

Ordinance 2015-04

AN ORDINANCE FOR THE TOWN OF KIAWAH ISLAND TO AMEND CHAPTER 12, LAND USE PLANNING AND ZONING, ARTICLE II., ZONING, DIVISION 2, SECTIONS 12-63 AND 12-64

WHEREAS, the Kiawah Island Planning Commission has recommended amendments to the referred sections, and;

WHEREAS, these sections involve a description of zoning districts and regulations and set backs, and;

WHEREAS, the required public hearing was held on the 14th day of April, 2015 as required by law.

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, Article II., Zoning, Division 2, Sections 12-63 and 12-64, and Article IV, Definitions.

Section 2. Ordinance

Chapter 12, Land Use Planning and Zoning, Article II., Zoning, Division 2, Section 12-63 shall be replaced with the following:

The purpose and intent of this section is to specify zoning categories and standards for all classes of use, e.g., residential, resort, commercial, etc. Standards include permitted density, lot size and coverage, and supplemental regulations.

- (1) Any property previously zoned special development shall fall under the PD zoning.
- (2) In determining the maximum number of dwelling units or hotel rooms per acre, all water bodies and all land below mean high-water level on the original or “grassroots” site are to be excluded. This requirement serves to reduce overcrowding and over-development of residential, resort, commercial and other sites. Maximum density/intensity is a limit on development rights, and not a grant of vested rights.
- (3) Lot coverage is defined in Article IV *Definitions* of this Ordinance. Maximum percentage lot coverage is specified for each zoning district: however, the following items shall be excluded from lot coverage as determined by the Planning Director:
 1. At grade boardwalks and landscape retaining walls below 3 feet in height or;
 2. The access drive located on the “pole” of a flag lot as defined by this Ordinance.

Allowable increase for Residential Districts

The Maximum lot coverage for the R1, R2, and R3 districts may be increased for specific pervious elements as follows:

Maximum Lot Coverage As shown in the Residential District	Allowable increase as percentage Of the Maximum Lot Coverage
50 percent	10 percent
40 percent	15 percent
33 percent	20 percent

The only items that qualify for allowable increase in maximum lot coverage as determined by the Planning Director are:

1. Driveways not defined by this ordinance that utilize pervious materials.
2. Pervious walks and patios.
3. Raised courtyards and planters created by walls 3 feet or less above the adjacent grade.

Where an OCRM critical line is located on the property, the setback and buffer requirements of the waterfront development standards, section 12-76, shall apply.

(4) The following apply to the residential zoning districts:

- a. for lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line. The minimum width of any flag lot may be reduced to 20 feet, provided that the minimum width specified in the table is provided at the front building setback line.
- b. The minimum yard requirements shall be increased to 30 feet from any lot or parcel boundary which abuts a golf course, lagoon, marsh, and/or open area.
- c. Height of single-family detached homes is measured from the Federal Emergency Management Agency's base flood elevation determined for the individual home site.

(5) The following apply to the nonresidential zoning districts:

- a. for lots on cul-de-sacs or similar circumstances, the minimum width shall apply at the front yard setback line. Cul-de-sac lots shall have a minimum width of 25 feet at the street line.
- b. Nonresidential structures may have the height in stories shown in the corresponding zoning district lot standards table, provided that the highest roof ridge of the building does not exceed the height shown from the Federal Emergency Management Agency's base flood elevation determined for that individual structure.

- c. Canopies connected to the main building shall be set back a minimum of 20 feet from any property line.

Section 12-64 shall be replaced with the following:

Setback means a required minimum distance from the lot line, or street right-of-way, or OCRM Critical Line that establishes an area within which a structure shall be erected.

- a. *Contextual setbacks.* Notwithstanding the front setback requirements of the underlying zoning district, the front building line of any structure or addition to a structure may be as close to the street as the front building line of a structure located on any lot that is immediately adjacent to the subject lot. If the subject lot is located between two developed lots, the front building line of the structure that is set back further from the street shall apply to the subject lot.
- b. *Setbacks on corner and double frontage lots.* On corner and double-frontage lots, front setback standards will apply to each lot line that borders a street right-of-way. The rear yard setback shall apply to the opposite side of the principle structure's front main entrance. The side yard setback shall apply to the remaining side(s).
- c. *Exception to setbacks.* Every part of a required setback must be open and unobstructed from the ground to the sky except as set out in this subsection.

Driveways and walkways may be located within any required setback.

Uncovered stairs or stair landings to building entrances may extend up to five feet into any required setback.

Uncovered, at-grade patios may extend into a required setback; however, they shall maintain a min. 10' distance from the property line.

Uncovered decks may extend up to five feet into any required rear yard setback.

Sills, belt courses, cornices, buttresses, eaves and other architectural features may extend up to two feet into any required setback.

Walls and retaining walls below 3' in height may be located within required setback.

In all zoning districts heating, ventilation and air conditioning (HVAC) equipment and associated HVAC stands may extend up to five feet into required side or rear setbacks only when all of the following conditions are met:

- (1) The HVAC equipment is replacing existing HVAC equipment which was originally placed below an existing structure and/or which HVAC equipment being replaced is now required to be elevated to meet the requirements of the

Federal Emergency Management Agency (FEMA) and the Town of Kiawah Island Building Code;

- (2) Such HVAC equipment cannot reasonably be accommodated within the setback required by otherwise applicable zoning requirements;
- (3) The property owner has, through regular mail postmarked no later than five days in advance of applying for a Zoning Permit, notified the affected adjacent property owner(s) that are adjacent to the property line where the proposed HVAC equipment will be located, and has submitted to the Planning Director a signed affidavit stating that such property owner has notified the affected adjacent property owner(s) and proving each name and address to which notice was sent; and
- (4) A Zoning Permit is approved by the Planning Director.

The attached definitions are hereby adopted into Article IV, Definitions and applicable to Sections 12-63 and 12-64 as set forth herein.


SECTION 3 Severability

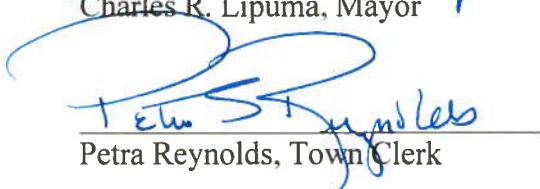
If any part of this Ordinance is held to be unconstitutional, it shall be construed to have been the legislative intent to pass said Ordinance without such unconstitutional provision, and the remainder of said Ordinance shall be deemed to be valid as if such portion had not been included. If said Ordinance,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

PASSED, APPROVED, AND ADOPTED BY COUNCIL FOR THE TOWN OF KIAWAH ISLAND ON THIS 14TH DAY OF APRIL, 2015.


Charles R. Lipuma, Mayor


Petra Reynolds, Town Clerk

First Reading Approval: March 10, 2015

Second Reading Approval: April 14, 2015

Term	TOKI Ordinance	DA/ARB	Proposed Definition
Base Flood Elevation	N/A	<p>Designing with Nature: Height of the base flood, usually in feet, in relation to the National Geodetic Vertical Datum in the Flood Insurance Study Report, or average depth of the base flood above ground surface.</p>	<p>Base Flood Elevation (BFE) means the computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles.</p>
Driveway	<p>Driveway means a paved or unpaved area used for ingress or egress of vehicles from a street to a building, garage or other structure or facility.</p>	N/A	<p>Driveway means a minimum 10' wide vehicular travel way of any surface treatment (pervious or impervious) from the property line to the garage. This includes guest parking and required back-up and turnaround areas required for safe vehicular movement as determined by the Planning Director.</p>
Flag Lot	N/A	N/A	<p>See Lot, Flag</p>
Ground Floor Level	<p>Ground floor level means the natural ground or the lowest floor elevation for structures as set forth in the Town's floodplain management ordinance, whichever is higher provided, however, that ground floor level shall not exceed 14 feet above natural ground. This definition shall not be construed to prevent an owner from constructing a first floor higher than ground floor level, provided, however, that height is measured from ground floor level.</p>	<p>Development Agreement: "Ground Floor Level" means Natural Ground or the lowest floor elevation for structures as set forth in the Town of Kiawah's floodplain management ordinance, (as found in Section 14-101 of the Municipal Code), as amended, whichever is higher; provided, however, that Ground Floor Level shall not exceed 14 feet above natural Ground. This definition shall not be construed to prevent an owner from constructing his first finished floor higher than Ground Floor Level, provided, however, Height is measured from Ground Floor Level.</p> <p>Designing with Nature: Natural Ground or the lowest floor elevation for structures as set forth in the Town of Kiawah's floodplain management ordinance, as amended, whichever is higher; provided, however, that Ground Floor Level shall not exceed 14 feet above Natural Ground. This definition shall not be construed to prevent an owner from constructing his first finished floor higher than Ground Floor Level, provided, however, Height is measured from Ground Floor Level.</p>	<p>Ground floor level means the natural ground or the lowest floor elevation for structures as set forth in the Town's floodplain management ordinance, whichever is higher provided, however, that ground floor level for structures shall not exceed 14 feet above natural ground. This definition shall not be construed to prevent an owner from constructing a first floor higher than ground floor level, provided, however, that height is measured from ground floor level or Base Flood Elevation (BFE) when located within a flood zone.</p>

<p>Height</p>	<p>Height means the elevation from ground floor level as measured in feet and stories. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio and television towers, ornamental cupolas, domes or spires and parapet walls not exceeding four feet in height.</p> <p>Building height means the vertical distance between the base flood elevation, or ground level if the structure is not in a flood hazard area as defined by the Federal Emergency Management Agency (FEMA), and: (1) The average height level between the eaves and ridge line of a gable, hip or gambrel roof; (2) The highest point of a mansard roof; or (3) The highest point of the coping of a flat roof.</p>	<p>Development Agreement: "Height" means elevation from Ground Floor Level as measured in feet and stories. Building height does not include chimneys, antennae or ventilation pipes. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.</p> <p>Designing with Nature: Elevation from Ground Floor Level as measured in feet and stories. Building height does not include chimneys, antennae or ventilation pipes. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.</p>	<p>Combine Existing TOKI Definitions of Height and Building Height into one definition as follows:</p> <p>Building height means the vertical distance between the base flood elevation (BFE), or ground level if the structure is not in a flood hazard area as defined by the Federal Emergency Management Agency (FEMA) and is measured in feet and stories. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. Unless otherwise stated in this ordinance, height in feet means (1) The average height level between the eaves and ridge line of a gable, hip or gambrel roof; (2) The highest point of a mansard roof; or (3) The highest point of the coping of a flat roof. In measuring the height of a building, the following structures shall be excluded: chimneys, cooling towers, elevator bulkheads, tanks, water towers, radio and television towers, ornamental cupolas, domes or spires, and parapet walls not exceeding four feet in height.</p>
<p>Impervious</p>	<p>Impervious surface means any material which prevents, impedes or slows infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation bearing soils, including buildings, asphalt, concrete, gravel and other surfaces.</p>	<p>N/A</p>	<p>Impervious surface means any material which prevents, impedes or slows infiltration or absorption of stormwater directly into the ground at the rate of absorption of vegetation bearing soils, including buildings, asphalt, concrete, gravel and other surfaces as determined by the Planning Director.</p>

Lot Coverage

In Definition Section: Lot coverage means the total percentage of lot area that is impervious including buildings, and pervious driveways and walkways, and other pervious paved areas and including pervious decks and porches.

In Sec. 12-63 (3)

Lot coverage is defined as the total percentage of lot area that is impervious to stormwater. Included are buildings, decks and raised planters three feet above existing grade, impervious and pervious driveways and impervious walkways, and all paved areas.

N/A

In Definition Section:

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

In Sec. 12-63 (3)

Lot coverage is defined in Article IV Definitions of this Ordinance. Maximum percentage lot coverage is specified for each zoning district however the following items shall be excluded from lot coverage as determined by the Planning Director:

1. At grade boardwalks
2. Landscape retaining walls below 3 feet in height or;
3. The access drive located on the "pole" of a flag lot as defined by this ordinance.

Allowable increase for Residential Districts

The maximum lot coverage for the R1, R2, and R3 districts may be increased for specific pervious elements as follows:

Maximum Lot Coverage as shown in the Residential District	Allowable Increase as percentage of the Maximum Lot Coverage
50 percent	10 percent
40 percent	15 percent
33 percent	20 percent

The only items that qualify for the allowable increase in maximum lot coverage as determined by the Planning Director include:

1. Driveways not defined by this ordinance that utilize pervious materials.
2. Pervious walks and patios.
3. Raised courtyards and planters created by walls 3 feet or less above the adjacent grade.

Lot, Flag	<p>Lot, Flag, means a lot having no frontage or access to a street or place except by a narrow strip or easement.</p>	<p>N/A Development Agreement</p> <p>Designing with Nature: In the case of flag lots, the entry access or “the pole” of the flag site is not calculated as part of the lot coverage percentage.</p>	<p>Lot, Flag means a legally platted lot that is designed specifically to have a portion that is buildable (the “flag” area) and a portion that unbuildable (the “pole” area) that is used solely for access on the parcel.</p>
Pervious	<p>N/A</p>	<p>Development Agreement: “Pervious Cover” means land which permits the absorption of stormwater into the ground. This may include walkways and driveways which are pervious to stormwater.</p> <p>Designing with Nature: Land which permits the absorption of stormwater into the ground. This may include walkways and driveways which are pervious to stormwater.</p>	<p>Pervious Surface means an unimproved portion of land maintained in its natural condition or an improved portion of land covered by a material that permits infiltration or percolation of storm water into the ground as determined by the Planning Director.</p>
Story	<p>Story means that part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor of the building.</p> <p>Story, first, means the first habitable interior floor of a structure above the required flood elevation</p>	<p>Development Agreement: “Height” means elevation from Ground Floor Level as measured in feet and stories. Building height does not include chimneys, antennae or ventilation pipes. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.</p> <p>Designing with Nature: Height - Elevation from Ground Floor Level as measured in feet and stories. Building height does not include chimneys, antennae or ventilation pipes. Height in stories is the number of habitable floors (stories) exclusive of the area below the first finished floor. One-half story is a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.</p>	<p>Leave definition of Story and Story, first and add new definition for Story, one - half.</p> <p>Story, One-Half means a habitable floor which has heated square footage that is no greater than one-half the heated square footage of the largest story.</p>