities, enforcement actions, and the impact of their efforts on short-term rental compliance. Additionally, it was noted that, in addition to enforcement activities, there are responses to medical calls, issues related to turtles, and any wildlife incidents that arise after hours.

Mayor Belt expressed appreciation for Barrier Island Ocean Rescue's professionalism and effectiveness and their willingness to work with the Town on a shift in focus to general ordinance compliance.

Following the discussion, the motion to approve the Barrier Island Ocean Rescue One-Year Contract Extension as proposed to be amended was unanimously approved.

VII. Council Member Comments:

Mayor Belt noted that the Town Council meeting in two weeks will have a fairly heavy agenda, with a lot to be considered, including a new procurement ordinance, a new encroachment permit ordinance, the previously deferred landscape contract, revisions to the HR manual, the resiliency Charter, and charitable grants. He also mentioned the start of the short-term budget process, as well as further changes to the beach management ordinance and two beach operations agreements.

VIII. Citizens' Comments:

None

IX. Adjournment:

Mayor Belt adjourned the meeting at 10:02.

Submitted by,

Petra S. Reynolds, Town Clerk

Date



TAB 2

TOWN COUNCIL

Agenda Item

TOWN COUNCIL
Municipal Center Council Chambers
March 4, 2025, 1:00 pm

Minutes

- I. Call to Order: *Mayor Belt called the meeting to order at 1:00 pm.***
- II. Pledge of Allegiance**
- III. Roll Call:**

Present at the Meeting: Bradley Belt, *Mayor*
Russell Berner, *Mayor Pro Tem*
Luke Farrell, *Council Member*
Madeleine Kaye, *Council Member*
Lance Spencer, *Council Member*

Also Present: Stephanie Tillerson, *Town Administrator*
Brian Gottshalk, *Public Works Manager*
John Taylor, Jr., *Planning Director*
Patreia St. John, *Planner 1 / Landscape & Tree Specialist*

Also Present via Zoom: Mac McQuillin, *Town Attorney*

IV. Approval of Minutes:

A. Minutes of the Town Council Meeting of February 4, 2025

Mayor Belt stated that Council Members had been provided with a copy of the minutes of the Town Council Meeting of February 4, 2025, in advance. He asked if there were any additional comments or changes to the minutes.

Council Member Kaye noted that her changes had been made directly to the Town Clerk.

With no other comments, the minutes were accepted.

V. Citizens' Comments (Agenda Items Only):

Philip Mancusi-Ungaro - 13 Bufflehead Drive

Mr. Mancusi-Ungaro was pleased that the Town was creating a resiliency committee, highlighting the need for a joint resiliency committee with KICA (Kiawah Island Community Association). In reference to the second reading of the stormwater regulation ordinance, he was pleased that the 2017 Charleston County numbers would be adopted but noted that the 2017 numbers are a little behind the times, given the changing rainfall and weather patterns. He suggested that since Kiawah is somewhat different in terms of topography and soils, the Town may want to examine its own numbers relevant to how its stormwater system operates.

VI. Updates:

A. Mayor

Mayor Belt introduced and welcomed Meredith Blair, the new Director of Communications and Public Affairs, providing details about her background and the selection process, which included approximately 240 applications for the position.

Mayor Belt provided updates on the following:

- The recent cyber email issue in which fictitious emails from the Mayor were received in the community. He clarified that there was no indication that any Town or outside email accounts were hacked, and an announcement was sent to reassure the community.
- Coyote sightings have been relatively few over the past several weeks, in part because of the passing of the mating season. Also noted was the capture and collaring of two coyotes. One left the island, and one remains on Capt. Sam's Spit.
- The off-leash dog policy was changed, moving up two weeks to begin March 1st and extending two weeks in the fall.
- The repaving of the leisure trails on Beachwalker Drive and other areas prone to flooding on the Parkway is expected to take a few days and is projected to be completed before the high season.
- The Town is re-bidding the landscape contract due to issues during the initial process, and the current vendor will continue services on a month-to-month basis.
- A note of appreciation from the Conservancy was given to the Town Clerk, Ms. Reynolds, for her assistance in what they consider to be an extraordinarily successful tag sale.

Updates on various development projects

- The Cape Club is in the process of meeting conditions for opening
 - The cul-de-sac at the end of Southern Pines Lane is now substantially complete
 - KICA's consideration of an MOU waiver took place the previous morning
 - The Town formally received a request for a temporary certificate of occupancy, which includes an operating and parking plan.
- The progress and upcoming milestones were reviewed for the site plans submitted for Ocean Park and West End, which are currently under plan review.
- MUSC has scheduled a topping ceremony for next week on Monday.
- A meeting requested by Riverstone, scheduled for later in the week, is related to a potential roundabout outside of Andell West.
- Notices were sent out that the Island Park Place development, also known as the Health and Wellness Village, located just up Betsy Kerrison, is back on the County calendar and scheduled for a hearing before one of the committees on Thursday, and believed to be on the County Council calendar for first reading on March 11.
- On the Night Heron Park project, Mr. Warren confirmed there had been some issues, but they were progressing and looking forward to completing the project this year.

B. Council Members

Mayor Pro Tem Berner began by sharing a personal anecdote while recently attending a soccer game, and then provided updates on the following:

- The preliminary concept of the proposed community center project included a type of entertainment venue with a stage and seating, so information gathering began with the Kiawah Arts Council and Arts Guild to determine the amenities they would prefer in a facility.
- The candidate selected as the Town's new enforcement officer was a very strong woman and considered to be a great addition to the enforcement effort.
- The First Net meeting he attended with Council Member Spencer was highlighted as a significant step forward for increasing telecommunications.
- Met with Ms. St. John regarding the tree ordinance and was pleased with the effort put into the ordinance and felt it was going to help with beautification and retaining grand trees.
- Discussions on eliminating the white sticks on the Parkway at Little Rabbit have resulted in the idea of retaining an engineering firm to put forward a small island with roll-on, roll-off curbs.
- He and Mayor Belt met with the new sheriff regarding what coverage he would be able to provide.

Council Member Kaye discussed increasing attention on Bobcat initiatives and efforts to increase Bobcat pledges:

- Plans for a larger presence on Earth Day activities on April 25th at Night Heron Park, including contests and raffles, to engage the community.

- New bobcat and coyote management cards are being developed for distribution at the CVB Welcome Center and other locations to increase awareness of these important wildlife animals.

Mayor Belt noted that the Coyote Management Plan, previously presented as a draft, has undergone significant revisions reflecting the input received from the community and Council Member Farrell. The finalized Coyote Management Plan is available on the Town's website.

Council Member Farrell provided an update on the budgeting process, with a first draft being presented at the earlier Ways and Means Committee meeting. He noted increased expenses, but revenues are expected to rise even further, allowing funds to be allocated to reserves, even with the current operating budget in place. He noted a conservative approach to budgeting, both from the revenue and expense sides.

Council Member Farrell reviewed the State Accommodations Tax (SATAX) application process. Applications from organizations that aim to grow, promote, and expand tourism will be accepted from March 5th to March 28th, with presentations to be made at the April SATAX Committee meeting. He also noted that, after reviewing the past use of accommodations taxes, the regulations, and a comparison to other coastal island communities, it was found that, from the Town's standpoint, it has been very conservative in its use of those funds and more forthcoming with its assets.

Mayor Belt encouraged outside organizations to review the permitted expenditures under the state accommodations tax categories and those that felt they might be able to expend the funds in accordance with state-allowed categories to submit applications to the Town.

Council Member Spencer provided updates on the following:

- The Infrastructure and Public Works Committee will hold its kickoff meeting this Thursday at 10:00 a.m. with a full agenda of items to be considered.
- The Town will be transitioning to FirstNet, the national public safety broadband network for first responders at the state, local, and national levels. FirstNet will be particularly helpful in emergency situations, enabling better communication among the Town, as well as with Charleston County and other support agencies.
- The purchase of a high-capacity Starlink terminal. It can provide internet access in emergency situations when the internet is lost at Town Hall.
- Following group meetings with the cellular providers, they want to improve coverage, but Kiawah is known as being too hard. The group is exploring what it will take to accelerate the improvement of coverage and speed.

C. Administrator

Ms. Tillerson reported on the following:

- In this year's deer culling, 50 deer were removed, and almost 1500 pounds of venison were donated to the Little Rock Holiness Church in Cottageville.
- The Town's new short-term rental compliance clerk, Stephen Whitaker, started today and comes to the Town from the Kiawah Island Community Association. Mr. Whitaker will be replacing Ms. Fox, who is retiring on March 20th after 27 years working on Kaiwah.

VII. **Old Business:**

A. To Consider Approval of **Ordinance 2025-02 - An Ordinance To Amend Chapter 12 - Land Use Planning and Zoning Ordinance Section 12-129. – Tree Preservation and Landscaping Standards to Establish Minimum Landscape Standards- **Second and Final Reading****

Ms. St. John stated that following the first reading of the ordinance met with Council Members to address some of the questions raised. The only change made was a clarification under the applicability clause, which now reads *"the provision of this article applied to all real property within the municipal*

limits of the town of Gila Island, excluding single family residential developments. However, the provisions of this article shall still apply to single-family residential developments which are not subject to review or purview of any established Architectural Review Board.”

Mayor Pro Tem Berner made a motion to approve the second and final reading of Ordinance 2025-02 to Amend Chapter 12 - Land Use Planning and Zoning Ordinance Section 12-129. – Tree Preservation and Landscaping Standards to Establish Minimum Landscape Standards. Council Member Kaye seconded the motion.

In response to Council Member Kaye’s question, the black text in the exhibit was originally the Phase-1 Tree ordinance; everything in red has been added as Phase-2, the development of the landscape standards, which is what we approved on first reading. The only change from the first reading to the second reading is the text in blue.

Following the discussion, the motion to approve the second and final reading of Ordinance 2025-02 was unanimously approved.

- B. To Consider Approval of **Ordinance 2024-20** - An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning Ordinance Article II. Zoning, Division 5. General Procedural Requirements, Establishing Sec. 12-169. Stormwater Management Plan Review To Enhance Stormwater Management Best Management Practices for Purposes Of Reducing Flooding, Protecting Water Quality, Controlling Erosion, Fill, and Managing Runoff. - **Public Hearing - Second and Final Reading**

Council Member Kaye made a motion to move into the Public Hearing for Ordinance 2024-20. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

No public comments were made.

Council Member Farrell made a motion to exit the Public Hearing and return to regular business. Council Member Kaye seconded the motion, and it was unanimously approved.

Mayor Belt stated that the first reading of this ordinance took place in July 2024. He provided an overview of the events regarding site plans submitted for which the Town retained an outside engineering firm to review. At that time, the Town did not have the ordinance authority to impose the recommended changes. The goal was to establish a regulatory framework within the zoning code, enabling the requirement of best stormwater management practices for all development activities on Kiawah Island. There have been discussions about whether the original framework proposed was the best way to achieve this, which continued for several months and culminated in the current stormwater management review process.

Mr. Taylor briefly reviewed the timeline, including the Planning Commission introduction in May 2024. Following their initial review, the recommendation was further studied and presented to the Council in July 2024 for its first reading. He reviewed numerous workshops and discussions that have led to the proposed ordinance, which requires applicants to submit a site-specific stormwater management plan as part of the permit review process. The Charleston County stormwater manual standards have been incorporated for the second reading. Also included in the recommendation was that the Council consider conducting a third-party review for future stormwater reviews specifically.

Council Member Spencer and Mayor Pro Tem Berner expressed their appreciation for the hard work and collaboration in developing and refining the ordinance and its requirements. Mayor Belt addressed an earlier comment by stating that the ordinance provides statutory authority to apply both the DHEC and County standards as they are updated, as well as the authority to develop additional Town of Kiawah Island standards in addition to those imposed by either DHEC or the County.

Mayor Pro Tem Berner made a motion to approve the second and final reading of Ordinance 2024-20 to Amend Chapter 12 - Land Use Planning and Zoning Ordinance Article II. Zoning, Division 5. General Procedural Requirements, Establishing Sec. 12-169. Stormwater Management Plan Review To Enhance Stormwater Management Best Management Practices for Purposes of Reducing Flooding, Protecting Water Quality, Controlling Erosion, Fill, and Managing Runoff. Council Member Kaye seconded the motion, and it was unanimously approved.

VIII. New Business:

A. Discussion of the Beach Operations Agreement for Coastal Expeditions, LLC. And the Beach Operations Agreement for Tidal Trails

Mayor Belt stated that the Town ordinance provides that no commercial activity is permitted on the beach unless the Town has an agreement to provide such commercial activities. While not requiring Town Council approval, he asked for feedback from Council Members on the two proposed draft operational agreements.

Mayor Belt stated that Tidal Trails has provided paddleboard and surfboard services on the island for many years. A formalized agreement would conform to ordinance requirements and have a nominal franchise or operational agreement fee.

Mayor Belt stated that Sandy Point is a large beach area located on the island's far eastern end, accessible only by boat. It has been noted that hundreds of boats are beached at Sandy Point on summer weekends. At issue is the Dunlin Hotel advertising commercial trips to Sandy Point. Reaching out to their service provider, Coastal Expeditions, the owner, Chris Crowley, was invited to come in and work out an agreement that meets the ordinance requirements and some basic conditions, similar to those imposed on other commercial activities on the beach, including a nominal fee.

Council Members engaged in an in-depth discussion of concerns raised about the management and regulation of commercial activities on Sandy Point, potential indemnification issues, and suggestions for additional controls and compliance measures.

Chris Crowley, the CEO of Coastal Expeditions, provided details on his company's history and over 30 years of experience in the ferry service. He also detailed the organization's environmental education mission and the types of tours it offers, along with sharing some personal experiences.

During the lengthy discussion, the need for clear guidelines and regulations for commercial activities on the beach was emphasized. Suggestions for operating hours from sunrise to sunset and compliance with all relevant regulations were made. The importance of protecting the island's natural resources and ensuring public safety was also emphasized, with a focus on striking a balance between commercial activities and environmental stewardship.

Additionally, considering the town's current resources and constraints, the practicalities of managing and regulating commercial activities on the beach are considered.

Mayor Belt indicated that, unless the council clearly indicated the contrary, he intended to sit down with Mr. Crowley to address any outstanding issues, implement a few of the suggested additions, and proceed with executing this agreement. He encouraged a combined Environmental Committee and Public Safety Committee to establish a working group or task force to address issues related to Sandy Point, emphasizing the need for a balanced approach to managing commercial activities and environmental protection.

Council Member Farrell supported the Mayor in his administrative role of executing this contract but suggested adding language to increase the educational and environmental component of the contract.

Further discussion included public comments from Mr. Mancusi-Ungaro, who was concerned about opening a slippery slope by letting an off-island resort use Kiawah Island and agreed there was a need to look at what the problem is out there that we need to fix, and then, how do we make it work correctly? Mr. DeStefano posed a question that required defining the term “beaching a boat.”

Following the discussion, Mayor Belt indicated that he had some action items to consider and would decide whether to bring the agreement up for approval or have additional discussion.

B. To Consider Approval of Ordinance 2025-03 – An Ordinance to Establish Guidelines for Encroachments and Permit Requirements on Kiawah Island Parkway and Beachwalker Drive – First Reading

Mayor Belt stated that the need for the ordinance arose from recent activity on the Town’s right-of-way and the realization that the Town had no requirement to file an encroachment permit. He noted three incidents where work was done without advance notification or the Town’s permission. In two of the incidents, the required mitigation and repair were completed; however, in the third incident, it was unknown who had damaged an irrigation line on Beachwalker Drive, which remained unrepaired at the time. The ordinance establishes a process for issuing required encroachment permits and, depending on the nature of the work, requires certain information to be provided to the Town’s Director of Public Works.

Council Member Farrell made a motion to approve the first reading of Ordinance 2025-03 - to Establish Guidelines for Encroachments and Permit Requirements on Kiawah Island Parkway and Beachwalker Drive. Mayor Pro Tem Berner seconded the motion.

Mayor Pro Tem Berner pointed out that in Exhibit A (2)(e) “inordinate wear” was an undefinable term and on page 4, item (e) he proposed as part of the permit application, adding a new sub paragraph (e) that requires photographic evidence or a survey of the area’s existing conditions before work begins to substantiate damage that is done during the work. Mayor Belt agreed with the amendment and suggested he work with the Town Attorney to craft language that essentially requires photographic or other evidence of existing conditions prior to the work.

Council Member Farrell asked if there was a permit cost, with none based on the current ordinance. Mr. McQuillian suggested the language “Town Council shall determine a fee from time to time based on resolutions of Council.” That way, the fee can be passed by resolution, and the Council can lower or increase the fee as the Town deems necessary.

Mayor Pro Tem Berner made a motion to amend the ordinance to add language in section 3(e) regarding evidence of existing conditions and, in the appropriate place, to add language that would explicitly state that a permit fee may be charged. Council Member Kaye seconded the motion, and it was unanimously approved.

The motion to approve the first reading of Ordinance 2025-03 - to Establish Guidelines for Encroachments and Permit Requirements on Kiawah Island Parkway and Beachwalker Drive as amended was unanimously approved.

C. To Consider Approval of the Amendment to the Town of Kiawah Island Employee Handbook

Mayor Belt stated that after reviewing the Town’s HR handbook, he noted that several provisions commonly found in other employment policies were not reflected in the existing handbook. He reached out to the Town’s HR consultants, FGP, to assist in the process and provided a high-level summary of the new provisions and updates added by FGP, substantially rewriting the handbook.

Council Member Farrell made a motion to approve the Town HR Handbook as revised. Mayor Pro Tem Berner seconded the motion.

Mayor Pro Tem Berner questioned whether the term “Municipal Officer” in the gifts and gratuities policy included the Town Council. Mayor Belt clarified that there were four statutory positions deemed to be Officers.

Mayor Pro Tem Berner noted that there was no provision for the consequences of violating policy. Mayor Belt clarified that an employee is subject to various disciplinary measures, up to and including dismissal, as referenced on page 4.05 of the handbook.

Mayor Pro Tem Berner stated that the current work week was 37.5 hours, but noted several references to a 40-hour work week. It was clarified as intentional because overtime only kicks in after 40 hours of work. Additionally, there are references to a 40-hour work week in the Family and Medical Leave Act.

Referencing the special pay provisions, Mayor Pro Tem Berner requested clarification on why all three criteria had to be met in a scenario where not all of those criteria existed. Discussion included that alternative work locations are considered places of work, and meeting all three criteria for special pay provisions only applies in very limited circumstances and could be amended by the Council at any time.

Council Member Farrell complimented the excellent work of the Mayor, Ms. Tillerson, and the consultants on the more robust and comprehensive document, which included items he had not previously considered.

The volunteer policy and the State Ethics Act, which covers municipal officials, were also discussed.

Council Member Kaye made a motion to approve the amendments to the employee handbook revised as of March 1, 2025. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

D. To Consider Approval of the Resiliency Committee Charter

Mayor Belt made a motion to approve the Resiliency Committee Charter. Council Member Farrell seconded the motion.

Council Member Kaye discussed the comment that the Resiliency Committee should be very inclusive, noting that it has representatives from KICA, the Resort, the Conservancy, and the multitude of “Ks” will also be involved in the committee. She felt that there was a need to look beyond those, as the committee is a complex initiative requiring a tremendous amount of collaboration.

Council Member Kaye noted that the 2018 Sea Level Rise report has not been updated; however, progress made since the Sea Level Rise report was incorporated into the Marsh Management Comprehensive Plan has been noted. She stated that the Resiliency Committee would have an aggressive and ambitious agenda. After reviewing a list of its objectives, she stated that the committee would have to be prepared to work hard in resilience efforts and, again, become one of the benchmarks on the East Coast. Taking the initiatives being worked on by the Marsh Management Workgroup and formalizing them into a standing committee provides the opportunity to set them aside and give them the priority they deserve to move forward.

Council Member Farrell suggested including a representative from Seabrook to address shared resiliency issues. Mayor Belt confirmed that with the elimination of the residency requirement, a Seabrook representative could be included as a voting member.

Following the discussion, the motion to approve the Resiliency Committee Charter was unanimously approved.

E. To Consider Approval of the 2025 Board of Zoning Appeals Appointments

Ms. Tillerson stated that the availability of two open positions on the Board of Zoning Appeals was advertised. No additional applications came forward expressing interest in serving beyond the current two members, Larry Rosenfeld and Phillip Adams, who have asked to be reappointed until 2028.

Council Member Farrell made a motion to approve the reappointment of Mr. Rosenfeld and Mr. Adams to the 2025 Board of Zoning Appeals. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

F. Review and Approval of State Accommodation Tax Charter/Guidelines

Mayor Pro Tem Berner made a motion to approve the State Accommodation Tax Charter and Guidelines. Council Member Kaye seconded the motion.

Council Member Farrell provided background on the State Accommodation Tax (SATAX) Charter and Guidelines, stating that when he joined the committee, he found there was no charter and felt the need to establish one that defined the committee's activities and responsibilities.

Council Member Farrell stated that upon reviewing the application requirements, it was found that, although overlapping, the SATAX guidelines differed from those for County, Local, and Hospitality taxes. Examining further how other beach communities allocated their accommodation funds provided insight into what was being funded and the applicant requirements, some of which included being within the town, being a nonprofit organization, and providing matching funds, all of which fell clearly within the state guidelines for the use of the funds. With Kiawah having the luxury of a significant amount of revenue coming in and a bit of a struggle spending it all, no additional requirements were put on the applicants other than to spend the money in Kiawah or the nearby surroundings.

Council Member Farrell indicated that the SATAX Committee would be educated on what has been learned, ensuring everyone has a level playing field. He noted that the Town would like to expand the application grants, both within the Town and beyond what is currently being done, because there are many good efforts out there that are not being funded.

Mayor Pro Tem Berner stated that at one time, he was asked why more applications were not submitted from outside Kiawah, and the Town would consider recruiting more applicants from outside the town. Council Member Farrell stated that, in addition to posting the application on the website, the Town Treasurer also reaches out to organizations she knows might qualify. While not a broad-based approach, consideration needs to be given to whether applicants would be able to undertake activities that are predominantly tourist-related, promoting, growing, and maintaining tourism on Kiawah.

Council Member Farrell added that historically, the Town has been very conservative in allocating accommodation tax monies. It is not looking to change that, but rather ensure that it allocates funding where it can be spent. Mayor Belt explained a different approach that would be taken in the future regarding the calculation of tax-related expenditures, which he confirmed is supported by state statute, the Town Attorney, and the Attorney of the Municipal Association of South Carolina.

Following the discussion, the motion to approve the State Accommodation Tax Charter and Guidelines was unanimously approved.

IX. Citizens' Comments:

David DeStefano – 31 Burroughs Hall

Mr. DeStefano raises concerns about people parking near the bridge and unloading bicycles to access the bike path, as well as making a U-turn to secure a parking spot. He also specifically mentioned the issue of individuals hauling boats, which was intended to be eliminated. He shared an incident where a fire truck narrowly avoided a collision with a large pickup truck making a U-turn, noting the skill of the fire truck driver in avoiding the collision.

Council Member Kaye discusses the environmental committee's re-evaluation of the roadway and the proposal for a ramp to control pedestrian and kayak traffic, which was previously stalled due to safety concerns.

Council Member Farrell suggested installing no U-turn signs to prevent dangerous maneuvers and mentioned the issue of contractors and large trucks pulling over to wait until 7 am. Mayor Pro Tem Berner agreed with the need to address the issue, and Mayor Belt acknowledged the complexity of finding a good solution to the parking and safety problems.

X. Council Member Comments:

None

XI. Adjournment:.

Council Member Farnell made a motion to adjourn the meeting at 3:56 pm. Council Member Spencer seconded the motion, and it was unanimously approved.

Submitted by,

Petra S. Reynolds, Town Clerk

Date



TAB 3

TOWN COUNCIL

Agenda Item

SPECIAL CALL TOWN THE COUNCIL

Municipal Center The Council Chambers

March 17, 2025, 9:00 am

Minutes

I. **Call to Order:** *Mayor Belt called the meeting to order at 9:00 am.*

II. **Pledge of Allegiance:**

III. **Roll Call:**

Present at the Meeting:

Bradley Belt, *Mayor*
Russell Berner, *Mayor Pro Tem*
Council Member Farrell, *Council Member*
Council Member Kaye, *Council Member*
Council Member Spencer, *Council Member*

Also Present:

Stephanie Tillerson, *Town Administrator*
Nick Nicholson – *HSB Procurement Attorney*

Also Present via Zoom:

Ross Appel – *Consulting Attorney*

IV. **Citizens' Comments (Agenda Items Only):**

None

V. **Old Business:**

None

VI. **New Business:**

A. To Consider Approval of **Ordinance 2025-07** - An Ordinance to Repeal and Replace Article 4 – Finance and Taxation, Chapter 4. – Purchasing – **First Reading**

Mayor Belt introduced Ordinance 2025-07, which aims to replace the current Procurement Code. The ordinance addresses concerns regarding the current purchasing ordinance's clarity, complexity, and inconsistencies. The Town Attorney's firm, Haynsworth Sinkner Boyd, represented by Mr. Nicholson, is a resident expert at the firm, having done this on behalf of other municipalities, assisted in developing the new procurement ordinance, and can answer any questions that may arise.

Guiding Principles and Reporting Requirements

Mayor Belt stated that while reviewing the draft policy, he noticed that the reporting to Council provision only required reporting to the Council of any contract exceeding \$100,000 without requiring Council approval. The Mayor further noted that the current policy does not require Council approval of any particular contract. It was his view that the Council should maintain a continuing approval role in contracts exceeding a certain threshold.

Mayor Belt stated that South Carolina state statutes require a municipality to adopt an ordinance or procedure that embodies sound principles of appropriately competitive procurement. No other state law requirements. He reviewed the framework for this procurement policy:

- All procurements and services should be subject to some competitive bidding or review process, except those where that does not necessarily make sense.

- The general exceptions for competitive bidding are the sole sourcing provision, small purchases, and emergency procedures.
- Professional services like legal and auditing are exempted.
- Allows the Council to determine if competitive procedures are unnecessary for specific projects.

Mayor Belt indicated that Mayor Pro Tem Berner had issues with the numerous references to the mayor and the mayor's involvement in making decisions regarding a wide range of these procurements. He stated that somebody has to be ultimately responsible or accountable for the administration of these policies and procedures. In our form of government, it is defined as the mayor.

Mayor Pro Tem Berner made a motion to approve the first reading of Ordinance 2025-07 to repeal and replace Article 4 – Finance and Taxation, Chapter 4. – Purchasing. Council Member Kaye seconded the motion.

Concerns About Authority

Mayor Pro Tem Berner stated that, at the outset, his comments were directed at the title of the mayor, not the person. He expressed an overarching concern that there are too many references, giving the mayor too much control, and creating the impression that one could lead to collusion on bids. The examples he noted were:

- The mayor has the right to reject any and all bids without cause.
- The mayor has the right not to accept any bid, a unilateral decision made by the mayor.
- The mayor determines if there is only one source for the required supply

Mayor Pro Tem Berner expressed considerable concern about the amount of control held by this one position in the government. He proposed that “a committee” have the right to reject any and all bids without cause.

Mayor Belt acknowledged the concerns and explained the historical context of “the town” in relation to current procurement policies and a host of other ordinances. He then pointed out that in this form of government, the authority of “the town” is reflected through the chief administrator, the mayor or his designee.

The discussion included the practicality of having a committee to review contracts, which Mayor Belt believes could slow down the process.

Mr. Nichol森 reiterated the Mayor’s earlier statement, which cited a state statute requiring municipalities to adopt an ordinance embodying sound principles of appropriately competitive procurement, noting that appropriate means what is appropriate for the Town of Kiawah, and who decides what is appropriate, the Council. He would argue that what the Council is doing right now demonstrates that the ordinance is grounded in reasonableness because members are thoughtful and intentional in their approach to passing it.

Proposed Solutions and Practical Considerations

Mayor Pro Tem Berner suggests creating a checklist that requires at least three independent sign-offs to prevent collusion. He pointed out that this would bypass any meeting delays.

Council Member Spencer pointed to establishing a selection committee and asked if it constituted the committee mentioned. Mayor Belt explains the various procurement processes, including an invitation to bid, a Request for Proposal (RFP), and a Request for Qualifications (RFQ), clarifying that an RFP and an RFQ embody the concept of a selection committee.

The Council members discussed the practicality of setting up a committee, as currently, Mayor Belt is the only one who executes contracts, and the potential need for an audit trail. The conversation also

touched on the importance of having checks and balances to prevent fraud and ensure transparency. However, currently, the policy and procedures being examined are to establish a competitive process for identifying the good or service and acquiring it.

Mr. Nicholson stated that the statement “the mayor has the right to reject any and all bids, with or without cause” is very broadly worded; it gives the town as much flexibility as possible while still having guidelines to ensure the appropriate course is followed. He noted that most procurement policies have a designated individual who makes the ultimate decision in larger municipalities and counties, typically the procurement director or deputy administrator.

The discussion includes examples of how other municipalities handle procurement and the importance of having a clear and practical policy.

Clarification of Procurement Processes

The Council discussed the differences between sealed bids and RFPs, with Mayor Belt reviewing the various procurement processes, including an invitation to bid, a request for qualifications, and a request for proposals.

The Council discussion emphasized the importance of clear definitions and descriptions for each procurement process. Members engaged in an in-depth discussion of each process and the practical implications of using different procurement methods for different types of projects.

Addressing Specific Concerns and Proposed Amendments

The Council discussed the need for clear language and definitions in the ordinance to prevent confusion. Specific amendments are proposed, including clarifying the use of "may" versus "shall" in certain sections.

Change Order Process and Approval

The Council discussed establishing a process for contract modifications, guidelines for renewing existing open-ended contracts by expanding their scope of work, and the approval process for change orders.

Council Members Farrell and Spencer discussed the importance of having a clear policy for change orders and modifications. Council Member Farrell suggested setting the change order process and approval as a takeaway for further discussion.

Ms. Tillerson discussed the change order and approval process established in the construction of the Municipal Center. In this process, the Municipal Committee reviewed and approved change orders up to a specific limit.

Source Selection Methods and Criteria

Council Member Farrell reviewed the seven methods for source selection, including reverse auctions, pre-qualifications, and qualifications-based selection.

Mayor Pro Tem Berner and Mayor Belt discussed the sole-source procurement process and the need for additional language to justify sole-source decisions. *“Written documentation must include the determination and recently detailed basis for the proposed sole source procurement.”*

The Council debates the merits of using a committee for sealed bids to ensure bidder responsibility and responsiveness, agreeing to add the language “The mayor assigns a committee.”

Qualifications-Based Selection and Repeat Contracts

Council Member Kaye raised the issue of revisiting projects with firms that have previously done the work, such as environmental studies.

The Council Member Farrell suggested using the qualifications-based selection method for repeat contracts if the previous work was satisfactory. Mr. Nicholson pointed out the option to exempt certain projects, by ordinance, from procurement if the Council deems it necessary.

The Council discussed the legal implications of exempting projects from procurement and the need for transparency and public comment.

Final Considerations and Proposed Amendments

The town's policy should be to report any contractual obligation over \$20,000 to the Town Council. Council Member Farrell asked, before or after initiation.

The Council discussed the ambiguity in the current reporting language and agreed to report contractual obligations to the Ways and Means Committee prior to execution.

Council Member Farrell asks how the Council will know whether the mayor or his designee is making decisions. Mayor Belt suggests creating written administrative policies and procedures to document delegations of authority.

Mayor Pro Tem Berner suggested deleting the word "building" from certain sections to make them more generic and inclusive.

Mayor Pro Tem Berner stated that public announcements, advertisements, or RFPs should be allowed outside the state.

Mayor Pro Tem Berner emphasizes the importance of having explicit evaluation factors in RFPs. The Council debates using numerical weightings versus qualitative evaluations for selecting architects and other service providers. Mayor Belt points out language that states, *"The Request for Proposal shall state the relative importance of each evaluation factor."*

Mayor Pro Tem Berner proposed that bidders be allowed to withdraw their bids when they make a Scriveners error for all of the source selection methods. The Council agreed to include a clause allowing bid withdrawals, provided written approval is obtained from the mayor. Also, add language stating that the next lowest bid would be selected.

Council Member Farrell made a motion to approve the first reading of Ordinance 2025-07 with the various modifications discussed during the course of the special call meeting. Council Member Kaye seconded the motion, and it was unanimously approved.

Council Member Spencer made a motion to go into Executive Session to receive legal advice with regard to a pending legal matter concerning Captain Sam's Spit. Council Member Kaye seconded the motion, and it was unanimously approved.

VII. Executive Session:

- A.** Executive Session to receive legal advice protected by the Attorney-Client Privilege (S.C. Code Ann. 34-4-70-(a)(2)) concerning matters related to Captain Sams Spit.

The Council may take action after the Executive Session.

Council Member Spencer made a motion to exit the Executive Session and return to the Regular Session. Council Member Kaye seconded the motion, and it was unanimously approved.

Mayor Belt stated that the Council had discussed pending litigation involving Captain Sam's Spit. No decisions were made, and no actions were taken.

Mayor Belt stated that the Town, along with the co-plaintiffs in the ARDA litigation against the Partners, have agreed to enter into a mediation process involving those three parties, the current landowner, and the State of South Carolina. The mediation process will include a separate legal matter initiated by the current landowner against the state. The mediation process is confidential, so only a limited amount of information can be reported about the mediation discussions, and the Town will do its best to keep the community apprised of the developments.

VIII. The Council Member Comments:

None

IX. Citizens' Comments:

None

X. Adjournment:

Council Member Kaye made a motion to adjourn the meeting at 11:01 am. Mayor Pro Tem Berner seconded the motion, and it was unanimously approved.

Submitted by,

Petra S. Reynolds, Town Clerk

Date



TAB 4

TOWN COUNCIL

Agenda Item

TOWN OF KIAWAH ISLAND

ORDINANCE 2025-03

AN ORDINANCE TO ESTABLISH GUIDELINES FOR ENCROACHMENTS AND PERMIT REQUIREMENTS ON KIAWAH ISLAND PARKWAY AND BEACHWALKER DRIVE

WHEREAS, the Town of Kiawah Island recognizes the need to enhance and clarify regulations governing encroachments, development activity, and access within the rights-of-way of Kiawah Island Parkway and Beachwalker Drive, which are owned by the Town;

WHEREAS, Kiawah Island Parkway and Beachwalker Drive serve as the only public roadways providing access to and from the Town of Kiawah Island and Beachwalker County Park, making it essential to ensure their safety, efficiency, functionality, and aesthetic integrity; and

WHEREAS, to further protect the public interest, the Town seeks to establish clear standards and permit requirements regulating encroachments, drainage, utility impacts, construction activities, and other potential alterations within the rights-of-way to ensure the continued safety, accessibility, and orderly management of these corridors.

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 establish requirements for obtaining an encroachment permit for any project that involves access to Kiawah Island Parkway or Beachwalker Drive; impacts drainage or utilities within the right-of-way; or includes any construction, modification, or alteration of land in the right-of-way; to ensure the orderly management of activities affecting these corridors; protect public infrastructure; maintain the functionality and safety of roadways and drainage systems; preserve the integrity and aesthetic character of the rights-of-way; and otherwise ensure and promote public safety.

Section 2 **Ordinance**

The Town hereby establishes and enacts Section 11-101, entitled “Encroachments and Permit Requirements for Kiawah Island Parkway and Beachwalker Drive,” thereby establishing Chapter 1 – General Provisions of Article 11 (Public Works) of the Town Code, all as set forth in the attached “**Exhibit A.**”

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 the Town Council for the Town of Kiawah Island.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS 1ST DAY OF APRIL 2025.

Bradley D. Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: March 4, 2025.

2nd Reading: April 1, 2025.

EXHIBIT A

CHAPTER 1. - GENERAL PROVISIONS

Section 11-101. - Encroachments and Permit Requirements for Kiawah Island Parkway and Beachwalker Drive

(1) Definitions.

For the purposes of this section, the following definitions shall apply:

- a. “Right-of-Way” shall mean the publicly owned or controlled land designated for roadways, sidewalks, utilities, drainage, and other public infrastructure along Kiawah Island Parkway and Beachwalker Drive, including any easements or access rights necessary for maintenance and public use.
- b. “Director” shall mean The Director of Public Works for the Town of Kiawah Island or an authorized designee.

(2) Permit Requirement.

An Encroachment Permit shall be required to be submitted to the Director, in a form and manner as determined by the Director, for any project, whether within or outside the corporate limits of the Town, that is proposed to have access to Kiawah Island Parkway or Beachwalker Drive via a road, street, driveway, path, trail, easement, or any other means, and that meets one or more of the following conditions:

- a. in any manner may impact drainage to, from, under, or within the Right-of-Way;
- b. in any manner may impact utilities, whether owned and/or operated by the Town or others, located above, below, or within the Right-of-Way;
- c. involves any other construction, modification, excavation, or alteration of land within the Right-of-Way;
- d. in any manner may affect or impact pedestrian or vehicular safety on Kiawah Island Parkway, Beachwalker Drive, or within the Right-of-Way; or
- e. in any manner may cause or result in damage or inordinate wear and tear of Kiawah Island Parkway, Beachwalker Drive, or leisure trails within the Right-of-Way.

(3) Permit Applications.

Applicants shall furnish a project plan to the Director with such information concerning the proposed project as may be required by the Director, and at no expense to the Town, before a permit may be approved. Such information may include, but may not be limited to, the following:

- a. a traffic impact analysis, prepared to the Director’s specifications by a qualified transportation engineer registered in the State of South Carolina, assessing the project’s effects on traffic flow, public safety, and roadway conditions;
- b. a drainage study, prepared to the Director’s specifications, identifying and quantifying drainage from the proposed project, including its impact on existing roadway drainage

systems and compliance with all applicable provisions of the Town's stormwater program; and

- c. a utility impact study, prepared to the Director's specifications, identifying and quantifying the impact of the proposed project on any public or private utilities located above, below, or within the Right-of-Way.
- d. a site plan, identifying the proposed project's layout, dimensions, and key features within the Right-of-Way and demonstrating compliance with all applicable Town regulations and standards.

(4) Permit Conditions.

The Director may attach such conditions of approval to an Encroachment Permit as deemed necessary to protect the interests of the Town, including but not limited to requiring the applicant to:

- a. construct improvements and/or erect traffic signs and/or signals determined to be necessary to mitigate traffic impacts from the proposed project, or alternatively, make payment to the Town to defray the entire cost of such improvements;
- b. install replacements and/or modifications to existing roadway drainage systems, as specified by the Director, or alternatively, make payment to the Town to defray the entire cost of such replacements and/or modifications;
- c. repair and/or replace utilities, as specified by the Director, or alternatively, make payment to the Town to defray the entire cost of doing the same or reach agreement regarding the costs with any utility not controlled by the Town;
- d. repair any damage caused to the roads and Right-of-Way, as specified by the Director, or alternatively, make payment to the Town to defray the entire cost of such repairs;
- e. replace any vegetation destroyed or removed in the Right-of-Way, as specified by the Director, or alternatively, make payment to the Town to defray the costs of replacing such vegetation;
- f. manage and control the flow and volume of construction vehicles used in conjunction with the proposed project and establish hours of operation for such vehicles on the roads or in the Right-of-Way; and
- g. indemnify and hold the Town, its officers, employees, and agents harmless from and against any damages, claims, or injuries caused by the actions of the applicant or its agents in conjunction with the project.

(5) Project Completion

The applicant shall certify that the completed project is in accordance with approved plans and designs and, if so required by the Director, submit an as-built survey showing the location of existing or installed utility or drainage easement lines and dimensions, Rights-of-Way pavement edges, sidewalks, leisure trails, and other accessory structures.

(6) Enforcement and Remedies.

- a. The purpose and intent of this subsection (5) is to establish enforcement provisions, penalties, and remedies for violations of this section.

- b. A violation of this section occurs when any person or entity:
1. engages in any activity requiring an Encroachment Permit without first obtaining such permit;
 2. violates any condition of an Encroachment Permit issued under this section;
 3. conducts any construction, excavation, alteration, or other activity within the Right-of-Way that is not in compliance with an approved Encroachment Permit or this section;
 4. obstructs, interferes with, or fails to comply with any lawful order issued pursuant to this section; or
 5. causes damage to or fails to restore roads, utilities, drainage systems, vegetation, or other infrastructure within the Right-of-Way as required by this section or an Encroachment Permit.
- c. The Director shall be responsible for enforcing this section and may take one or more of the following enforcement actions:
1. issue a written notice of violation, setting forth the nature of the violation and the required corrective action;
 2. issue a stop-work order directing that any noncompliant activity cease immediately;
 3. withhold or revoke any approvals or permits required under this section;
 4. bring or cause to be brought an action for an injunction or mandamus to prevent, correct, or abate a violation; or
 5. cause to be issued an ordinance summons to the violator for violations observed firsthand.
- d. The Director shall determine the appropriate penalty based on the nature, severity, and duration of the violation. Factors to be considered may include, but are not limited to:
1. whether the violation was intentional, negligent, or due to a misunderstanding;
 2. the degree of harm or disruption caused to the Right-of-Way, utilities, drainage, traffic, or public safety;
 3. whether the violator has previously been cited for similar violations; and
 4. the extent and timeliness of corrective actions taken by the violator.
- e. Any person or entity found to be in violation of this section shall be guilty of a misdemeanor and, upon conviction, subject to a civil penalty not to exceed five hundred dollars (\$500.00) per violation per day, as determined by the Director. Each day a violation continues shall constitute a separate offense.



TAB 5

TOWN COUNCIL

Agenda Item

TOWN OF KIAWAH ISLAND

ORDINANCE 2025-07

**AN ORDINANCE TO REPEAL AND REPLACE ARTICLE 4 – FINANCE AND TAXATION,
CHAPTER 4. - PURCHASING**

WHEREAS, the Town Council of Kiawah Island, South Carolina, is committed to ensuring transparency, efficiency, and fiscal responsibility in all town procurement activities; and

WHEREAS, the Town Council has determined that the current procurement procedures in Article 4 – Finance and Taxation, Chapter 4 of the Town Code of Ordinances, require comprehensive updates to reflect best practices in municipal procurement; and

WHEREAS, the adoption of updated procurement procedures will enhance competition among vendors, improve the quality of goods and services procured, and ensure the prudent use of taxpayer funds; and

WHEREAS, the proposed procurement policy establishes clear authority, responsibilities, and methods for Town officials to follow when procuring goods and services; and

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1 **Repeal and Replacement**

Article 4 – Finance and Taxation, Chapter 4 of the Town Code of Ordinances is hereby repealed in its entirety and replaced with the "Procurement Policy of the Town of Kiawah, South Carolina," which is attached hereto and incorporated by reference.

Section 2 **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 3 **Effective Date and Duration**

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

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND
ON THIS 1ST DAY OF APRIL 2025.**

Bradley D. Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: March 17, 2025

2nd Reading: April 1, 2025

PROCUREMENT POLICY OF THE TOWN OF KIAWAH, SOUTH CAROLINA
(THE “TOWN”)

I. General Provisions

A. Purpose and Policies. The underlying purposes and policies of the procedures set forth herein (the “Procedures”) are to adopt for the Town procurement practices that are appropriately competitive and that serve the mission of the Town.

B. Application of Procedures.

1. General Application. These Procedures apply only to contracts, purchases and other procurements that are solicited or entered into after the effective date of these Procedures.

2. Reporting to and Approval of Town Council. It shall be the policy of the Town that any contractual obligation, including a Change Order, of \$20,000 or greater shall be reported to the Ways and Means Committee of Town Council prior to execution of the contract and any proposed contractual obligation, including a Change Order, of \$100,000 or greater must also be approved by Town Council.

C. Definitions.

1. “Change order” means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

2. “Construction Management at-Risk” means a project delivery method in which the Town awards separate contracts, one for design services to design a project and the second to a construction manager at-risk for both

construction of the project according to the design and construction management services, which include but are not limited to those professional services associated with contract administration, project management, and other services provided in connection with the administration of a construction project.

3. “Co-operative Purchasing Entity” means an organization or alliance of municipalities and/or other governmental bodies throughout the United States established in part to achieve economies of scale and/or innovations through group purchasing strategies, shared resources and/or centrally administered competitive procurement processes to afford value and discount pricing programs to its members.
4. “Design-bid-build” means a project delivery method in which the Town sequentially awards separate contracts, the first for design services to design a project and the second for construction of the project according to the design.
5. “Design Services” means those professional services associated with the practice of architecture, professional engineering, land surveying, landscape architecture, and interior design pertaining to construction, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including without limitation studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual design, plans and specifications,

construction documents, cost estimates, construction observations, shop drawing reviews, sample recommendations, preparation of operating and maintenance manuals and other related services.

6. “Design-build” means a project delivery method in which the Town enters into a single contract for design and construction of a project.
7. “Design-build-finance-operate-maintain” means a project delivery method in which the Town enters into a single contract for design, construction, finance, maintenance, and operation of a project over a contractually defined period.
8. “Design-build-operate-maintain” means a project delivery method in which the Town enters into a single contract for design, construction, maintenance, and operation of a project over a contractually defined period.
9. “Mayor” means the elected mayor of the Town, or his or her designee, such designation to be set forth in writing. The Mayor shall make all decisions required under these Procedures.
10. “Operations and maintenance” means a project delivery method in which the Town enters into a single contract for the routine operation, routine repair, and routine maintenance of a building project.
11. “Procure” or “Procurement” means buying, purchasing, renting, leasing or otherwise acquiring any supplies, services, equipment or construction.
12. “Public Procurement Unit” means any agency of the Federal Government,

the State of South Carolina (the “State”), any agency of the State, and any county, municipality, special purpose district or any other subdivisions of the State or public agency of any such subdivision, public authority, educational, health, or other institution, and any other entity which expends public funds for procurement of property, supplies, services, or construction.

13. “Responsible/responsive bidder” means a person or entity who (1) has the capability in all respects to perform fully the contract requirements, and has the integrity and reliability which, as substantiated by past performance and reputation, will assure good faith quality performance, and (2) has submitted a bid or proposal which conforms in all material aspects to the Invitation for Bids or Request for Proposals.
14. "Reverse Auction method" means a real-time bidding process taking place at a previously scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods.

D. Severability.

If any provision of these Procedures or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Procedures which can be given effect without the invalid provisions or application, and to this end the provisions of these Procedures are declared to be severable.

E. Effective Date.

These Procedures shall become effective upon approval by Town Council.

II. Source Selection and Contract Formation

A. Methods of Source Selection. Except where noted herein, all Town contracts shall be awarded by one of the following methods:

1. Invitation for Bids; (Paragraph II. B);
2. Request for Proposals (Paragraph II. C);
3. Emergency Procurement (Paragraph II. D);
4. Sole Source (Paragraph II. E);
5. Small Purchases (Paragraph II. F);
6. Qualifications Based Selection (Paragraph II. G);
7. Reverse Auction (Paragraph II. H).

B. Invitation for Bids.

1. Selection Committee. For each supply, service, equipment or construction item that the Town is seeking in which the Invitation for Bids procurement selection method is used, the Mayor will establish a selection committee (the "Bid Committee"). The Mayor may be a member of that Bid Committee.

1. Notice of Invitation for Bids. An Invitation for Bids shall include (or state where such information is to be made available) a description of the supplies, services, equipment or construction item that the Town is

seeking, and all contractual terms and conditions applicable to the procurement. The Invitation for Bids shall be publicly announced on the Town's website and/or South Carolina Business Opportunities, provided that nothing herein shall prevent the Bid Committee or anyone acting on their behalf from notifying particular companies or individuals of the Invitation for Bids.

2. Receipt and Opening of Bids. All bids shall be received electronically, and any bids received prior to the bid due date shall be kept secure and unopened. Bids will be opened electronically in the presence of one or more members of the Bid Committee at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be deemed appropriate by the Bid Committee, together with the name of each bidder, shall be tabulated by the Mayor. The ranking of each bidder, which need not include the dollar amounts of the bids, shall be made available to all bidders after contract award.
3. Bid Acceptance and Bid Evaluation. Subject to the Town's right not to accept any bid, as determined by the Bid Committee, the selected bid shall be accepted unconditionally without alteration or correction, except as otherwise authorized in these Procedures or by the Bid Committee. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the invitation for bids or addenda to such bids. The Bid Committee shall evaluate bids

based on the requirements set forth in the Invitation for Bids and addenda.

4. Correction or Withdrawal of Bids; Cancellation of Awards.

Correction or withdrawal of erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate, but only upon the written approval of the Mayor, such approval not to be unreasonably withheld. After final bids are entered, no changes in bid prices or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted.

5. Award. If an award is to be made, the contract shall be awarded by written notice to the lowest responsible/responsive bidder. If the presumptive low bidder is disqualified or fails to proceed as set forth in the Invitation for Bids, the Bid Committee may cancel that award and award the contract to the next lowest responsible/responsive bidder. In the event two or more bidders are tied in price while otherwise meeting all of the required conditions, an award shall be determined in the discretion of the Bid Committee.

6. Right of Rejection and Resolicitation. The Bid Committee has the right, prior to award of the contract, to reject any and all bids for cause, or without cause, as it deems appropriate. The Town, as determined by the Bid Committee, has the right to determine not to award the contract to any bidder or to determine to re-solicit bids based upon modified terms and conditions.

C. Request for Proposals.

1. Selection Committee. For each supply, service, equipment or construction item that the Town is seeking in which the Request for Proposal procurement selection method is used, the Mayor will establish a selection committee (the "RFP Committee"). The Mayor may be a member of that RFP Committee.
2. Notice of Request for Proposals. The Request for Proposals shall be publicly announced on the Town's website and/or South Carolina Business Opportunities, provided that nothing herein shall prevent the RFP Committee or anyone acting on their behalf from notifying particular companies or individuals of the Request for Proposals. The Request for Proposals shall include a description of the supplies, services, equipment or construction item being sought, enumerating all requirements for same (or stating where such information is to be made available).
3. Receipt and Safeguarding of Proposals. All proposals shall be received electronically, and any proposals received prior to the proposal due date shall be kept secure and unopened.
4. Evaluation Factors. The Request for Proposals shall state the relative importance of each evaluation factor but need not require numerical weightings for each factor. No other factors or criteria shall be used in evaluation and there shall be adherence to any weightings (if such are used) for each factor in the Request for Proposals. The contract file shall contain

the basis on which the award is made. A determination of responsibility shall be made before award.

5. Negotiation. The RFP Committee will review all submissions, hold interviews if desired as deemed by the RFP Committee, determine the most qualified proposer, and negotiate a contract with the most qualified proposer. In the event a satisfactory contract cannot be negotiated with the most qualified proposer, the Mayor will negotiate a contract with the next most qualified proposer, and so on, until a satisfactory contract can be negotiated. Nothing contained herein will require the RFP Committee to negotiate a contract with an unqualified proposer or with a proposer who submits an unresponsive proposal.

6. Right to Withdraw and Re-solicit. Until award, the RFP Committee has the right to determine not to award the contract to any proposer or to determine to re-solicit proposals based upon modified terms and conditions.

D. Emergency Procurement. Notwithstanding any other provision of this procedure, the Mayor may make an emergency procurement when there exists a threat to public health, welfare or safety under emergency conditions or where normal daily operations are affected; The purchasing limits, as provided for in Section I(B)(2), will be suspended during the emergency situation to prevent an interruption or delay in emergency response. The maximum amount of the emergency purchase will be limited to \$150,000. Purchases above this amount

will require approval by a quorum of Town Council.

- E. Sole Source. A contract may be awarded for supply, service or construction item without competition when the Mayor determines in writing that there is only one source for the required supply, service, or construction item. Such written documentation must include the determination for using sole source and a reasonably detailed description of the reasons justifying the proposed sole source procurement. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror for that item. The following are some (but not all) examples of circumstances which could necessitate sole source procurement:

- (1) where the compatibility of equipment, accessories, services, systems, software, or replacement parts is the paramount consideration;
- (2) where the service provider or supplier has knowledge, skills, abilities, information, or other relevant criteria specifically unique to the required supply, service, or construction item;
- (3) where a sole supplier's item is needed for trial use or testing; and
- (4) where the item is one of a kind.

- F. Small Purchases. The following procedures shall pertain to purchases under \$20,000.00:

1. Purchases \$0.01—\$5,000.00. A department head, with the concurrence of the town administrator or treasurer, may purchase items and/or services under \$5,000.00 as they are needed without competition where funds for such purchases are included within the budget of the Town.

2. Purchases \$5,000.01—\$10,000. Subject to Section II(F)(4) below, the town administrator, with the concurrence of the treasurer, may purchase items and/or services between \$5,000.01—\$10,000.
3. Purchases \$10,000.01—\$20,000. Subject to Section II(F)(4) below, the Mayor may purchase items and/or services between \$10,000.01 and \$20,000.
4. All purchases between \$5,000.01 and 20,000 shall require solicitation of written quotations, or in the alternative, firm pricing obtained through internet searches, from a minimum of three qualified sources (or, if in the Mayor's judgment, there are fewer than three qualified sources, from all qualified sources), and the contract shall be offered to the lowest responsible/responsive vendor. The Mayor may waive the foregoing requirement when he or she determines in writing that such a waiver is in the best interests of the Town.

G. Qualifications Based Selection.

1. Preparation of Project Description. The Mayor shall be responsible for developing a description of the proposed professional services project, listing the required professional services for that project, and preparing a formal invitation to firms for submission of information
2. Public Announcement. The formal invitation shall be publicly announced on the Town's website and/or South Carolina Business Opportunities, provided that nothing herein shall prevent the RFQ Committee or anyone

acting on their behalf from notifying particular companies or individuals of the invitation. Nothing contained herein shall preclude the Mayor from directly inviting any person to submit information.

3. Selection Committee. The Mayor shall choose a selection committee (the “RFQ Committee”) whom the Mayor determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project.
4. Interviews with Interested Firms. Following receipt of information from all interested persons and firms, the RFQ Committee may hold interviews with at least three firms who have responded to the RFQ Committee’s advertisement and who are deemed most qualified on the basis of information available prior to the interviews, or if less than three persons or firms have responded to the advertisement, the RFQ Committee may hold interviews with those that did respond. The purpose of the interviews, if any, shall be to provide such further information as may be required by the selection committee to fully acquaint itself with the relative qualifications of the interested firms.
5. Selection and Ranking of the Most Qualified. The RFQ Committee, of which the Mayor may be a member, shall evaluate each of the firms interviewed based upon criteria set forth in the invitation. Based upon these evaluations, the RFQ Committee shall select the firms which, in its judgment, are the best qualified. The RFQ Committee’s report ranking the

firms shall be in writing and will be made available to all firms interviewed upon written request from the interviewed firms.

6. **Negotiation of Contract.** The Mayor shall negotiate a contract for services with the most qualified firm at a compensation that is fair and reasonable to the Town. Should the Mayor be unable to negotiate a satisfactory contract with the firm, negotiations shall be formally terminated. Negotiations shall commence in the same manner with the second and then the third, until a satisfactory contract has been negotiated. If no agreement is reached with one of the three, additional persons or firms in order of their competence and qualifications may be selected after consultation with the selection committee, and negotiations shall be continued in the same manner until agreement is reached.

H. Reverse Auction.

1. Conditions for Use. In addition to the competitive sealed bid or competitive sealed proposal methods of procurement, contracts for the sale of goods which exceed the sum of Twenty-Five Thousand (\$25,000) Dollars may be awarded by utilization of a Reverse Auction method as set forth herein.
2. Reverse Auction Procedures. In using the Reverse Auction method, the Mayor shall follow the following procedures:
 - a. Invitation for Reverse Auction Bids. The Mayor shall issue an invitation for Reverse Auction Bids, which shall include all requirements for the bids, include the specifications for the required goods, the time of

delivery and the quantities required.

b. Public Notice. Public notice of the bids shall be given not less than seven (7) days prior to the date set forth therein for the commencement of the Reverse Auction, and such notice shall be by publication on the Town's website and/or South Carolina Business Opportunities, provided that nothing herein shall prevent the Mayor from notifying particular companies or individuals of the.

c. Receiving Bids. Bids shall be received as set forth in the notice and other rules applicable to the Reverse Auction as may be promulgated by the Mayor and designated in the invitation for bids. The final amount of each bid and such other relevant information, together with the name of each bidder, shall be recorded in writing. This record, and each final bid, shall be open to public inspection after award.

d. Bid Acceptance, Evaluation and Award. Bids shall be unconditionally accepted without alteration or correction except as authorized in this Policy. The bidder with the lowest responsive, responsible bid will be awarded the contract.

e. Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate, but only upon the written approval of the Mayor, such approval not to be unreasonably withheld. After final bids are

entered, no changes in bid prices or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted.

f. Determination of Responsibility upon Award. Responsibility shall be determined by the bidder's demonstrated ability to provide the goods required in conformity with the invitation for bids. In making this determination the Mayor may examine such factors as may be appropriate and relevant to the peculiar requirements of the particular contract.

g. Prequalification of Bidders. The Mayor may prequalify all prospective bidders as set forth in Section II(I) below.

I. Prequalification of Bidders.

1. The Mayor may pre-qualify all prospective bidders or proposers.
2. Notice of pre-qualification shall be publicly announced on the Town's website and/or South Carolina Business Opportunities and shall set forth the criteria (or state where such criteria are to be made available) by which the qualifications and appropriateness of prospective bidders shall be determined. Only those criteria set forth in the pre-qualification notice may be considered in pre-qualifying bidders. The Mayor shall make all pre-qualification decisions in the exercise of his reasonable discretion, and shall make a written record of the bases for its pre-qualification determinations. Prior to issuance of the Invitation for Bids or Request for Proposals, all prospective bidders or proposers that were provided with pre-qualification notice will be notified of the Mayor's decisions relating

to pre-qualification.

J. Exempted Items. The following services and/or procurements shall be exempt from the provisions of these Procedures.

1. Town Council, upon recommendation of the Mayor, may exempt by ordinance specific items, services, or projects from these Procedures when Town Council finds that such exemption is in the interest of the Town.
2. Purchases \$5,000.00 and under. These Procedures do not apply to any procurement equal to or less than \$5,000.00 where funds for such purchases are included within the budget of the Town.
3. The following Professional Services:
 - a. Accounting services;
 - b. Advertising and marketing services;
 - c. Governmental relations services;
 - d. Insurance consulting and procurement services;
 - e. Legal services;
 - f. Public relations services; and
 - g. Underwriting and financial services.

In connection with choosing a certain individual or firm to provide professional services, the Mayor shall prepare a written determination setting forth the reasons the certain individual or firm was chosen. Nothing herein shall preclude the Mayor from selecting any of the foregoing professional services pursuant to a competitive selection process.

4. Real Property. The purchase, leasing and/or sale of real property by the Town.
5. Cooperative Purchasing. The Mayor may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of products, supplies, or services with one or more Public Procurement Units or Co-operative Purchasing Entities in accordance with an agreement entered into or guidelines agreed upon among the participants.
6. Existing Contracts and Approved Vendor Lists of Other Public Procurement Units. The Mayor may Procure goods or services pursuant to an existing contract held by another Public Procurement Unit or from vendors included in a Public Procurement Unit's approved vendor list, upon a determination that such contract was awarded or vendor list approved pursuant to appropriately competitive procedures by the applicable Public Procurement Unit. Without limiting the generality of the foregoing, it is hereby declared that contracts held or vendor lists approved by the State of South Carolina or the County of Charleston for the purchase of goods or supplies were awarded or approved pursuant to appropriately competitive procedures.

III. Delivery Methods

A. Construction Project Delivery

The following construction project delivery methods are authorized:

1. Design-Bid-Build;

2. Construction Management at-Risk;
3. Operations and Maintenance;
4. Design-Build;
5. Design-Build-Operate-Maintain;
6. Design-Build-Finance-Operate-Maintain;
7. Vendor List
8. Such other project delivery method that the Mayor may approve combining one or more aspects of the delivery methods in items 1-6 above in this Section III(A).

B. Source Selection

Except as provided in Sections II(D) (Emergency Procurements) and II(E) (Small Purchases), source selection methods applicable to procurements for the project delivery methods identified in Section III(A) above shall be as follows:

1. Design-bid-build:
 - a. Design. Request for Proposals in Section II(C) above or the Qualifications Based Selection Process in Section II(G) above must be used to procure architect, engineer, and other design or professional services (including construction management where the construction manager serves as the Owner's Agent).
 - b. Construction. Invitation for Bids or Request for Proposals must be used to procure construction in design-bid-build procurements.
2. Construction Management at-risk. Invitation for Bids or Request for Proposals must be used to procure contracts for construction management at-risk.
3. Design-build. Request for Proposals must be used for the procurement of design-build.
4. Design-build-operate-maintain and Design-build-finance-operate-maintain. Request for Proposals must be used for the

procurement of contracts for Design-build-operate-maintain and Design-build-finance-operate-maintain.

5. Operations and Maintenance. Invitation for Bids or Request for Proposals must be used to procure contracts for operations and maintenance.

6. Vendor's List. The Mayor is authorized to select a group or groups of pre-qualified firms to provide services and/or supplies to the Town for one or more types of Procurements over an extended period of time (not to exceed two years).

a. Such group(s) of pre-qualified firms shall be selected pursuant to a Request for Proposals or Request for Qualifications process as set forth in this Policy.

b. The Mayor may procure services from such group(s) of pre-qualified firms through Sealed Bids or Request for Proposals, except that:

(1) Public notice shall not be required; and

(2) Where necessary the Mayor may require bids or proposals on an expedited basis (as early as Twenty-Four (24) hours).

7. Other. Invitation for Bids or Request for Proposals must be used to procure contracts for other project delivery methods authorized pursuant to Section II(A).

C. Bond and Security.

1. Bid security shall be required for all Invitations to Bid for construction contracts entered into pursuant to Article II(B). Bid security shall be one or more bonds provided by one or more surety companies meeting the criteria established by the Mayor. Bid security shall be in an amount equal to at least five percent of the bid unless a higher percentage is specified in the invitation for bids. Any bid, which does not comply with the bid security requirements, shall be rejected.
2. When a contract to improve real property exceeding \$50,000 is awarded, the following bond security shall be delivered to the Town upon or within a reasonable time after the execution of the contract and shall be binding on the parties:
 - a. A performance bond satisfactory to the Town, executed by one or more surety companies meeting the criteria established in the invitation for bids or otherwise secured in a manner satisfactory to the Town, in an amount equal to 100% of the contract price;
 - b. A payment bond satisfactory to the Town, executed by one or more surety companies meeting the criteria established in the invitation for bids or otherwise secured in a manner satisfactory to the Town, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in the amount equal to 100% of the contract price.

3. Nothing in subparagraph 2 above shall be construed to limit the authority of the Town to require a performance bond or other security in addition to the bonds specified above.
4. Bonding requirements may be waived for any emergency procurement.

IV. Disposal of Surplus Supplies. All surplus supplies, materials and equipment which are considered salvage or surplus, may be sold to the highest responsive bidder in accordance with and upon such terms and conditions as the Mayor shall require with respect to such surplus supplies and materials, provided, however, that the Mayor may sell, lease, or dispose of any supplies, materials, or junk which has a value of less than Two Thousand (\$2,000) Dollars. The use of GovDeals.com or some other similar internet-based auction site may be used to sell surplus supplies, materials or equipment.

V. Resolving Protests

- A. Right to Protest. Any actual or prospective bidder, proposer or contractor, who is aggrieved in connection with the solicitation or award of a contract, may protest to the Mayor. The protest, setting forth the grievance and the grounds therefor, shall be submitted in writing within ten days after such aggrieved person knows or should have known of the facts giving rise thereto, but in no circumstance after fifteen days of notification of award of contract.
- B. Authority to Resolve Protests. The Mayor shall have the authority to settle and resolve a protest of an aggrieved bidder, proposer or contractor, actual or prospective, concerning the solicitation or award of a contract. If the protest is not resolved by mutual agreement within five calendar days of the notice of protest, the parties may submit the dispute to non-binding mediation, which shall be

concluded within ten calendar days of the notice of protest.

- C. Decision. Should the parties fail to resolve the protest in mediation, the Mayor shall promptly issue a decision in writing, stating the reasons for the action taken. A decision of the Mayor shall be final and conclusive, and a copy of the decision shall be mailed or otherwise furnished immediately to the protestor and any other party intervening.

VI. Conflicts of Interest

- A. No member of the Town Council or any officer or employee of the town shall have a financial interest in any contract or in the sale to the Town or to a contractor supplying the town of any land or rights or interests in any land, material, supplies or services.
- B. Any willful violation of Section VI(A) shall constitute malfeasance in office, and any officer or employee of the Town found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied of the person or corporation contracting with the Town shall render the contract voidable by the purchasing agent or Town Council.

PROCUREMENT POLICY OF THE TOWN OF KIAWAH, SOUTH CAROLINA
(THE “TOWN”)

I. General Provisions

A. Purpose and Policies. The underlying purposes and policies of the procedures set forth herein (the “Procedures”) are to adopt for the Town procurement practices that are appropriately competitive and that serve the mission of the Town.

B. Application of Procedures.

1. General Application. These Procedures apply only to contracts, purchases and other procurements that are solicited or entered into after the effective date of these Procedures.

2. Reporting to and Approval of Town Council. It shall be the policy of the Town that any contractual obligation, including a Change Order, of \$20,000 or greater shall be reported to the Ways and Means Committee of Town Council prior to execution of the contract and any proposed contractual obligation, including a Change Order, of \$100,000 or greater must also be approved by Town Council.

C. Definitions.

1. “Change order” means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract.

2. “Construction Management at-Risk” means a project delivery method in which the Town awards separate contracts, one for design services to design a project and the second to a construction manager at-risk for both

construction of the project according to the design and construction management services, which include but are not limited to those professional services associated with contract administration, project management, and other services provided in connection with the administration of a construction project.

3. “Co-operative Purchasing Entity” means an organization or alliance of municipalities and/or other governmental bodies throughout the United States established in part to achieve economies of scale and/or innovations through group purchasing strategies, shared resources and/or centrally administered competitive procurement processes to afford value and discount pricing programs to its members.
4. “Design-bid-build” means a project delivery method in which the Town sequentially awards separate contracts, the first for design services to design a project and the second for construction of the project according to the design.
5. “Design Services” means those professional services associated with the practice of architecture, professional engineering, land surveying, landscape architecture, and interior design pertaining to construction, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform, including without limitation studies, investigations, surveys, evaluations, consultations, planning, programming, conceptual design, plans and specifications, construction documents, cost estimates, construction observations, shop drawing

reviews, sample recommendations, preparation of operating and maintenance manuals and other related services.

6. “Design-build” means a project delivery method in which the Town enters into a single contract for design and construction of a project.
7. “Design-build-finance-operate-maintain” means a project delivery method in which the Town enters into a single contract for design, construction, finance, maintenance, and operation of a project over a contractually defined period.
8. “Design-build-operate-maintain” means a project delivery method in which the Town enters into a single contract for design, construction, maintenance, and operation of a project over a contractually defined period.
9. “Mayor” means the elected mayor of the Town, or his or her designee, such designation to be set forth in writing. The Mayor shall make all decisions required under these Procedures.
10. “Operations and maintenance” means a project delivery method in which the Town enters into a single contract for the routine operation, routine repair, and routine maintenance of a building project.
11. “Procure” or “Procurement” means buying, purchasing, renting, leasing or otherwise acquiring any supplies, services, equipment or construction.
12. “Public Procurement Unit” means any agency of the Federal Government, the State of South Carolina (the “State”), any agency of the State, and any county, municipality, special purpose district or any other subdivisions of the State or public agency of any such subdivision, public authority,

educational, health, or other institution, and any other entity which expends public funds for procurement of property, supplies, services, or construction.

13. “Responsible/responsive bidder” means a person or entity who (1) has the capability in all respects to perform fully the contract requirements, and has the integrity and reliability which, as substantiated by past performance and reputation, will assure good faith quality performance, and (2) has submitted a bid or proposal which conforms in all material aspects to the Invitation for Bids or Request for Proposals.
14. "Reverse Auction method" means a real-time bidding process taking place at a previously scheduled time and Internet location in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods.

D. Severability.

If any provision of these Procedures or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Procedures which can be given effect without the invalid provisions or application, and to this end the provisions of these Procedures are declared to be severable.

E. Effective Date.

These Procedures shall become effective upon approval by Town Council.

II. Source Selection and Contract Formation

A. Methods of Source Selection. Except where noted herein, all Town contracts shall be awarded by one of the following methods:

1. Invitation for Bids; (Paragraph II. B);
2. Request for Proposals (Paragraph II. C);
3. Emergency Procurement (Paragraph II. D);
4. Sole Source (Paragraph II. E);
5. Small Purchases (Paragraph II. F);
6. Qualifications Based Selection (Paragraph II. G);
7. Reverse Auction (Paragraph II. H).

B. Invitation for Bids.

1. Selection Committee. For each supply, service, equipment or construction item that the Town is seeking in which the Invitation for Bids procurement selection method is used, the Mayor will establish a selection committee (the "Bid Committee"). The Mayor may be a member of that Bid Committee.

1. Notice of Invitation for Bids. An Invitation for Bids shall include (or state where such information is to be made available) a description of the supplies, services, equipment or construction item that the Town is seeking,

and all contractual terms and conditions applicable to the procurement. The Invitation for Bids shall be publicly announced on the Town's website and/or South Carolina Business Opportunities, provided that nothing herein shall prevent the Bid Committee or anyone acting on their behalf from notifying particular companies or individuals of the Invitation for Bids.

2. Receipt and Opening of Bids. All bids shall be received electronically, and any bids received prior to the bid due date shall be kept secure and unopened. Bids will be opened electronically in the presence of one or more members of the Bid Committee at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as may be deemed appropriate by the Bid Committee, together with the name of each bidder, shall be tabulated by the Mayor. The ranking of each bidder, which need not include the dollar amounts of the bids, shall be made available to all bidders after contract award.
3. Bid Acceptance and Bid Evaluation. Subject to the Town's right not to accept any bid, as determined by the Bid Committee, the selected bid shall be accepted unconditionally without alteration or correction, except as otherwise authorized in these Procedures or by the Bid Committee. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the invitation for bids or addenda to such bids. The Bid Committee shall evaluate bids based on the requirements set forth in the Invitation for Bids and addenda.

4. Correction or Withdrawal of Bids; Cancellation of Awards.

Correction or withdrawal of erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate, but only upon the written approval of the Mayor, such approval not to be unreasonably withheld. After final bids are entered, no changes in bid prices or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted.

5. Award. If an award is to be made, the contract shall be awarded by written notice to the lowest responsible/responsive bidder. If the presumptive low bidder is disqualified or fails to proceed as set forth in the Invitation for Bids, the Bid Committee may cancel that award and award the contract to the next lowest responsible/responsive bidder. In the event two or more bidders are tied in price while otherwise meeting all of the required conditions, an award shall be determined in the discretion of the Bid Committee.

6. Right of Rejection and Resolicitation. The Bid Committee has the right, prior to award of the contract, to reject any and all bids for cause, or without cause, as it deems appropriate. The Town, as determined by the Bid Committee, has the right to determine not to award the contract to any bidder or to determine to re-solicit bids based upon modified terms and conditions.

C. Request for Proposals.

1. Selection Committee. For each supply, service, equipment or construction item that the Town is seeking in which the Request for Proposal procurement selection method is used, the Mayor will establish a selection committee (the "RFP Committee"). The Mayor may be a member of that RFP Committee.
2. Notice of Request for Proposals. The Request for Proposals shall be publicly announced on the Town's website and/or South Carolina Business Opportunities, provided that nothing herein shall prevent the RFP Committee or anyone acting on their behalf from notifying particular companies or individuals of the Request for Proposals. The Request for Proposals shall include a description of the supplies, services, equipment or construction item being sought, enumerating all requirements for same (or stating where such information is to be made available).
3. Receipt and Safeguarding of Proposals. All proposals shall be received electronically, and any proposals received prior to the proposal due date shall be kept secure and unopened.
4. Evaluation Factors. The Request for Proposals shall state the relative importance of each evaluation factor but need not require numerical weightings for each factor. No other factors or criteria shall be used in evaluation and there shall be adherence to any weightings (if such are used) for each factor in the Request for Proposals. The contract file shall contain the basis on which the award is made. A determination of responsibility shall be made before award.

5. Negotiation. The RFP Committee will review all submissions, hold interviews if desired as deemed by the RFP Committee, determine the most qualified proposer, and negotiate a contract with the most qualified proposer. In the event a satisfactory contract cannot be negotiated with the most qualified proposer, the Mayor will negotiate a contract with the next most qualified proposer, and so on, until a satisfactory contract can be negotiated. Nothing contained herein will require the RFP Committee to negotiate a contract with an unqualified proposer or with a proposer who submits an unresponsive proposal.
 6. Right to Withdraw and Re-solicit. Until award, the RFP Committee has the right to determine not to award the contract to any proposer or to determine to re-solicit proposals based upon modified terms and conditions.
- D. Emergency Procurement. Notwithstanding any other provision of this procedure, the Mayor may make an emergency procurement when there exists a threat to public health, welfare or safety under emergency conditions or where normal daily operations are affected; The purchasing limits, as provided for in Section I(B)(2), will be suspended during the emergency situation to prevent an interruption or delay in emergency response. The maximum amount of the emergency purchase will be limited to \$150,000. Purchases above this amount will require approval by a quorum of Town Council.
- E. Sole Source. A contract may be awarded for supply, service or construction item without competition when the Mayor determines in writing that there is only one source for the required supply, service, or construction item. Such written

documentation must include the determination for using sole source and a reasonably detailed description of the reasons justifying the proposed sole source procurement. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror for that item. The following are some (but not all) examples of circumstances which could necessitate sole source procurement:

- (1) where the compatibility of equipment, accessories, services, systems, software, or replacement parts is the paramount consideration;
- (2) where the service provider or supplier has knowledge, skills, abilities, information, or other relevant criteria specifically unique to the required supply, service, or construction item;
- ~~(23)~~ where a sole supplier's item is needed for trial use or testing; and
- ~~(34)~~ where the item is one of a kind.

F. Small Purchases. The following procedures shall pertain to purchases under \$20,000.00:

1. Purchases \$0.01—~~\$2,000.00. The~~5,000.00. A department head, with the concurrence of the town administrator or treasurer, may purchase items and/or services under ~~\$2,000.00~~5,000.00 as they are needed without competition where funds for such purchases are included within the budget of the Town.
2. Purchases ~~\$2,000.01~~5,000.01—\$10,000. ~~The~~Subject to Section II(F)(4) below, the town administrator, with the concurrence of the treasurer, may purchase items and/or services between ~~\$2,000.01—\$10,000 and that have been previously budgeted by the solicitation of written quotations, or in the~~

~~alternative, firm pricing obtained through internet searches, from a minimum of three qualified sources (or, if in the town administrator's judgment, there are fewer than three qualified sources, from all qualified sources), and the contract shall be offered to the lowest responsible/responsive vendor.~~5,000.01—\$10,000.

3. Purchases ~~\$2,000.01~~10,000.01—\$20,000. ~~The~~Subject to Section II(F)(4) below, the Mayor may ~~make any procurement~~purchase items and/or services between ~~\$2,000.01~~10,000.01 and \$20,000 ~~by the.~~

4. All purchases between \$5,000.01 and 20,000 shall require solicitation of written quotations, or in the alternative, firm pricing obtained through internet searches, from a minimum of three qualified sources (or, if in the Mayor's judgment, there are fewer than three qualified sources, from all qualified sources), and the contract shall be offered to the lowest responsible/responsive vendor. The Mayor may waive the foregoing requirement when he or she determines in writing that such a waiver is in the best interests of the Town.

G. Qualifications Based Selection.

1. Preparation of Project Description. The Mayor shall be responsible for developing a description of the proposed professional services project, listing the required professional services for that project, and preparing a formal invitation to firms for submission of information
2. Public Announcement. The formal invitation shall be publicly announced on the Town's website and/or South Carolina Business Opportunities,

provided that nothing herein shall prevent the RFQ Committee or anyone acting on their behalf from notifying particular companies or individuals of the invitation. Nothing contained herein shall preclude the Mayor from directly inviting any person to submit information.

3. Selection Committee. The Mayor shall choose a selection committee (the “RFQ Committee”) whom the Mayor determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project.
4. Interviews with Interested Firms. Following receipt of information from all interested persons and firms, the RFQ Committee may hold interviews with at least three firms who have responded to the RFQ Committee’s advertisement and who are deemed most qualified on the basis of information available prior to the interviews, or if less than three persons or firms have responded to the advertisement, the RFQ Committee may hold interviews with those that did respond. The purpose of the interviews, if any, shall be to provide such further information as may be required by the selection committee to fully acquaint itself with the relative qualifications of the interested firms.
5. Selection and Ranking of the Most Qualified. The RFQ Committee, of which the Mayor may be a member, shall evaluate each of the firms interviewed based upon criteria set forth in the invitation. Based upon these evaluations, the RFQ Committee shall select the firms which, in its judgment, are the best qualified. The RFQ Committee’s report ranking the

firms shall be in writing and will be made available to all firms interviewed upon written request from the interviewed firms.

6. **Negotiation of Contract.** The Mayor shall negotiate a contract for services with the most qualified firm at a compensation that is fair and reasonable to the Town. Should the Mayor be unable to negotiate a satisfactory contract with the firm, negotiations shall be formally terminated. Negotiations shall commence in the same manner with the second and then the third, until a satisfactory contract has been negotiated. If no agreement is reached with one of the three, additional persons or firms in order of their competence and qualifications may be selected after consultation with the selection committee, and negotiations shall be continued in the same manner until agreement is reached.

H. Reverse Auction.

1. Conditions for Use. In addition to the competitive sealed bid or competitive sealed proposal methods of procurement, contracts for the sale of goods which exceed the sum of Twenty-Five Thousand (\$25,000) Dollars may be awarded by utilization of a Reverse Auction method as set forth herein.

2. Reverse Auction Procedures. In using the Reverse Auction method, the Mayor shall follow the following procedures:

- a. Invitation for Reverse Auction Bids. The Mayor shall issue an invitation for Reverse Auction Bids, which shall include all requirements for the bids, include the specifications for the required goods, the time of delivery and the quantities required.

- b. Public Notice. Public notice of the bids shall be given not less than seven (7) days prior to the date set forth therein for the commencement of the Reverse Auction, and such notice shall be by publication on the Town's website and/or South Carolina Business Opportunities, provided that nothing herein shall prevent the Mayor from notifying particular companies or individuals of the.
- c. Receiving Bids. Bids shall be received as set forth in the notice and other rules applicable to the Reverse Auction as may be promulgated by the Mayor and designated in the invitation for bids. The final amount of each bid and such other relevant information, together with the name of each bidder, shall be recorded in writing. This record, and each final bid, shall be open to public inspection after award.
- d. Bid Acceptance, Evaluation and Award. Bids shall be unconditionally accepted without alteration or correction except as authorized in this Policy. The bidder with the lowest responsive, responsible bid will be awarded the contract.
- e. Correction or Withdrawal of Bids; Cancellation of Awards. Correction or withdrawal of erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate, but only upon the written approval of the Mayor, such approval not to be unreasonably withheld. After final bids are entered, no changes in bid prices or other provisions of bids prejudicial to the interest of the Town or fair competition shall be permitted.

f. Determination of Responsibility upon Award. Responsibility shall be determined by the bidder's demonstrated ability to provide the goods required in conformity with the invitation for bids. In making this determination the Mayor may examine such factors as may be appropriate and relevant to the peculiar requirements of the particular contract.

g. Prequalification of Bidders. The Mayor may prequalify all prospective bidders as set forth in Section II(I) below.

I. Prequalification of Bidders.

1. The Mayor may pre-qualify all prospective bidders or proposers.
2. Notice of pre-qualification shall be publicly announced on the Town's website and/or South Carolina Business Opportunities and shall set forth the criteria (or state where such criteria are to be made available) by which the qualifications and appropriateness of prospective bidders shall be determined. Only those criteria set forth in the pre-qualification notice may be considered in pre-qualifying bidders. The Mayor shall make all pre-qualification decisions in the exercise of his reasonable discretion, and shall make a written record of the bases for its pre-qualification determinations. Prior to issuance of the Invitation for Bids or Request for Proposals, all prospective bidders or proposers that were provided with pre-qualification notice will be notified of the Mayor's decisions relating to pre-qualification.

J. Exempted Items. The following services and/or procurements shall be exempt from the provisions of these Procedures.

1. Town Council, upon recommendation of the Mayor, may exempt by ordinance specific items, services, or projects from these Procedures when Town Council finds that such exemption is in the interest of the Town.
2. Purchases \$~~1,000.00~~5,000.00 and under. These Procedures do not apply to any procurement equal to or less than \$~~1,000.00~~5,000.00 where funds for such purchases are included ~~with~~within the budget of the Town.
3. The following Professional Services:
 - a. Accounting services;
 - b. Advertising and marketing services;
 - c. Governmental relations services;
 - d. Insurance consulting and procurement services;
 - e. Legal services;
 - f. Public relations services; and
 - g. Underwriting and financial services.

In connection with choosing a certain individual or firm to provide professional services, the Mayor shall prepare a written determination setting forth the reasons the certain individual or firm was chosen. Nothing herein shall preclude the Mayor from selecting any of the foregoing professional services pursuant to a competitive selection process.

4. Real Property. The purchase, leasing and/or sale of real property by the Town.

5. Cooperative Purchasing. The Mayor may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of products, supplies, or services with one or more Public Procurement Units or Co-operative Purchasing Entities in accordance with an agreement entered into or guidelines agreed upon among the participants.
6. Existing Contracts and Approved Vendor Lists of Other Public Procurement Units. The Mayor may Procure goods or services pursuant to an existing contract held by another Public Procurement Unit or from vendors included in a Public Procurement Unit's approved vendor list, upon a determination that such contract was awarded or vendor list approved pursuant to appropriately competitive procedures by the applicable Public Procurement Unit. Without limiting the generality of the foregoing, it is hereby declared that contracts held or vendor lists approved by the State of South Carolina or the County of Charleston for the purchase of goods or supplies were awarded or approved pursuant to appropriately competitive procedures.

III. Delivery Methods

A. Construction Project Delivery

The following construction project delivery methods are authorized:

1. Design-Bid-Build;
2. Construction Management at-Risk;
3. Operations and Maintenance;
4. Design-Build;
5. Design-Build-Operate-Maintain;
6. Design-Build-Finance-Operate-Maintain;

7. Vendor List
8. Such other project delivery method that the Mayor may approve combining one or more aspects of the delivery methods in items 1-6 above in this Section III(A).

B. Source Selection

Except as provided in Sections II(D) (Emergency Procurements) and II(E) (Small Purchases), source selection methods applicable to procurements for the project delivery methods identified in Section III(A) above shall be as follows:

1. Design-bid-build:
 - a. Design. Request for Proposals in Section II(C) above or the Qualifications Based Selection Process in Section II(G) above must be used to procure architect, engineer, and other design or professional services (including construction management where the construction manager serves as the Owner's Agent).
 - b. Construction. Invitation for Bids or Request for Proposals must be used to procure construction in design-bid-build procurements.
2. Construction Management at-risk. Invitation for Bids or Request for Proposals must be used to procure contracts for construction management at-risk.
3. Design-build. Request for Proposals must be used for the procurement of design-build.
4. Design-build-operate-maintain and Design-build-finance-operate-maintain. Request for Proposals must be used for the procurement of contracts for Design-build-operate-maintain and Design-build-finance-operate-maintain.

5. Operations and Maintenance. Invitation for Bids or Request for Proposals must be used to procure contracts for operations and maintenance.
6. Vendor's List. The Mayor is authorized to select a group or groups of pre-qualified firms to provide services and/or supplies to the Town for one or more types of Procurements over an extended period of time (not to exceed two years).
 - a. Such group(s) of pre-qualified firms shall be selected pursuant to a Request for Proposals or Request for Qualifications process as set forth in this Policy.
 - b. The Mayor may procure services from such group(s) of pre-qualified firms through Sealed Bids or Request for Proposals, except that:
 - (1) Public notice shall not be required; and
 - (2) Where necessary the Mayor may require bids or proposals on an expedited basis (as early as Twenty-Four (24) hours).
7. Other. Invitation for Bids or Request for Proposals must be used to procure contracts for other project delivery methods authorized pursuant to Section II(A).

C. Bond and Security.

1. Bid security shall be required for all Invitations to Bid for construction contracts entered into pursuant to Article II(B). Bid security shall be one or

more bonds provided by one or more surety companies meeting the criteria established by the Mayor. Bid security shall be in an amount equal to at least five percent of the bid unless a higher percentage is specified in the invitation for bids. Any bid, which does not comply with the bid security requirements, shall be rejected.

2. When a contract to improve real property exceeding \$50,000 is awarded, the following bond security shall be delivered to the Town upon or within a reasonable time after the execution of the contract and shall be binding on the parties:
 - a. A performance bond satisfactory to the Town, executed by one or more surety companies meeting the criteria established in the invitation for bids or otherwise secured in a manner satisfactory to the Town, in an amount equal to 100% of the contract price;
 - b. A payment bond satisfactory to the Town, executed by one or more surety companies meeting the criteria established in the invitation for bids or otherwise secured in a manner satisfactory to the Town, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract. The bond shall be in the amount equal to 100% of the contract price.
3. Nothing in subparagraph 2 above shall be construed to limit the authority of the Town to require a performance bond or other security in addition to the bonds specified above.

4. Bonding requirements may be waived for any emergency procurement.

IV. Disposal of Surplus Supplies. All surplus supplies, materials and equipment which are considered salvage or surplus, may be sold to the highest responsive bidder in accordance with and upon such terms and conditions as the Mayor shall require with respect to such surplus supplies and materials, provided, however, that the Mayor may sell, lease, or dispose of any supplies, materials, or junk which has a value of less than Two Thousand (\$2,000) Dollars. The use of GovDeals.com or some other similar internet-based auction site may be used to sell surplus supplies, materials or equipment.

V. Resolving Protests

- A. Right to Protest. Any actual or prospective bidder, proposer or contractor, who is aggrieved in connection with the solicitation or award of a contract, may protest to the Mayor. The protest, setting forth the grievance and the grounds therefor, shall be submitted in writing within ten days after such aggrieved person knows or should have known of the facts giving rise thereto, but in no circumstance after fifteen days of notification of award of contract.
- B. Authority to Resolve Protests. The Mayor shall have the authority to settle and resolve a protest of an aggrieved bidder, proposer or contractor, actual or prospective, concerning the solicitation or award of a contract. If the protest is not resolved by mutual agreement within five calendar days of the notice of protest, the parties may submit the dispute to non-binding mediation, which shall be concluded within ten calendar days of the notice of protest.
- C. Decision. Should the parties fail to resolve the protest in mediation, the Mayor shall promptly issue a decision in writing, stating the reasons for the action taken. A

decision of the Mayor shall be final and conclusive, and a copy of the decision shall be mailed or otherwise furnished immediately to the protestor and any other party intervening.

VI. Conflicts of Interest

- A. No member of the Town Council or any officer or employee of the town shall have a financial interest in any contract or in the sale to the Town or to a contractor supplying the town of any land or rights or interests in any land, material, supplies or services.
- B. Any willful violation of Section VI(A) shall constitute malfeasance in office, and any officer or employee of the Town found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge, express or implied of the person or corporation contracting with the Town shall render the contract voidable by the purchasing agent or Town Council.

Summary report: Litera Compare for Word 11.4.0.111 Document comparison done on 3/28/2025 2:54:54 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: Town of Kiawah Amended Procurement Code (REVISED) 9416975.5.doc	
Modified DMS: iw://hsblawfirm.cloudmanage.com/HSBDOCS/9416975/6	
Changes:	
<u>Add</u>	21
~~Delete~~	15
~~Move From~~	0
<u>Move To</u>	0
<u>Table Insert</u>	0
~~Table Delete~~	0
<u>Table moves to</u>	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	36



TAB 7

TOWN COUNCIL

Agenda Item

Town of Kiawah Island Zoning Ordinance Amendment Request

Case AZO25-000001 History

Planning Commission Meeting: February 5, 2025
Planning Commission Meeting: February 26, 2025
Public Hearing and First Reading: April 1, 2025
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to modify Section 12-165. Zoning Permits. and Section 12-374. Definitions

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-165. Zoning Permits and Section 12-374. Definitions to clarify items in which a zoning permit shall be required. The amendment also adds consistent definitions to the zoning code.

RECOMMENDATION BY THE PLANNING COMMISSION

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

DECISION ON AMENDMENT BY THE TOWN COUNCIL

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

APPROVAL CRITERIA

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

- a. The proposed amendment is consistent with the purposes and intent of the adopted Town of Kiawah Island Comprehensive Plan;
- b. The proposed amendment is consistent with the purposes and intent of this article;
- c. The purpose of the proposed amendment is to further the general health, safety and welfare of the Town of Kiawah Island;

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

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

PLANNING COMMISSION MEETING FEBRUARY 26, 2025

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

PLANNING STAFF REVIEW

In application of this ordinance, property owners or respective design teams will be required to formally submit permit applications via our online portal as part of standard zoning review. Specifically for applications for docks, applicants contact the Town to provide notice or inquiry into a proposed dock and its standards. This is to ensure consistency with the Key Dock location ordinance. The Town shares the required standards before a property owner makes investment for a potential dock that is not allowed by the Town's Key Location Map. The state also notifies the Town of such dock applications as docks must be permitted in accordance with state regulations. In the event an applicant has not contacted the Town prior to submitting to the state, the Town's planning department provides comments to the state noting potential inconsistencies with the Town's local ordinance.

With the Town having a local ordinance with specific standards regarding docks, the state has been substantially supportive in deferring to the Town with regard to their approvals, taking into consideration issued Town comments. As a result of these comments, the state encourages the applicant to contact the Town to engage regarding potential inconsistencies and or concerns. With this process, the Town is already conducting a review of the project, in which it should be captured within the permitting history of our public portal.

Please note included sample letters shared with the state.

In 2023, the Town adopted its Comprehensive Marsh Management Plan, which recommends that the Town should regulate bulkheads and other flood/erosion control structures upland of the critical line. It encourages the use of living shorelines where feasible.

Recommendation: Regulate bulkheads and other flood/erosion control structures upland of critical line.

Justification: Article 17 TOKI's municipal code allows TOKI to review bank retention designs and submit comments and recommendations, but provides little authority to guide decision-making. Implementation: Codify ARB standards with a Town ordinance requiring that bulkheads beyond the critical line may only be constructed with prior-OCRM approval, must be constructed flush with adjacent grade/elevation, and any disturbed land must be backfilled and planted with appropriate vegetation. All erosion control or flood mitigation construction regardless of location relative to the critical line requires a Town permit with proof of location and a depiction of the certified critical line. Bulkheads on high ground are not recommended; rather, options for shoreline restoration (like terracing).

As the Town works to develop specific policies and or standards regarding bulkheads and erosion control structures which interface the critical area and highlands, utilizing the approach of issuing comments to the state for these applications, has shown to be effective. Similarly, the Town issues comments to the state when notified of erosion control structures applications. The proposed ordinance allows the initial stages of such review for bulkheads and other erosion control devices to help capture better data and educating property owners on green or hybrid solutions by having the applicant formally submit for review ahead or simultaneously to the state. The ordinance also allows the Town to have a better medium for the applicant to provide support and information that the proposed structure may not be an adverse impact to adjacent

neighbors.

Please note that the ordinance is not intended to cross jurisdictional bounds but provide consistency to local standards.

Planning staff also recommend the Planning Department fee schedule be adjusted to reflect this review.

In addition to providing clarity on the zoning amendment process, the amendment codifies a current practice for structures adjacent to critical which respond to recently adopted CMMP. Planning staff also recommends Town Council amend the Municipal Code Chapter 2. Bank Retention Systems to reflect this standard review practice.

The next phase of review specifically with regard to waterfront development (Marsh, Ponds, Beach) has been introduced to the CMMP. The CMMP workgroup, currently being restructured, is currently studying and preparing for a recommendation on bulkheads, erosion control devices, and buffers of waterfront properties. Following recommendation, this will be brought to the Planning Commission for consideration.

Please note additional references provided supplementary to staff's review.

PLANNING COMMISSION MEETING FEBRUARY 26, 2025

At the February 26th meeting, the Planning Commission recommended approval of the proposed ordinance by a vote of 4 to 0.

The Planning Commission also recommended that specific standards / criteria be developed for review and approval of erosion control devices. These standards are in the preliminary phase of being developed.

TOWN COUNCIL MEETING PUBLIC HEARING AND FIRST READING

MAYOR:

John Labriola

TOWN ADMINISTRATOR:

Stephanie Monroe Tillerson

TOWN ATTORNEY:

Joseph Wilson

TOWN OF



TOWN COUNCIL MEMBERS:

John Moffitt

Bradley D. Belt

Michael Heidingsfelder

Russell A. Berner

January 17, 2024

South Carolina Department of Health and Environmental Control
Office of Ocean & Coastal Resource Management
1362 McMillan Avenue, Suite 400
Charleston, SC 29405
Via email tylerej@dhc.sc.gov.

RE: THOMPSON / PUBLIC NOTICE IN YOUR AREA (TAMARA THOMPSON, HQ0-GCCC-YWZPJ)

Permit to install approximately 115 LF of timber bulkhead along the critical line for the purpose of erosion control.

Greetings:

The Town of Kiawah Island Planning Department is in receipt of the above referenced OCRM permit request to install approximately 115 LF of timber bulkhead along the critical line for the purpose of erosion control. (2) 20 LF bulkhead returns will be installed at either end of the bulkhead, parallel to the property line on and adjacent to Kiawah River at 490 Old Dock Road, Kiawah Island, Charleston County, South Carolina TMS: 207-04-00-098.

Pursuant to the *Town of Kiawah Island's Municipal Code Article 17 – Tidelands Management*, the proposed plans at 490 Old Dock Road are consistent with Chapter 2 Band Retention Systems regarding contacting DHEC OCRM for permitting specifications. However, the proposed two (2) 20LF returns to be installed at either end of the bulkhead, parallel to the property line require Town of Kiawah Island Zoning approval. We request the applicant contact this office immediately to ensure consistency with the Town's Zoning Ordinance, pursuant to *Sec. 12-165. - Zoning permits*.

Please also note that Town adopted a Comprehensive Marsh Management Plan on February 7, 2023. This comprehensive plan guides the Town responsibility to manage a significant natural resource for Kiawah property owners in outlining natural based solutions as living shorelines. Living shorelines are a method of shoreline stabilization using plants and natural materials to reduce erosion and slow the wave energy associated with storms. Rather than creating a barrier between the shore and water, as with conventional bulkheads and seawalls, a living shoreline allows for a natural transition. The shoreline can thus provide erosion protection while still performing valuable ecosystem services and maintaining aesthetic character that makes Kiawah unique. With the proposed plans being inconsistent with the goals of the Comprehensive Marsh Management Plan, we request the applicant to contact the Town to consider alternative natural based solutions for potential erosion control measures as recommended within the Town of Kiawah Island Comprehensive Marsh Management Plan. A copy of this plan can be found online by visiting https://www.kiawahisland.org/marsh_management_plan.php.

If you have any questions or concerns, please do not hesitate to contact the Planning Department at 843-768-9166.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Taylor'.

John Taylor, Jr.,
Planning Director
jtaylor@kiawahisland.org
Phone: 843-768-9166
Direct: 843-768-9979
Mobile: 843-830-9544

John Taylor

From: Tyler, Evan J. <tylerej@dhec.sc.gov>
Sent: Wednesday, January 17, 2024 2:32 PM
To: John Taylor
Cc: Daniel Vincent; Jim Jordan; Lee Bundrick; jmaybank@kiawah.com
Subject: Re: Town of Kiawah Island Public Notice Response OCRM DHEC (HQ0-GCCC-YWZPJ)

Mr. Taylor,

Thank you for sending this information. I will ensure the applicant is aware of this and reaches out to your office for further discussion.

Thank you,
Evan T

Evan Tyler

Critical Area Project Manager
Ocean and Coastal Resource Management
S.C. Dept. of Health & Environmental Control
Office: 843-953-2009



From: John Taylor <jtaylor@kiawahisland.org>
Sent: Wednesday, January 17, 2024 10:06 AM
To: Tyler, Evan J. <tylerej@dhec.sc.gov>
Cc: Daniel Vincent <dvincent@Kiawahisland.org>; Jim Jordan <jjordan@kiawahisland.org>; Lee Bundrick <lee@kiawahconservancy.org>; jmaybank@kiawah.com <jmaybank@kiawah.com>
Subject: Town of Kiawah Island Public Notice Response OCRM DHEC (HQ0-GCCC-YWZPJ)

*** Caution. This is an EXTERNAL email. DO NOT open attachments or click links from unknown senders or unexpected email. ***

Good morning,

Please note the attached public notice response letter from the Town of Kiawah Island regarding permit application (HQ0-GCCC-YWZPJ) for request to install approximately 115 LF of timber bulkhead along the critical line for the purpose of erosion control. (2) 20 LF bulkhead returns will be installed at either end of the bulkhead, parallel to the property line on and adjacent to Kiawah River at 490 Old Dock Road, Kiawah Island, Charleston County, South Carolina TMS: 207-04-00-098.

Please let me know if you have any questions.

All the best,

John T.



John Taylor

Planning Manager

📞 Direct: 843-768-9979

✉️ Jtaylor@kiawahisland.org

🌐 www.kiawahisland.org

📍 4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455

Get Social



II: Protect

A consistent management approach to Kiawah's marsh will depend on a regulatory framework that governs the actions that organizations or individuals are allowed to take in the marsh. SC DHEC will be engaged

in this effort because they have jurisdiction from the critical line to open water (figure 8). This section describes six policy or regulatory actions to protect Kiawah's marsh.

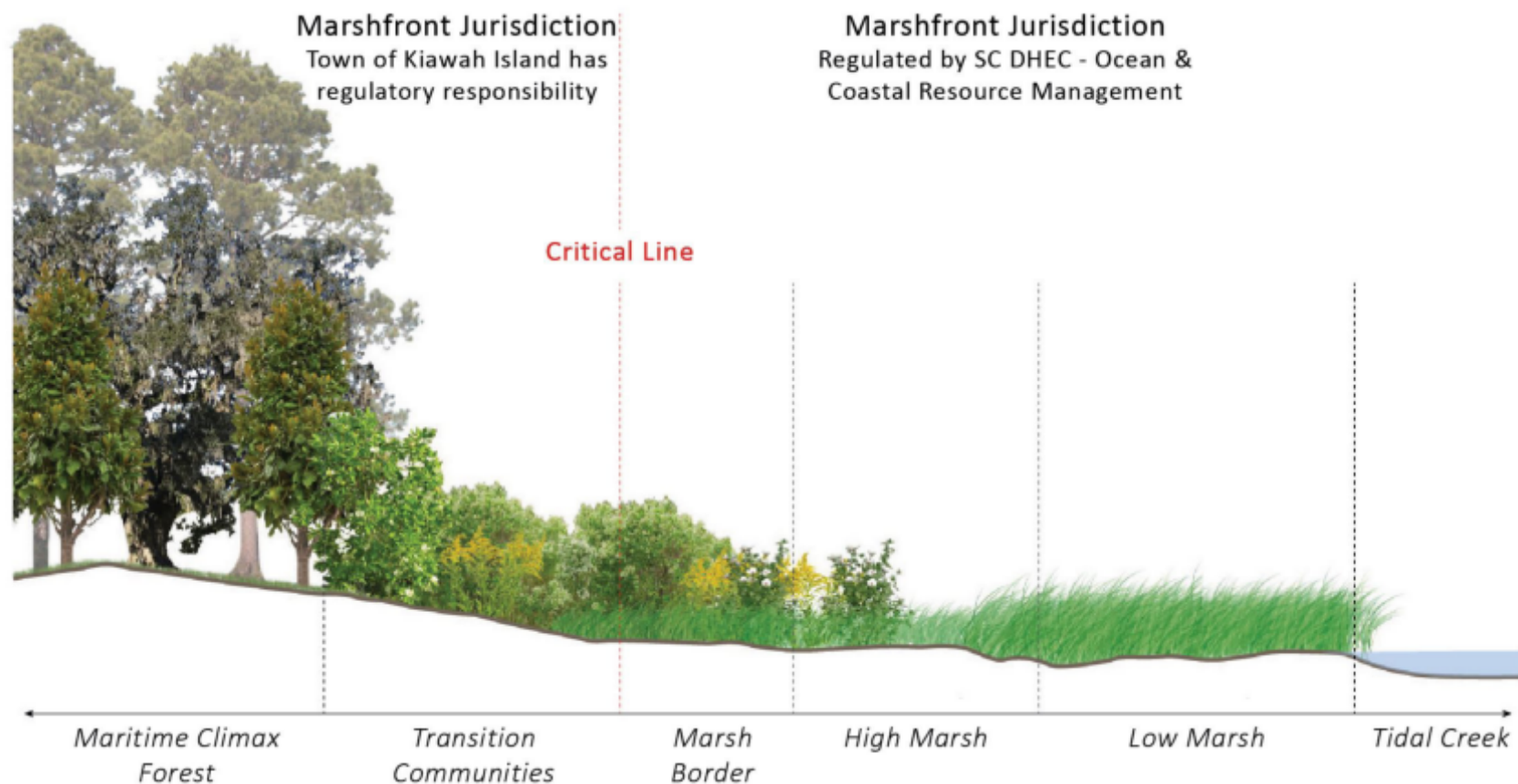
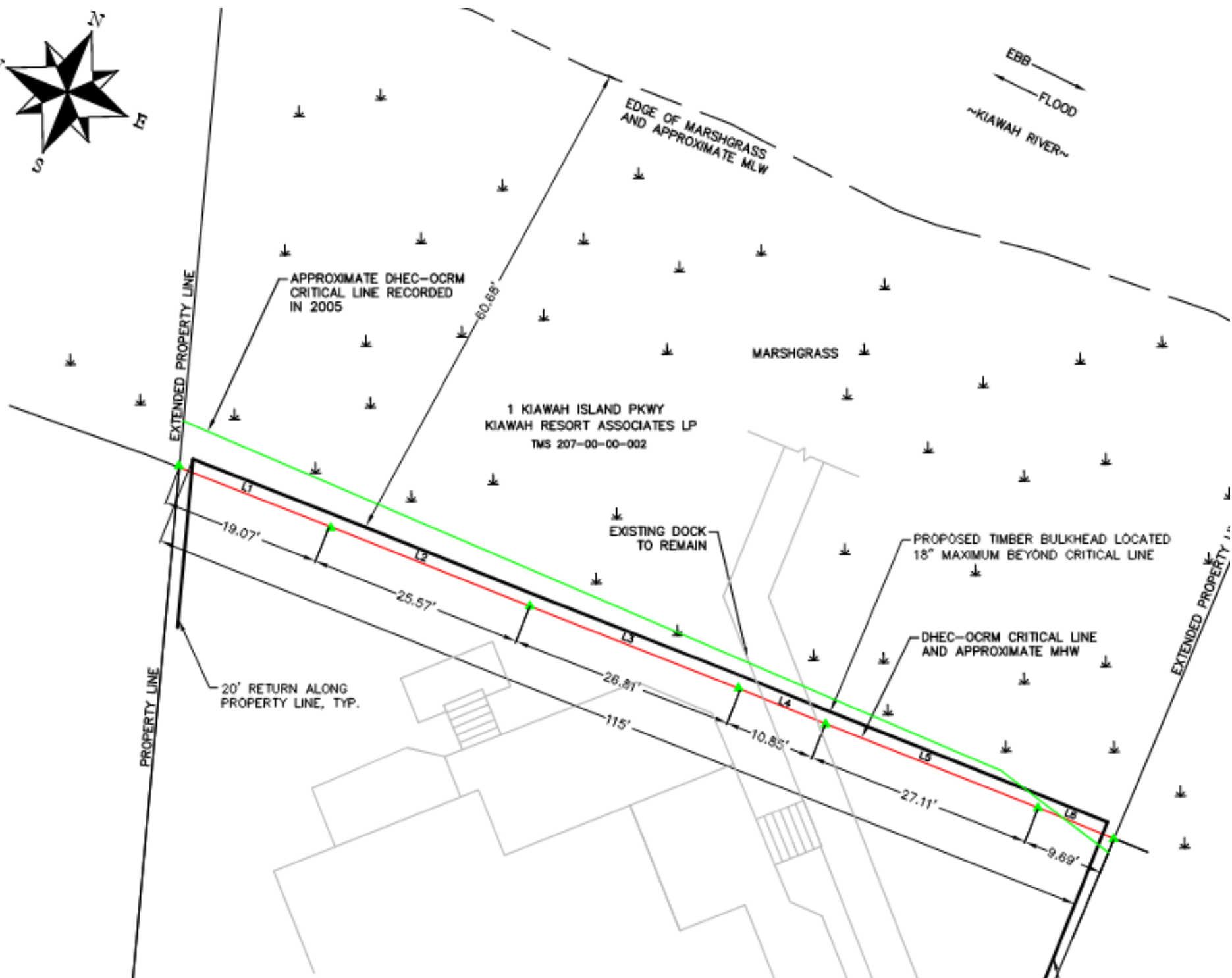


Figure 8 - The "Critical Line" is a biophysical jurisdictional feature that will shift with the edge of the marsh as it migrates due to sea level rise





Photograph 1: Typical Exposed Roots and Bare Earth



Photograph 2: Typical Exposed Roots and Bare Earth



Photograph 3: Rear of Residence Rear Landing Out of Plumb



Photograph 4: Eroded Scrap



Photograph 5: Visible Impacts to Rear Deck



Photograph 6: Exposed Roots and Retreating Scarp



Photograph 7: Exposed Roots and Retreating Scarp



Photograph 8: Scarp



Photograph 9: Eroded Scarp



Photograph 10:



Photograph 11: Marsh Rack Against House



Photograph 12: Meeting with KICA and Town Personnel, Eroded Scarp in Foreground, Unlevel Landing in Background

ORDINANCE 2025-04

An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning Ordinance Article II. Zoning, Division 5. General Procedural Requirements Section 12-165. - Zoning permits. and Article IV. – Definitions, Section. 12-374. Definitions. to clarify items in which a zoning permit shall be required. AND Amend Code of Ordinances Article 17 – Tidelands Management, Chapter 2. Bank Retention Systems.

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 clarify administrative review of zoning permits; 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 text amendment would be consistent with the recommendations of the *Town of Kiawah Island's Comprehensive Marsh Management Plan* including managing the interface of highlands and critical area; and

WHEREAS, the Planning Commission held a meeting on February 26, 2025 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 April 1, 2025 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 provide for review and recommendation of best management practices for erosion control devices or structures. This ordinance also provides for clarification of when a zoning permit is required and modifies administrative procedures for simultaneous application submittal.

Section 2 **Ordinance**

- (1) The Town hereby amends Section 12-165. Zoning Permits as shown in the attached **“Exhibit A”** which is hereby incorporated herein by reference.

- (2) The Town hereby amends Section 12-374. Definitions as shown in the attached “**Exhibit B**” which is hereby incorporated herein by reference.
- (3) The Town hereby also amends Article 17 – Tidelands Management Chapter 2 Bank Retention Systems shown in the attached “**Exhibit C**” which is hereby incorporated herein by reference.

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 XX DAY OF XXXX, 2025.

Bradley D. Belt, Mayor

ATTEST:

By:

Petra Reynolds, Town Clerk

1st Reading: April 1, 2025

2nd Reading:

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;
 - h.i. Fences;
 - i.i. Utility construction;
 - j.k. Obtainment of a business license;
 - l. Tree removal pursuant to section 12-129, Tree Preservation and Landscaping Standards;
 - k.m. Docks, erosion control devices or structures as specified within this article; or
 - l.n. 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; Ord. No. 2024-01, § 2(Exh. C), 4-2-2024)

Proposed added definitions.

Text: Definitions are the same as defined within the municipal code.

Text: Proposed New

ARTICLE IV. - DEFINITIONS

Sec. 12-374. - Definitions.

*Bulkhead means a retaining wall designed to retain fill material, but not to withstand wave forces on an exposed shoreline.

*Coastal waters means the navigable waters of the United States subject to the ebb and flood of the tide and which are saline waters, shoreward to their mean high-water mark.

*Coastal zone means all coastal waters and submerged lands seaward to the state's jurisdictional limits and all lands and waters in the counties of the state which contain any one or more of the critical areas. These counties include Charleston.

*Erosion means wearing away of highland by tidal action.

Erosion control structure or device means a barrier that prevents or reduces soil erosion. Examples of erosion control structures include breakwaters, bulkheads, groins, jetties, revetments, and seawalls.

*Escarpment means the point at which the high land descends in a vertical or near vertical slope to mean low-water mark.

*Revetment means a sloping structure built along an escarpment or in front of a bulkhead to protect the shoreline or bulkhead from erosion.

Text: Proposed

- CODE OF ORDINANCES
Article 17 - TIDELANDS MANAGEMENT
CHAPTER 2. BANK RETENTION SYSTEMS

CHAPTER 2. BANK RETENTION SYSTEMS

Sec. 17-201. Simultaneous application submittal required.

A property owner or his designate who wishes to apply for a permit to construct a bulkhead or revetment on marshlands or creeks within the limits of the Town must submit simultaneously and immediately to the Town's ~~administrator~~ Planning Director a complete copy of the application and all referenced exhibits and attachments thereto, including any subsequent amendments to such application with all attachments thereto, submitted to ~~DHEC~~ Department of Environmental Services as required by law.

(Code 1993, § 17-201; Ord. No. 2009-08, § 2(2), 9-1-2009)

Sec. 17-202. Permitting specifications and procedures.

During the ~~DHEC~~ Department of Environmental Services application review process, the Town may review the design and submit comments and recommendations.

(Code 1993, § 17-202; Ord. No. 2009-08, § 2(3), 9-1-2009)

Sec. 17-203. Penalties.

Unless a different penalty is specified, any person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not less than \$25.00 nor more than \$200.00 or imprisoned for not more than 30 days.

(Code 1993, § 17-203; Ord. No. 2009-8, 9-1-2009; Ord. No. 2015-01, § 2.21, 2-10-2015)



TAB 8

TOWN COUNCIL

Agenda Item

Town of Kiawah Island Zoning Ordinance Amendment Request

Case AZO25-000002 History

Planning Commission Meeting: March 5, 2025
Public Hearing and First Reading: April 1, 2025
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

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

Key Factors of the Proposed Ordinance:

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

RECOMMENDATION BY THE PLANNING COMMISSION

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

DECISION ON AMENDMENT BY THE TOWN COUNCIL

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

APPROVAL CRITERIA

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

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

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

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

PLANNING STAFF REVIEW

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

The proposed development agreement incorporates stages of review by the Planning Director and the Planning Commission. The development agreement procedure includes a pre-application meeting with the Planning Director to discuss the review and approval process for Development Agreements as outlined in the ordinance. A formal submittal will be reviewed by the Planning Director for completeness and a Planning Commission Workshop is scheduled to allow the proposed agreement to be discussed and the Planning Commission provide feedback without taking any action. A formal presentation is then scheduled for review and recommendation by the Planning Commission.

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

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

PLANNING COMMISSION MEETING MARCH 5, 2025

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

The Planning Commission recommended approval of the proposed ordinance by a vote of 5 to 0.

TOWN COUNCIL MEETING PUBLIC HEARING AND FIRST READING APRIL 1, 2025

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

TOWN OF KIAWAH ISLAND

ORDINANCE 2025-05

An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning Ordinance Article II. Zoning, Division 5. General Procedural Requirements Section 12-160. – Development Agreements. to modify review procedures for development agreements.

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 modify administrative review and approval procedures for development agreements; 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 March 5, 2025 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 April 1, 2025 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 refine the process for review, approval and administration of Development Agreements.

Section 2 **Ordinance**

- (1) The Town hereby amends Section 12-160. Development Agreements. as shown in the attached “**Exhibit A**” which is hereby incorporated herein by reference.

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 XX DAY OF XXXX, 2025.

Bradley D. Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: April 1, 2025

2nd Reading:

Sec. 12-160. Development agreements.

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

(1) *Minimum requirements.*

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

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

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

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

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

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

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

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

(3) *Development Agreement Procedure.*

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

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

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

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

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

~~e.d.~~ (4) *Planning Commission review and recommendation.* The Planning Commission shall review the proposed development agreements for consistency with the comprehensive plan and this article and shall make a recommendation to Town Council to approve, approve with conditions or deny the proposed development agreement. -The Planning Commission shall submit its recommendations to the Town Council within 30 calendar days of the Planning Commission meeting at which the development agreement was formally introduced. ~~(5)~~

~~d.e.~~ *Public hearings required.* After receiving the recommendation of the Planning Commission, the Town Council shall hold at least two public hearings. The Planning Commission may be authorized to conduct the hearings. The time and place of the second hearing shall be announced at the first hearing. ~~(6)~~

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

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

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

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

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

Town Council will also consider:

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

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

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

~~(7)(3)~~ Amendment. Development agreements may be amended or terminated by consent of the parties involved.

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

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

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

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



TAB 9

TOWN COUNCIL

Agenda Item

Town of Kiawah Island Zoning Ordinance Amendment Request

Case AZO25-000003 Case History

Planning Commission Meeting: March 5, 2025
Public Hearing and First Reading: April 1, 2025
Second Reading:

CASE INFORMATION

Applicant: Town of Kiawah Island

Application: The Town of Kiawah is requesting to amend the *Town of Kiawah Island Land Use Planning and Zoning Ordinance* to modify Section 12-76 Waterfront Development Standards applying to properties adjacent to saltwater marshes, wetlands, waterways to modify the OCRM Critical Line Buffer and to modify Section 12-374 Definitions lot coverage and associated definitions.

Key Factors of the Proposed Ordinance:

The proposed amendments to Sec. 12-76 Waterfront Development Standards applying to properties adjacent to saltwater marshes, wetlands, and waterway will modify the OCRM Critical Line Buffer. The proposed amendments to Section 12-374 Definitions to modify definition of Critical Area Line to include updated South Carolina Department title which is South Carolina Department of Environmental Services Bureau of Coastal Management (SCDES-BCM) and clarify the definition of highland and it's application to lot coverage calculation.

RECOMMENDATION BY THE PLANNING COMMISSION

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

DECISION ON AMENDMENT BY THE TOWN COUNCIL

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

APPROVAL CRITERIA

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

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

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

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

PLANNING COMMISSION MEETING MARCH 5, 2025

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

PLANNING STAFF REVIEW

The proposed amendment will require the BCM Critical Line Buffer to increase from 10 feet to 15 feet for residential properties, the setback will remain unchanged. The BCM Critical Line setback and buffer standards are intended to provide a protected area between the furthestmost projection of a structure, parking or driveway area or any other build elements and all saltwater marshes, wetlands, waterways other than ocean front on properties affected by BCM Critical Lines. The purpose of the required buffer is to provide a visual, spatial and ecological transition zone between development and the island's saltwater marshes/wetlands/waterways and to protect water quality and wildlife habitat.

The Subcommittee of the Comprehensive Marsh Management Plan has been studying strategies for implementation of the Town of Kiawah Island Comprehensive Marsh Management Plan recommendations and the Flood Mitigation and Sea Level Rise Adaptation Report Action items which includes controlling stormwater with vegetative buffers and is considered one of the most effective ways to protect salt marsh habitat. Pursuant to the Town of Kiawah Island Comprehensive Marsh Management Plan, according to Morganello and Rose (2013), vegetative buffers provide the following benefits:

- *Reduce pollution in stormwater runoff*
- *Reduce shoreline erosion and property damage caused by flooding*
- *Provide increased privacy to the homeowner while still maintaining a view corridor*
- *Serve as wildlife habitat, and*
- *Save the homeowner money, especially when native plant species are dominant, as little to no water, fertilizers or pesticides are needed to maintain this area of the yard.*
- *Natural buffers involve the removal of invasive species and planting of native vegetation.*

An analysis of other South Carolina local governments marsh front regulations indicates the current Town of Kiawah Island BCM Residential 10' buffer is less than other local communities standard.

<u>Town of Kiawah Island</u>	Residential	Setback 30'	Buffer 10' (<i>*Proposed 15'</i>)
	Non residential	Setback 50'	Buffer 35'
<u>City of Folly Beach</u>		Setback 35'	Buffer 15'
<u>Town of Sullivan's Island</u>		Setback 30'	
<u>Town of Mt. Pleasant</u>		Setback 35'	Buffer 15 – 50' varies

<u>Town of James Island</u>	Residential	Setback 35'	Buffer 15'
	Non residential	Setback 50'	Buffer 35'

<u>City of Charleston</u>	Setback 35'	Buffer 25 – 40 varies
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<u>Charleston County</u>	Setback 35'	Buffer 15'
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The Comprehensive Marsh Management Workgroup is supportive of this recommendation.

Sec. 12-374. Definitions.

The Town's zoning categories and standards for classes of use, e.g., residential, resort, commercial, etc. include permitted density, lot size, lot coverage and supplemental regulations often reference lot area and lot coverage, and it is very important to be very clear what the definition is for these terms and that they be applied consistently. The proposed amended definitions clarify these definitions and includes exclusion of area below the critical area line from the lot area calculation. This also ensures areas that are non-buildable do not count towards lot coverage calculation as wetlands.

In July 2024 the South Carolina Department of Health and Environmental Control (DHEC) was split into two agencies with the environmental component of that agency being renamed South Carolina Department of Environmental Services (SCDES). The Office of Ocean and Coastal Resource Management(OCRM) is now known as the Bureau of Coastal Management (BCM) and is responsible for all critical area permitting and establishing the Critical Area Line.

PLANNING COMMISSION MEETING MARCH 5, 2025

At the March 5th meeting, the Planning Commission recommended approval by a vote of 5 to 0.

TOWN COUNCIL MEETING PUBLIC HEARING AND FIRST READING

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.

ORDINANCE 2025-06

An Ordinance to Amend Chapter 12 – Land Use Planning and Zoning Ordinance Article II. Zoning, Division 2. Zoning Map/Districts, Sec. 12-76. Waterfront Development Standards; and Article IV. – Definitions, Section. 12-374. Definitions to modify required buffer standards and to modify lot coverage and associated definitions.

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 modify administrative review and approval procedures for development agreements; 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 text amendment would be consistent with the recommendations of the *Town of Kiawah Island's Comprehensive Marsh Management Plan* establishing regulatory frameworks for adopting marsh management actions and solutions to protect Kiawah's marshes; and

WHEREAS, the Planning Commission held a meeting on March 5, 2025 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 April 1, 2025 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 enhance buffer requirements applying to properties adjacent to saltwater marshes, wetlands, waterways. The ordinance also modifies lot coverage calculation to remove undevelopable areas from the coverage calculation.

Section 2

Ordinance

- (1) The Town hereby amends Section 12-76. – Waterfront Development Standards. as shown in the attached **“Exhibit A”** which is hereby incorporated herein by reference.

- (2) The Town hereby amends Section 12-374. – Definitions. as shown in the attached “**Exhibit B**” which is hereby incorporated herein by reference.

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 XX DAY OF XXXX, 2025.

Bradley D. Belt, Mayor

ATTEST:

By: _____
Petra Reynolds, Town Clerk

1st Reading: April 1, 2025

2nd Reading:

Sec. 12-76. Waterfront Development Standards applying to properties adjacent to saltwater marshes, wetlands, waterways.

Purpose and Intent:

The ~~OCRM~~ BCM Critical Line setback and buffer standards of this Article are intended to provide a protected area between the furthestmost projection of a structure, parking or driveway area, or any other building elements, and all saltwater marshes / wetlands/ waterways other than ocean front, on properties affected by ~~BCM~~ OCRM (saltwater) Critical Lines. The purpose of the required buffer is to provide a visual, spatial, and ecological transition zone between development and the Island's saltwater marshes / wetlands / waterways, and to protect water quality and wildlife habitat.

1. The following dimensions have precedence over Base Zoning District standard for properties, which adjoin saltwater marshes/wetlands/waterways as shown on the following table:

Table 2M: Waterfront Development Standards

	~~OCRM~~ <u>BCM</u> Critical Line Setback	~~OCRM~~ <u>BCM</u> Critical Line Buffer
Residential	30 ft.	~~10 ft~~ <u>15 ft.</u>
Nonresidential	50 ft.	35 ft.

2. The following additional provisions shall apply to Development of properties adjacent to saltwater marshes/ wetlands/ and waterways.

A. Existing Platted Lots

The ~~OCRM~~ BCM Critical Line setbacks on existing platted lots that are included in the "Kiawah Island Property Setback Requirements Appendix" dated July 10, 2007 incorporated herein by reference and adopted hereto as Article 12-G of the Municipal Code of the Town of Kiawah Island shall apply in lieu of the setback requirements in Table 2L.

B. Existing Platted Lots not included in Appendix 12G

Lots platted prior to July 10, 2007 that contain an ~~OCRM~~ BCM Critical Line setback that are not included in "Kiawah Island Property Setback Requirements Appendix" shall be administratively included by the Planning Director in such appendix if the property owner provides a plat or site plan delineating a current certified ~~OCRM~~ BCM critical line and critical line setback approved by the Kiawah Architectural Review Board ("ARB" as defined in the Development Agreement between the Town and Kiawah Island Resort Associates, L.P., as amended) prior to July 10, 2007.

C. Unplatted Land

All land platted after July 10, 2007 that contains an ~~OCRM~~ BCM Critical Line shall show the required

~~BCM~~~~OCRM~~ Critical Line setbacks and ~~BCM~~~~OCRM~~ Critical Line buffers on the preliminary, conditional, and final recorded plats submitted per Article 12C Subdivision Regulations of this Ordinance.

D. Measurements.

Required ~~BCM~~~~OCRM~~ Critical Line buffers and setbacks shall be measured from the current ~~BCM~~~~OCRM~~ Critical Line, whether the Critical Line or saltwater marsh / wetland / waterway is located on, adjacent to, or near the subject parcel. The current ~~BCM~~~~OCRM~~ Critical Line is defined as a line delineated on a plat or survey, verified by the ~~DES-BCM~~~~DHEC-OCRM~~, for the term identified by the ~~BCM~~~~OCRM~~ Department representative's signature on the plat or survey. The provisions of section 12A-204.A, Contextual Setbacks, shall apply to this section when deemed applicable by the Planning Director.

E. Lot Width.

The minimum lot width standards of the underlying zoning district at the time the lot was initially platted shall apply at the required buffer or setback line

F. Prohibited Activities within the ~~BCM~~~~OCRM~~ Critical Line Buffer.

The following activities are specifically prohibited within the required ~~BCM~~~~OCRM~~ Critical Line Buffer area:

- (1) Removal, excavation, or disturbance of existing vegetation or soil, except for minimal disturbance associated with the planting of additional indigenous vegetation;
- (2) Planting of various species of grass, shrubs and trees requiring fertilization pesticides, herbicides and/or requiring regular maintenance;
- (3) Installation of gardens, fences, or structures;
- (4) Installation of paved or other impervious surfaces; and
- (5) Destruction or addition of plant life which would alter the existing pattern of vegetation.
- (6) Structures and activities associated with ~~DES-BCM~~~~DHEC-OCRM~~ approved permits shall be exempt from the above-prohibited activities within the required ~~BCM~~~~OCRM~~ Critical Line Buffer.

G. Reductions to OCRM Critical Line Setbacks

The ~~OCRM-BCM~~ Critical Line Setback depth for a parcel may be reduced up to a minimum depth of fifteen (15) feet on residential zoned properties when all of the following criteria and conditions have been met:

- (1) As of the time the current platted parcel is submitted for development of for changes or additions to the existing development on the parcel, the parcel contains not more than 0.5 highland acres of buildable area; and

- (2) The Parcel has an ~~BCMOCRM~~ Critical Line delineation depicted on the most recently approved and recorded subdivision plat for that parcel, which ~~BCMOCRM~~ Critical Line delineation is five or more years old (expired); and
- (3) A new and current ~~BCMOCRM~~ Critical Line delineation has been established for the parcel which has changed the linear boundary of the parcel from that depicted on the subdivision plat referred to in subsection (2) above, and fifty percent (50%) or more of the new linear boundary has, in the aggregate, moved toward the highland; and
- (4) Said new linear boundary of the parcel has also resulted in a decrease in the amount of buildable area contained within the parcel of 25% or more, when the amount of such buildable area as it existed on the subdivision plat referred to in subsection (2) above is compared to such buildable area as defined by said new linear boundary; and
- (5) The twenty-five percent (25%) or more reduction in the buildable area of the parcel, upon for the above described reduction in depth of the ~~BCMOCRM~~ Critical Line Setback, has been solely the result of change in the parcel's linear boundary occasioned by the change in the parcel's ~~BCMOCRM~~ Critical Line delineation as described in subsections (3) and (4) above; and
- (6) A plan and depiction of a minimum ~~fifteen~~ (15) foot vegetated buffer, to be located within the newly established ~~BCMOCRM~~ Critical Line Setback and using existing or native plant material, is submitted for approval by the Planning Director, and following approval, such buffer is incorporated in the parcel.

(Code 1993,12A-216; Ord. No.2005-08. 12A-216, 10-12-2005; Ord. No. 2007-05, 2(12A-216), 7-10-2007; Ord. No. 2013-1.2.3-5-2013)

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:

Department of Environmental Service Bureau of Coastal Management Critical Area Line (DES-BCM Critical Area Line) is the boundary between the upland and the Tidelands/Coastal Water critical area.

Highland means the area of land above the South Carolina Department of Environmental Services - Bureau of Coastal Management Critical Area Line (SCDES- BCM-CAL). This excludes freshwater wetlands.

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 the Critical Area Line, the mean high-water and water bodies

Lot coverage means the total percentage of lot area of the highland 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.

~~—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.~~



TAB 10

TOWN COUNCIL

Agenda Item

Town of Kiawah Island 2025 Charitable Grants Ways and Means Recommendation to Town Council			
		2025	
Tab	Organization Name	Grant Request	Ways & Means Recommendations
4	AMOR Healing Kitchen	\$ 7,440.00	\$ 7,440.00
5	Backpack Buddies Seabrook Island	\$ 5,000.00	\$ 5,000.00
6	Barrier Island Free Medical Clinic, Inc	\$ 30,000.00	\$ 25,000.00
7	Camp Hi Hopes Ministry of Wesley UMC	\$ 10,000.00	\$ 7,000.00
8	Charleston Area Senior Citizens Services	\$ 22,369.00	\$ 15,000.00
9	Charleston Area Therapeutic Riding	\$ 7,084.00	\$ 7,084.00
10	Kiawah Womens Foundation	\$ 15,000.00	\$ 12,000.00
11	Lowcountry Food Bank	\$ 15,520.00	\$ 12,000.00
12	New Webester JIP Food Pantry	\$ 8,000.00	\$ 8,000.00
13	Operation Home	\$ 10,000.00	\$ 10,000.00
14	Our Lady of Mercy Community Outreach Services	\$ 30,000.00	\$ 14,000.00
15	Paraclete Foundation of Holy Spirit Catholic Church	\$ 15,000.00	\$ 12,000.00
16	Sea Island Blessing Basket	\$ 25,000.00	\$ 20,000.00
17	Sea Island Habitat for Humanity	\$ 20,000.00	\$ 18,000.00
18	St. James Bethel AME Church	\$ 6,000.00	\$ 6,000.00
19	Sweetgrass Gardn Coop.	\$ 3,000.00	\$ 2,500.00
20	The Feeding the Multitude	\$ 7,000.00	\$ 4,000.00
21	Third Serve Foundation	\$ 13,600.00	\$ 6,000.00
22	Vision to Learn	\$ 10,000.00	\$ 8,000.00
	Total Requests	\$ 260,013	\$ 199,024
	Total Budgeted Funds to be Awarded	\$ 200,000	\$ 200,000
	Amount in excess of Budget	\$ 60,013	\$ (976)



TAB 11

TOWN COUNCIL

Agenda Item

2025

RESILIENCY COMMITTEE

Committee Members are appointed by the Mayor and Town Council to serve one-year terms. All terms expire on January 31st.

Madeleine Kaye, Chair

252 Sea Marsh Drive
Kiawah Island, SC 29455
(843) 670-6801
mkaye@kiawahisland.org

Gene Babinec

97 Belmeade Hall
Kiawah Island, SC 29455
(203) 434-3650
eugene.babinec@gmail.com

Bob Martineau

103 Pleasant Valley Drive
Kiawah Island, SC 29455
(615) 491-7901
bob.martineau1@gmail.com

Lee Bundrick

Kiawah Island Conservancy
80 Kestrel Court
Kiawah Island, SC 29455
(843) 768-2029
lee@kiawahconservancy.org

Ryan Elmers

Kiawah Island Community Association
20 Kestrel Court
Kiawah Island, SC 29455
ryan.elmers@kica.us

Karen Madoff

47 Crested Flycatcher
Kiawah Island, SC 29455
(419) 265-2702
karenmado@gmail.com

Fran Williams

122 Conifer Lane
Kiawah Island, SC 29455
(803) 443-1878
francesca.m.williams@gmail.com

Rebecca McSwain

300 Salt Meadow Cove
Kiawah Island, SC 29455
(843) 270-3723
healthbis@gmail.com

Mark Permar

81 Dungannon Hall
Kiawah Island, SC 29455
(843) 696-5188
mpermar@permarinc.com

Liz King

Kiawah Island Golf Resort
1 Sanctuary Drive
Kiawah Island, SC 29455
(843) 768-6001
Liz_King@kiawahresort.com

Staff Support:

Patera St. John

Planner 1/Landscape and Tree Specialist
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455
Phone: 768-9166
pstjohn@kiawahisland.org

All Members to be Appointed

Town of Kiawah Island
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455
Tel: (843) 768-9166

APPLICATION FOR APPOINTMENT

Please note that members of Town of Kiawah Island boards and commissions must be residents or property owners of Kiawah Island.

PLEASE TYPE OR PRINT CLEARLY.

APPOINTMENT SOUGHT:

Environmental Committee

(Complete separate application for each position)

NAME:

Bob Martineau

ADDRESS:

103 Pleasant Valley Drive
Kiawah Island SC 29455

PHONE NUMBERS: (Home)

(Cell) 615 491 7901

EMAIL:

bobmartineau1@gmail.com

CURRENT EMPLOYMENT INFORMATION:

OCCUPATION:

Sr. Consultant

EMPLOYER:

Finn Partners

BUSINESS ADDRESS:

700 12th Ave South, Suite 400
Nashville TN 37203

Are you a full time Kiawah Resident?

☒ YES ☐ NO

Is there any way that you or a member of your family would stand to benefit financially by your service on this board or commission?

☐ YES ☒ NO

Have you ever been employed or had any involvement with this board or commission that would be reflected either positively or negatively in your service?

☐ YES ☒ NO

Have you ever been convicted of a crime involving moral turpitude?

☐ YES ☒ NO

IF YOU ANSWERED "YES" TO ONE OR MORE OF THE ABOVE QUESTIONS, PLEASE EXPLAIN BELOW.

PLEASE ANSWER THE QUESTIONS ON THE FOLLOWING PAGE IN ORDER TO GIVE THE MEMBERS OF TOWN COUNCIL MORE INFORMATION REGARDING YOUR INTEREST IN SERVING ON THIS BOARD OR COMMISSION. YOU ARE ENCOURAGED TO ATTEND THE COUNCIL MEETING WHEN THIS APPLICATION IS CONSIDERED AND WILL BE NOTIFIED OF THE DATE AND TIME OF THAT MEETING IN ADVANCE.

**Town of Kiawah Island
APPLICATION FOR APPOINTMENT**

Page 2

PLEASE TYPE OR PRINT CLEARLY. YOU MAY ATTACH A RESUME , CV OR PROVIDE ADDITIONAL INFORMATION IF DESIRED. ALL INFORMATION YOU PROVIDE WITH THIS APPLICATION WILL BE GIVEN TO THE MEMBERS OF TOWN COUNCIL FOR CONSIDERATION.

APPOINTMENT SOUGHT:

Environmental Committee

(Complete separate application for each position)

NAME:

Bob Martineau

1. What experience/training/qualifications do you have for this particular board or commission?

I have been an environmental lawyer for over 40 years both in the public and private sector. I served for 7 years in the Office of General Counsel at US EPA in Washington, DC. I also served for 7.5 years as the Commissioner of the Tennessee Department of Environment and Conservaton (Similar to DHEC iin South Carolina). The Commissioner position is a cabinet level position appointed by the Governor. I ran an organization of over 2700 staff.
Detailed CV to follow

2. What specific contributions do you hope to make to this board or commission?

I have 40 years of experience in environmental issues. As state commissioner over state EPA and also over all state parks and natural areas, I understand the challenges of balancing needs to preserve the unique characteristics of the Island while also managing growth and development in a responsible way.

3. Briefly describe your community service background or your involvement in community groups or activities.

I am the Board Chair of the Tennessee State Parks Conservancy, which was created to help support and enhance state parks in the state. I have been President of the Environmental Council of States, the national organization of all state environmental agency directors. I have served as a member of and/or board chair for several different not for profit organizations in addition to the Parks Conservancy including: Legal Aid Society of Middle TN, Cystic Fibrosis Foundation of TN, First Steps

4. What community topics concern you that relate to this board?

I have an interest in how the Island will develop and at the same time preserve the environmentally sensitive areas from the beach erosion, to wetlands, to habitat preservation etc. Policies on what developers and landowners can do on the Island are important for the long term health of the Island.

5. Why do you want to become a member of this board or commission?

I am semi retired and became a full time resident in February after purchasing a home here in 2022. I want to continue to serve community using my background in environmental issues and I think I can be a helpful reseource.

6. Are you currently a member, or have you previously served on a Town of Kiawah Island, Kiawah Island Community Association, or Charleston County board or commission? If so, which one(s), and when did you serve?

No

DO YOU UNDERSTAND THAT, UNLESS OTHERWISE PROVIDED BY LAW, YOU SERVE AT THE PLEASURE OF TOWN COUNCIL AND ALL APPOINTMENTS ARE SUBJECT TO THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT, S.C. CODE ANN. SECTION 8-13-10 ET SEQ, AND ANY MEMBER APPOINTED TO A BOARD OR COMMISSION WHOSE ACTION IS INCONSISTENT OR MAY BE PERCEIVED TO BE INCONSISTENT WITH THE SPIRIT OR INTENT OF THE ACT MAY BE SUBJECT TO REMOVAL?

BY SIGNING THIS DOCUMENT, YOU ACKNOWLEDGE THAT YOU MAY BE SUBJECT TO A BACKGROUND INVESTIGATION, INCLUDING, BUT NOT LIMITED TO A CRIMINAL HISTORY, DRIVING RECORD, AND CREDIT CHECK.

DATE: 5/10/24

SIGNATURE: _____

Robert J. Martineau, Jr.

BobMartineau1@gmail.com
103 Pleasant Valley Drive
Kiawah Island, SC 29455
(615) 491-7901(c)

Significant experience and expertise in environmental protection, energy efficiency, compliance, sustainability, and innovation. Seasoned executive with demonstrated success leading customer-focused business operations while incorporating sustainability concepts.

Grew client base and scope of environmental practice to include major corporate clients and transition from state focused practice to regional and national level practice. Secured largest piece of environmental litigation for the firm ever obtained. Served on firm business development committee.

Worked with clients in navigating regulatory framework and obtaining community support for new or expanded operations. Rebranded state environmental agency message to demonstrate compatibility between strong environmental protection and economic development.

Experience

Senior Partner, Finn Partners, Nashville TN (April 2018-November 2023); Senior Consultant (November 2023 – present)

- Senior partner in Purpose & Social Impact practice in international public affairs, communications, and marketing firm. Worked with companies, federal and state agencies, and not for profit organizations on sustainability strategies, reporting and communications. Provide strategic political and crisis communications advice.

President, LHP Management, LHP Capital, LLC Knoxville TN, (May 2018 – present)

- LHP Management is the property management component of LHP Capital, LLC a developer and operator of 7400 units of affordable housing at over 58 properties in seven states.

**Commissioner, Tennessee Department of Environment & Conservation, Nashville
TN (January 2011 – April 2018)**

- Served on Governor Bill Haslam's leadership team as Cabinet official. Appointed by Governor to lead the state's environmental protection agency, energy office and state parks system with over 2600 employees and a budget of \$395 million. The department operates across 10 offices and 56 state parks, including nine golf courses and eight restaurants, six inns & conference centers, and four marinas.
- Transitioned state energy office from another cabinet agency. Created department wide Office of Policy and Sustainable Practices. Led effort to obtain \$37 million in legislative funding to adopt and implement energy efficiency and alternative energy practices across state government. Attended and spoke as panelist at 2015 United Nations Climate Change Conference in Paris, France. Worked with Climate Registry to assess state measures to reduce carbon generation.
- Developed and implemented Office of External Affairs to promote customer service and rebrand agency from bureaucratic impediment to agency that could deliver water resources and infrastructure to communities and promote environmental protection and sustainable economic development. Implemented outreach and listening sessions to elicit stakeholder input and feedback. Revamped public hearing process to be more conducive to public input. Created TDEC Annual Report to highlight Agency accomplishments.
- Worked closely with economic development agency to promote recruitment of new job growth in state while ensuring protection of environment. Met regularly with CEO level industry officials on key economic development, regulatory policy, and sustainability issues.
- Rebranded state parks operations to focus on the brand promise and target new customer base including weddings, corporate retreats. Increased marketing and social media. Created State Parks Conservancy as a non-profit arm to support parks programs, increase awareness of parks, and fundraising. Increased visibility of state parks by hosting Nashville's New Year Eve Music City countdown and concert.
- Served as President of the Environmental Council of States, the organization of all state environmental commissioners in 2014-2015 and as officer for additional three years. Built relationships with high level federal officials at US Environmental Protection Agency, the Department of Energy, other federal agencies, and Congress. Testified before congressional committees.
- Expanded nonregulatory partnerships with businesses and public interest groups to work together on promoting sustainability and natural resource protection.

- More than tripled the number of women in senior leadership positions in the organization.

Environmental & Regulatory Practice Group Leader and Partner, Waller Lansden Law, Nashville TN (1995-2011)

- Partner in large Nashville based law firm for 15 years. Led environmental and regulatory practice group for 5 years. Expanded practice from state only focus to regional and national level practice. Brought in new environmental clients such as TVA, Tyson Foods, Kimberly Clark, and expanded work for companies such as Nissan. Obtained single largest environmental litigation matter for firm up to that point. Served for several years on firmwide Business Development Committee.
- Represented wide variety of clients in diverse industry sectors including energy, automotive, health care, retail, communications, chemical, and pulp and paper. Worked closely with Nissan in development of battery plan to support their electric vehicle initiative.
- Worked on several company site selection teams for identifying and selection of new plant sites. Worked with clients to build community support for new or expanded facilities. Involved in numerous corporate transactional matters identifying risks and liability issues and negotiating terms to manage environmental liabilities.
- Defended environmental enforcement and toxic tort litigation. Represented industry trade associations before state and federal agencies. Represented county and local governments in negotiations with EPA and state agencies.

**Senior Attorney, Office of General Counsel,
US Environmental Protection Agency, Washington, D.C. (1987-1995)**

- Worked on a wide variety of legal matters with special emphasis on Clean Air Act issues. Worked on 1990 Amendments to Clean Air Act and first round of rulemakings to implement the Amendments.
- Worked extensively on section 111 (new source performance standards) and section 112 (air toxics) regulation development and defending rulemakings in federal courts of appeals.
- Twice received General Counsel's Award for Excellence.

Associate, Skadden Arps Slate Meagher & Flom, Washington, D. C. (1986-1987)

- Attorney in environmental practice group in Washington D.C office. Worked on a variety of environmental regulatory matters and environmental aspects of corporate transactions.

Associate, Fuller & Henry, Toledo OH (1984-1986)

- Attorney in environmental practice group of largest Toledo firm at the time. Regulatory and enforcement related work for utility and automobile manufacturing industry clients. Representation of Ohio Utility Group in commenting on federal and state environmental issues.

Law Clerk, The Honorable Harry Phillips, United States Court of Appeals for the Sixth Circuit, Nashville, TN (1983-1984)

Education

- J.D. University of Cincinnati College of Law
- B.A. St. John's University (Minnesota)

Professional Accomplishments/Recognition

- President, Environmental Council of the States
- CEO of the Year, Nashville Business Journal
- Fellow, American College of Environmental Lawyers
- Board Member, The Climate Registry
- Good Guy Award, Women's Political Cooperative
- The Best Lawyers in America- Woodward White, Inc.
- Chambers International Best Lawyers
- International Who's Who of Environmental Lawyers (Who's Who Legal)
- Best Lawyers of the Mid-South
- "Best of the Bar," Nashville Business Journal

Civic

- Leadership Tennessee
- Board of Directors and Past President, Legal Aid Society of Middle TN & Cumberlandands
- Leadership Nashville
- TVA Regional Resource Stewardship Council
- TVA Energy Resource Council
- Past President, First Steps, Inc.

- Past President, Cystic Fibrosis Foundation of TN
- Past President, Community Health Charities, TN Chapter

Publications

- Coauthor - Legislative and Rule Drafting in Plain English, (2014)
- Co-editor and contributing author, The Clean Air Act Handbook (2nd ed. 2004, 1st ed. 1997)
- Contributing Author, The Clean Air Act Handbook, 3rd ed, (2016)
- Co-author, “*New Source Review Refrain: A New Year's Eve to Remember*,” 18 Natural Resources and Environment 3 (2004)
- Author, “*Air Pollution Control*”, Tennessee Environmental Law Handbook (2001)
- Contributing Author, “*Administrative Rules*,” in Legal, Legislative and Rule Drafting in Plain English (2005)
- “*Road Construction in Tennessee May Not Be the Same After April 15th*,” Tennessee Road Builders Magazine, April 2004
- Co-author, “*State Environmental Audit Laws Advance Goal of a Cleaner Environment*,” Natural Resources and Environment, Vol. 11, Number 4 (Spring 1997)
- Co-author, “*The New Accidental Release Prevention Program under the Clean Air Act*,” 13 Natural Resources and Environment 424 (1998)
- Co-Author, “*Better Earlier than Later: EPA's Air Toxics Early Reductions Program*,” 24 Environment Reporter (BNA) 4013 Natural Resources and Environment 23 (1988)
- Co-Author, “*Reflections on Appellate Practice in the Sixth Circuit*,” 16 U. Tol. L. Rev 625 (1985)

From: [Madeleine Kaye](#)
To: [Petra Reynolds](#); [Fran Williams](#)
Subject: Re: Environmental Committee
Date: Saturday, November 23, 2024 9:42:32 AM

Thanks, Fran.

Petra: as far as I'm concerned, this constitutes an official application. Please add this to the other applications.

Madeleine Kaye
Sea Marsh Drive

On Friday, November 22, 2024, 07:21:45 PM EST, Fran Williams <francesca.m.williams@gmail.com> wrote:

I have tried repeatedly to fill out the online application for the Environmental Committee and have been unable to complete it. Please see my responses to the application below.

Name: Fran Williams
Address: 122 Conifer Lane
Occupation: Retired
Phone no: 803-443-1878
e-mail address: francesca.m.williams@gmail.com
Are you a full time resident Yes
Financial benefit No
Involvement w/board or commission No
Conviction: No

If answered 'yes', explain:

I became a property owner in 1996. I moved here full time in 2/2018. I have lived in a condo and a house giving me experience as a part time resident, full time resident, condo owner and a home owner.

1. experience/training qualification

I was a VP of Environment, Safety & Health (ESH&QA) (including radiation and contamination control) at a nuclear facility in SC that employed more than 20,000 people. We were responsible for cleaning up radioactive and chemical contamination in buildings, water and soil. This included responsibility to implement environmental best practices and regulations including efforts to reuse, reduce and recycle materials. I was also the VP of ESH&QA at facilities in TN, ID and the UK working with state and federal environmental agencies to meet and exceed environmental targets. I retired after performing as the CEO of the organization responsible for decommissioning and removing uranium gaseous diffusion facilities in TN.

2. Specific Contributions I Hope to Make

- Increasing knowledge and participation in the recycling and composting programs
- Increasing neighborhood coalitions to install permeable driveways and walkways and to address other common environmental improvement opportunities
- Contributing to discussions and actions aimed at reducing the island's environmental footprint

3. Community Service Background

I have been actively involved in community service since high school as members and officers. Examples include PTA/PTO, neighborhood boards, United Way, meals on wheels, food drives, etc. While on Kiawah I served as

President of the KLNH (Kiawah Ladies Nine Hole League) and as a member of the Tennis Club Villas Board of Directors. For the past 7 years I have volunteered with VITA, an IRS sanctioned group, that prepares income tax returns for members of the community that cannot file without assistance. I currently serve as a tax preparer, site manager and recruitment coordinator.

4. Topics of Concern

- Community education and involvement in reducing the island's environmental footprint. (Reuse, reduce, recycle and compost)
- Determining if and how we can involve renters (I was disposing of my compost at the Town Center where I met a woman who had been renting. She had collected a bag of compost and wanted to dispose of it properly but didn't have the code. She composts where she lives. I checked it, determined it met the requirements and disposed of it for her. This particular example may not be worth pursuing but there may be other ways to involve renters.
- Working with the resort to reduce their environmental impact. One example is the use of water bottles at golf courses. They have installed drinking water fountains at the rest rooms on the course. Many of our residents bring their reusable water bottles and fill them during the round. If cups were provided, the resort could eliminate the use of plastic water bottles which are bad for the environment (create a lot of plastic waste) and bad for human health

5. Why do I want to become a member

I would like to be involved in the discussions and debates regarding environmental issues that affect Kiawah. As technology improves so does our ability to improve environmental stewardship. I would like to be part of the solutions.

6. Previous service

No

11/22/2024 FBWilliams



TOWN OF KIAWAH ISLAND

APPLICATION FOR APPOINTMENT

Please note that members of Town of Kiawah Island boards and commissions must be residents or property owners of Kiawah Island.

PLEASE TYPE OR PRINT CLEARLY.

APPOINTMENT SOUGHT: (Select the Board, Commission, or Committee you are applying for. Check all that apply.)

- | | | |
|--|--|---|
| ☐ Planning Commission | ☐ Board of Zoning Appeals | ☒ Environmental Committee |
| ☐ Construction Board of Appeals | ☐ Public Safety Committee | ☐ State Accommodations Tax Committee |
| ☐ Arts Council | ☐ Audit Committee | |

NAME: **Karen Madoff**

ADDRESS: 47 Crested Flycatcher
Kiawah South Carolina 29455

CURRENT EMPLOYMENT INFORMATION:

OCCUPATION: retired

EMPLOYER:

BUSINESS ADDRESS:

PHONE NUMBERS: (H) 419-265-2702

(W)

E-MAIL ADDRESS:

karenmado@gmail.com

CIRCLE ANSWER:

Are you a full-time Kiawah Resident?

☒ YES ☐ NO

Is there any way that you or a member of your family would stand to benefit financially by your service on this board or commission?

☐ YES ☒ NO

Have you ever been employed or had any involvement with this board or commission that would be reflected either positively or negatively in your service?

☐ YES ☒ NO

Have you ever been convicted of a crime involving moral turpitude?

☐ YES ☒ NO

IF YOU ANSWERED "YES" TO ONE OR MORE OF THE ABOVE QUESTIONS, PLEASE EXPLAIN BELOW.

I am a full time Kiawah resident.

PLEASE ANSWER THE QUESTIONS ON THE FOLLOWING PAGE IN ORDER TO GIVE THE MEMBERS OF TOWN COUNCIL MORE INFORMATION REGARDING YOUR INTEREST IN SERVING ON THIS BOARD OR COMMISSION. YOU ARE ENCOURAGED TO ATTEND THE COUNCIL MEETING WHEN THIS APPLICATION IS CONSIDERED AND WILL BE NOTIFIED OF THE DATE AND TIME OF THAT MEETING IN ADVANCE.



TAB 12

TOWN COUNCIL

Agenda Item

2025

Public Safety Committee

*Members are appointed by the Mayor and Town Council and serve for one-year terms.
Terms expire January 31st.*

Russell Berner, Chairman

286 Masters Court
Kiawah Island, SC 29455
(973) 615-7611
rberner@kiawahisland.org

***Adam Shubsda**

Kiawah Island Community Association
23 Beachwalker Drive
Kiawah Island, SC 29455
(843) 768-9194
adam.shubsda@kica.us

Yvonne Johnstone

Kiawah Island Golf Resort
1 Sanctuary Drive
Kiawah Island, SC 29455
(864) 480-2509
yvonne_johnstone@kiawahresort.com

***Jimmy Harrington**

Edens – Freshfields Villages
165 Village Green Ln, Suite 200
Kiawah Island, SC 29455
(843) 206-0023
JHarrington@edens.com

Bill Thoma

112 Governors Drive
Kiawah Island, SC 29455
(843) 576-4083
william.thomae@yahoo.com

Steve Rolando

Kiawah Island Golf Resort
718 Glossy Ibis Lane
Kiawah Island, SC 29455
(914) 494-9438
stevero002@gmail.com

Stanley (Al) Sines

154 Augusta National Court
Kiawah Island, SC 29455
(843) 725-8447
sasines@comcasr.net

STAFF DIRECTOR:

Craig Harris

Public Safety Director
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455
(843) 768-9166
charris@kiawahisland.org

*** To be Appointed**

**Town of Kiawah Island
APPLICATION FOR APPOINTMENT**

PAGE 2

PLEASE TYPE OR PRINT CLEARLY. YOU MAY USE ADDITIONAL PAPER OR PROVIDE ADDITIONAL INFORMATION IF DESIRED. ALL INFORMATION YOU PROVIDE WITH THIS APPLICATION WILL BE GIVEN TO THE MEMBERS OF TOWN COUNCIL FOR CONSIDERATION.

1. What experience/training/qualifications do you have for this particular board or commission?

I have been involved with the Kiawah Conservancy, starting when it was known as the Environmental Research Committee. I am an old Master Gardener and completed a Master Naturalist course when living in Maumee OH. I've work as a volunteer at the Toledo Metroparks, working with their horiculturist to install and maintain native plant beds. I will finish the Charleston Master Naturalist Program next week.

2. What specific contributions do you hope to make to this board or commission?

Support efforts to monitor and protect our native wildlife.

3. Briefly describe your community service background or your involvement in community groups or activities.

Since moving here, I've worked for three years in the Native Demonstration garden, replacing non-natives with natives, given a number of programs/lectures involving the use of native plants and carbon sequestration, recently became a Trustee of the Kiawah Conservancy, belong to Kiawah and Magnolia Garden Clubs, have been involved with the Kiawah Goes Green Committee, second year on turtle patrol, and do litter sweeps when available.

4. What community topics concern you that relate to this board?

Just remaining vigilant to the always changing needs of the community and wildlife. Recently, dogs on and off leash on the beach, changing areas of bird nesting due to the last hurricane, and increasde coyote predation of turtle nests have been discussed iin order to find a balanced way forward.

5. Why do you want to become a member of this board or commission?

We have had issues in the past that have required a strong island response, as with the second generation anti-coagulants used in rat poison boxes. I believe there is always a need to be attentive to the health and well-being of our native wild life inhabitants and would like to be involved with these type issues going forward.

6. Are you currently a member, or have you previously served on a Town of Kiawah Island, Kiawah Island Community Association, or Charleston County board or commission? If so, which one(s), and when did you serve?

DO YOU UNDERSTAND THAT, UNLESS OTHERWISE PROVIDED BY LAW, YOU SERVE AT THE PLEASURE OF COUNTY COUNCIL AND ALL APPOINTMENTS ARE SUBJECT TO THE ETHICS, GOVERNMENT ACCOUNTABILITY, AND CAMPAIGN REFORM ACT, S.C. CODE ANN. SECTION 8-13-10 ET SEQ, AND ANY MEMBER APPOINTED TO A BOARD OR COMMISSION WHOSE ACTION IS INCONSISTENT OR MAY BE PERCEIVED TO BE INCONSISTENT WITH THE SPIRIT OR INTENT OF THE ACT MAY BE SUBJECT TO REMOVAL?

BY SIGNING THIS DOCUMENT, YOU ACKNOWLEDGE THAT YOU MAY BE SUBJECT TO A BACKGROUND INVESTIGATION, INCLUDING, BUT NOT LIMITED TO A CRIMINAL HISTORY, DRIVING RECORD, AND CREDIT CHECK.

DATE: 5/24/24

SIGNATURE: _____

Karen Madell



TAB 13

TOWN COUNCIL

Agenda Item

MAYOR:
Bradley D. Belt

TOWN ADMINISTRATOR:
Stephanie Tillerson

TOWN ATTORNEY:
Stafford J. McQuillin III



MAYOR PRO TEMPORE:
Russell A. Berner

COUNCIL MEMBERS:
E. Luke Farrell
Madeleine Kaye
Lance Spencer

MEMORANDUM

TO: Town of Kiawah Island Council
CC: Stephanie Tillerson, Town Administrator
FROM: John Taylor, Jr., Planning Director
DATE: April 1, 2025
SUBJECT: Planning Commission Appointment

The following person has been recommended to be appointed to the Planning Commission.

Mr. Robert Ryan is recommended to be appointed to the Planning Commission. The vacancy is fielded by Dr. Ronald Curran. This term is set to expire in 2028.

1. APPOINTMENT | Mr. Robert Ryan (*Term set to expire 2028*)

4183 Bald Pate Ct., Kiawah Island, SC 29455 | Ph. 770-608-1901

2025 Planning Commission

The Commission is composed of 7 members appointed by the Mayor and Town Council. Appointments are for four-year terms.

Joanne K. Hennessy, Chair (2028)

2nd Term

12 Blue Heron Pond Road
Kiawah Island, SC 29455
(847) 732-4051
Email: hennj@aol.com

Larry Iwan, Vice Chair (2026)

Last Term

35 Salt Cedar Lane
Kiawah Island, SC 29455
(843) 768-6626
Email: plinyiwan@msn.com

Eugene A. Babinec (2027)

1st Term

97 Belmeade Hall
Kiawah Island, SC 29455
(203) 434-3650
Email: babinecgene@gmail.com

John V. Connolly (2027)

1st Term

1020 Scaup Court
Kiawah Island, SC 29455
(404) 307-6661
Email: jvconnolly27@gmail.com

*** To Be Appointed**

Sandra Devine (2029)

1st Term

383 Green Winged Teal Road
Kiawah Island, SC 29455
(703) 346-1255
Email: sldev18@gmail.com

***Robert Ryan (2028)**

1st Term

4183 Bald Pate Ct.
Kiawah Island, SC 29455
(770) 608-1901
Email: ryanfamily4@att.net

Maribeth Schmersal (2029)

1st Term

124 Turnberry Drive
Kiawah Island, SC 29455
(704) 965-8497
Email: meschmersal@gmail.com

John Taylor, Planning Director

Town of Kiawah Island
4475 Betsy Kerrison Parkway
Kiawah Island, SC 29455
Phone: 768-9166
Email: jtaylor@kiawahisland.org



Town of Kiawah Island

Application for Appointment

It's important to note that individuals serving on the Town of Kiawah Island Board, Committees, or Commissions are required to be residents or property owners of Kiawah Island.

Type or Print Clearly.

APPOINTMENT SOUGHT

Please select the Board, Commission, or Committee you are applying for (check all that apply):

- | | | |
|--|---|---|
| ☐ Arts Council | ☐ Construction Board of Appeals | ☐ State Accommodations Tax Committee |
| ☐ Audit Committee | ☐ Environmental Committee | ☒ Infrastructure & Public Works Committee |
| ☐ Board of Zoning & Appeals | ☒ Planning Commission | |
| ☐ CERT | ☐ Public Safety Committee | |

Name Robert S. Ryan

Address 4183 Bald Pate Ct. Kiawah Island, SC 29455
Street City and State Zip Code

Current Employment Information: ☒ Retired: ☐

Occupation: Landscape Architect

Employer: Sports Fields, Inc.

Phone Numbers: (H) _____ (W) _____ (c) 770-608-1901

Email Address: ryanfamily4@att.net

- ☒ Full time Resident
☐ Part time Resident
☐ Non Resident

Kindly respond to the inquiries on the next page to provide the Town Council members with more details about your desire to serve. Your presence at the Council meeting is welcome if your application is under review. You will receive advanced notice of the meeting date and time.

Options to return completed application:

Email: Please email completed application to Petra Reynolds, Town Clerk: preynolds@kiawahisland.org

or

Return to Town Hall at 4475 Betsy Kerrison Parkway

If you have any questions, please contact Petra Reynolds at 843-768-9166.



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Please write legibly. You can add more details if needed. Your input will go to the Town Council for review.

1. What unique experiences or perspectives would you bring to this role?

Environmental Committee

2. If you are chosen, what particular impact do you want to have through your contributions?

Bob Martineau

3. Briefly describe your participation in community service or activities.

103 Pleasant Valley Drive
Kiawah Island SC 29455

4. Which community topic(s) matter to you and align with the board or committee you want to join?

5. Are you presently affiliated or have you previously been involved with a TOKI, KICA, or Charleston County Board or Commission? If yes, which one(s) and during with period?

615 491 7901

Unless otherwise provided by law, you serve at the pleasure of Town Council and all appointments are subject to the ethics, government accountability, and campaign reform act, SC Code Ann. Section 8-13-10 Et Seq, and any member appointed to a board or commission whose action is inconsistent or may be perceived to be inconsistent with the spirit or intent of the act may be subject to removal.

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Date: 2025-03-14

Signature: Robert S. Ryan



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Date: 2025-03-14

Signature: Robert S. Ryan



TAB 14

TOWN COUNCIL

Agenda Item



TOWN OF KIAWAH ISLAND

CODE ENFORCEMENT POLICY

PURPOSE

This policy establishes guidelines for all authorized enforcement personnel, including but not limited to Community Service Officers (CSOs), Code Enforcement Officers, and other designated Town officials, regarding enforcement procedures, warning protocols, and fine structures to ensure the consistent and fair application of the Town of Kiawah Island's municipal codes.

CODE ENFORCEMENT PHILOSOPHY

The Town's primary objective is to achieve voluntary compliance with municipal codes. This policy establishes a graduated enforcement approach based on the type and severity of code violations.

ENFORCEMENT APPROACH

The Town is committed to enforcing all municipal code violations. Each violation, regardless of uniformity type, deserves attention and appropriate enforcement action. Community Services Officers should address all violations promptly and consistently, maintaining vigilance throughout the community to ensure compliance with all Town ordinances.

ENFORCEMENT PROCEDURES

Progressive Enforcement Approach

Community Service Officers shall follow a progressive enforcement approach:

1. Verbal Warning

- Used for first-time, minor infractions
- Educates the property owner or responsible party about the code violation
- Encourages voluntary compliance
- Officers shall document the interaction in Watch Tower

2. Written Warning

- Issued after a verbal warning is ignored or for more serious violations

- Formal document that specifies:
 - The nature of the violation
 - Reference to the applicable code section
 - Required corrective action
 - Deadline for compliance (typically 5-10 calendar days, depending on the violation)
 - Potential consequences for non-compliance

3. Citation

- Issued when:
 - A written warning is ignored after the compliance deadline
 - For significant or repeated violations
 - When immediate compliance is necessary
- Includes fine amount and payment instructions, and court appearance information.

Community Service Officers may use discretion to determine the appropriate level of enforcement based on the severity of the violation, prior history, and other relevant factors outlined in this policy.

FINE STRUCTURE

General Violations

- First Offense: \$50 - \$100
- Second Offense (same violation within 12 months): \$100 - \$250
- Third or Subsequent Offense (same violation within 12 months): \$250 - \$500

Specific Violation Categories

- **Parking Violations:** \$50 per offense
- **Beach Code Violations:**
 - First Offense: \$100
 - Second Offense (within 12 months): \$250

- Third or Subsequent Offense (within 12 months): \$500
- **Short-Term Rental Violations:**
 - Operating without a permit: \$500
 - Occupancy violations: \$250
 - Parking/noise/trash violations: \$100 first offense, \$250 second, \$500 third
- **Loose Materials and Debris Management Violations:**
 - Failure to secure loads on Commercial Vehicles: \$250 first offense, \$350 second offense, \$500 third offense
 - Failure to cover dumpsters as required: \$150 first offense, \$300 second offense, \$500 third offense
 - Failure to maintain waste container for perishable items: \$100 first offense, \$250 second offense, \$500 third offense
 - Failure to clean and remove scattered materials: \$300 plus the actual cost of cleanup

State Assessments

The ticket amount may be paid in full to resolve the violation. If the offending party chooses to contest the ticket and is found guilty by the municipal judge, South Carolina law requires that a state-mandated assessment be added to any fine imposed by the court. These assessments do not apply to convictions for violations of Sections 56-3-1970, 56-5-2510, and 56-5-2530, or other state laws, municipal ordinances, or county ordinances restricting parking in a prohibited zone or a parking place clearly designated for handicapped persons.

Maximum Penalties

Municipal fines shall not exceed \$500 per day per violation, as established by municipal ordinance. This maximum applies to the base fine amount before adding state-mandated assessments.

Fine Determination Factors

When determining the specific fine amount within the established ranges, Community Service Officers shall consider:

1. The severity of the violation
2. Potential harm to public health, safety, or the environment

3. Whether the violation was deliberate or accidental
4. The violator's history of compliance
5. Cooperation level of the responsible party
6. Duration of the violation

SPECIAL ENFORCEMENT CONSIDERATIONS

Repeat Offenders

For property owners or responsible parties with three or more violations within 12 months, Community Service Officers may escalate directly to citation and higher-range fines.

Imminent Hazards

Violations presenting imminent hazards to public health, safety, or the environment may warrant immediate citation without prior warning at the maximum fine level. Examples include, but are not limited to:

- **Disturbing or endangering protected wildlife**
- **Unauthorized fires or fireworks**
- **Discharging hazardous substances or pollutants**
- **Serious violations of beach safety rules**

Community Service Officers may issue immediate citations at the maximum fine level to swiftly mitigate threats in these situations.

Short-Term Rental Enforcement

1. STR violations may result in business license suspension or revocation after three citations within 12 months
2. Investigations may be initiated based on:
 - Neighbor complaints
 - Online advertisement monitoring
 - Occupancy verification
 - Noise/nuisance reports
 - Inspections

Beach Code Enforcement

1. Beach Patrol to focus on:
 - Glass container prohibitions
 - Dog leash enforcement
 - Protected wildlife areas
 - Litter violations
2. Educational approach emphasized during peak tourist seasons, with verbal warnings prioritized for visitors unfamiliar with local regulations

DOCUMENTATION REQUIREMENTS

All enforcement actions must be properly documented:

1. **Verbal Warnings:** Community Services Officers must record the date, time, location, person contacted and nature of the violation
2. **Written Warnings:** Complete documentation in the Watch Tower, including photographic evidence when applicable
3. **Citations:** Full documentation including evidence supporting the violation, history of prior warnings, and compliance attempts

POLICY IMPLEMENTATION

This policy is effective immediately upon approval by the Mayor. The Public Safety Director is responsible for ensuring all Community Service Officers are trained on these procedures.

Mayor _____

Date: _____