

ARTICLE 4

FINANCE AND TAXATION

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CHAPTER 1

GENERAL PROVISIONS

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1 Amended by ordinance 2000-2. Effective 5/23/00.

2 Amended by ordinance 2002-5. Effective 10/8/02.

3 Amended by Ordinance 2003-1. Effective 6/10/03.

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CHAPTER 1

GENERAL PROVISIONS

Section 4-101 Fiscal Year

Council for the Town of Kiawah Island hereby adopts a fiscal year to begin each year on July 1st and to end each year on June 30th.

Section 4-102 Budget Required

The Council shall approve annual operating and/or capital budgets which provide for sufficient revenue and/or available fund balance to meet estimated expenditures for all governmental and proprietary funds.

Section 4-103 Audit Required

(1) The Council shall provide for an independent annual audit of all financial records and transactions of the Town and any agency funded in whole or in part by Town funds.

(2) Based on a recommendation from the Ways and Means Committee, the Council shall designate the certified public accountant or firm of such accountants to conduct the audit. The Council may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding four years, provided, that the designation for any particular fiscal year shall be made no later than thirty (30) days after the beginning of such fiscal year. The accountant or firm of accountants shall not have personal interest, direct or indirect, in the fiscal affairs of the Town or any of its officers.

State Law Reference: South Carolina Code, 1976, as amended, Section 5-7-240.

Section 4-104 Accommodations Tax

The Council shall provide for the use and administration of all monies received from the State of South Carolina through the accommodations tax program pursuant to Sections 12-35-710, et seq. of the South Carolina Code of Laws Annotated, 1976, as amended.

Section 4-105 Budget Preparation and Administrative Procedures^{1 2 3}

(1) The Town shall classify, number and describe its asset, liability, fund balance, revenue, and expenditure expense accounts consistent with the latest edition of the Government Financial Officer Association's Governmental Accounting, Auditing and Financial Reporting manual.

(2) The Town Council shall have the first reading of a new budget by the Mayor, or his designee, at the first regularly scheduled May meeting each year and the second reading at the first regularly scheduled June meeting each year.

(3) At the first regularly scheduled Council meeting in February, the Council shall approve the Budget Calendar for the upcoming Fiscal year. The Budget Calendar, as recommended by the Ways and Means Committee, shall provide a schedule for the preparation of the budget.

(4) Council may adopt in any fund budget a contingency line item which may be appropriated for unexpected expenditures. Budget transfers from this account may be made by a resolution of Council. The Ways and Means Committee shall review requests for contingency line item expenditures and make recommendations to Council concerning approval of such expenditures.

(5) To assist Council in the review of financial affairs of the Town, the Town Treasurer shall complete all financial reports for the month and fiscal year to date by the 20th calendar day following the last calendar day of the preceding month.

(6) The Ways and Means Committee shall review, on a quarterly basis, the Treasurer's report, which shall include up-to-date line item information for revenues and expenditures for all funds. The Treasurer's report shall then be reviewed by the Ways and Means Chairman before Town Council at a regularly scheduled Council meeting which follows the completion of that quarter's financial report. The Town Treasurer shall post the Council approved quarterly statements of such accounts at some conspicuous place or places in the Town in accordance with Section 5-21-50 of the South Carolina Code of Laws, as amended.

(7) Amendments to the budget, as recommended by the Ways and Means Committee, during a fiscal year can only be made after two (2) readings of the revised budget at separate regularly scheduled Town Council meetings.

1 Amended by ordinance 2000-2. Effective 5/23/00.
2 Amended by ordinance 2002-5. Effective 10/8/02.
3 Amended by Ordinance 2003-1. Effective 6/10/03.

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CHAPTER 2

MUNICIPAL PROPERTY TAX

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CHAPTER 3¹

MUNICIPAL BUSINESS LICENSES

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1 Amended by Ordinance 2001-6. Effective 7/1/01.

2 Amended by Ordinance 2002-1. Effective 4/17/02.

3 Amended by Ordinance 2003-11. Effective 1/13/04.

4 Amended by Ordinance 2004-6. Effective 10/12/04.

5 Amended by Ordinance 2004-7. Effective 12/2/04.

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CHAPTER 3

MUNICIPAL BUSINESS LICENSES

Section 4-301 License Required

Every person engaged or intending to engage in any calling, business, occupation or profession referenced in Section 4-323 of this Article, in whole or in part, within the limits of the Town of Kiawah Island, South Carolina, is required to pay an annual license fee based on Gross Income, as defined herein, and obtain a business license as herein provided.

Section 4-302 Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed herein:

1. "Business" means a calling, occupation, profession or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly.
2. "Classification" means that division of businesses by major groups subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by Town Council.
3. "Construction Manager" means any individual, firm, partnership, corporation or group which supervises or coordinates construction of any building, highway, sewer, grading, improvement, re-improvement, structure or part thereof, when the cost of the undertaking is Thirty Thousand (\$30,000) Dollars or more. Notwithstanding payment by fixed price, commission, fee or wage, said "construction manager" shall be classified in the category of "construction contractors" for purposes of this Article and shall pay a license fee based upon the total cost of the undertaking supervised or coordinated.
4. "Gross Income" means the total revenue of a business, received or accrued, for one calendar year collected or to be collected from business done within the Town, excepting therefrom income from business done wholly outside of the

Town on which a license tax is paid to some other South Carolina municipality or county and fully reported to the Town. The gross income for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Insurance Commission or other government agency. In the case of brokers or agents, gross income shall mean gross commissions received or retained unless otherwise specified. Gross income for insurance companies shall mean gross premiums collected. Gross income for business license purposes shall not include taxes collected for a governmental entity, escrow funds, or funds which are the property of a third party. In all cases, the method of accounting utilized to calculate the amount of gross income subject to the Business License fee shall conform to the method of accounting utilized to prepare the licensee's Federal Income Tax return for the corresponding period.

5. "Person" means any individual, firm, partnership, LLP, LLC, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principals.
6. "Real Estate Developer" shall mean a person who sells more than two (2) parcels of real property within one calendar year. A Real Estate Developer shall be subject to the Business License Ordinance under Rate Class 7. Any property sold that is classified as owner-occupied residential and is assessed at the 4% property tax rate will be exempt from inclusion in number of properties sold.
7. "Real Estate Rental Property" subject to the provisions of this chapter shall mean any real property rented except dwelling units rented less than two weeks per annum. Any Rental Property included in the definition of Rate Class 7 shall be deemed to have a valid business license if a licensed rental agent includes in the gross income used to compute his revenue for business license purposes, the gross rentals received including the amount to be remitted to the owner. All owners covered under Rate Class 7 not exempted as above must have a business license.
8. "Town" means the Town of Kiawah Island, South Carolina.

Section 4-303 Purpose and Duration

The business license levied by this Article is for the purpose of providing such regulation as may be required of the businesses subject thereto, and for the purpose of raising revenue for the general fund through a privilege tax. Each license shall be issued for one (1) calendar year and shall expire on December 31; this time period shall be considered a "license year." The provisions of this Article and the rates herein shall remain in effect from year to year as amended by the Town Council for the Town of Kiawah Island.

Section 4-304 License Fee²

The required license fee shall be paid for each business subject hereto according to the applicable rate classification based upon Gross Income on or before the last day of February in each year. A separate license shall be required for each place of business and for each classification of business conducted at one place. If Gross Income cannot be separated for classifications at one location, the license fee shall be computed on the combined Gross Income for the classification requiring the highest rate. Except in the case of a licensee's first or second annual business license, the license fee shall be based on Gross Income for the preceding calendar or fiscal year.

The fee for a licensee's first annual business license as a result of commencing doing business within the Town shall be computed on the estimated probable Gross Income stated on the license application for the balance of the calendar year.

Prior to obtaining a license for the second license year, an updated application shall be filed stating the licensee's actual gross receipts for the first year. The licensee shall pay any additional license fee due as a result of updating the estimated gross receipts to actual, or be entitled to a refund if actual gross receipts are less than the estimate and the amount of the refund of the license fee is at least Three Hundred (\$300.00) Dollars. The fee for a licensee's second annual business license shall be based on annualizing the first year's actual gross income if such first license year was for a period less than 12 months. Annualization shall be computed by determining the monthly average gross receipts realized during the first year license period and multiplying this result by 12.

² Amended by Ordinance 2002-1. Effective 4/17/02.

An updated license application shall be filed prior to obtaining a license for the third license year stating the licensee's actual gross receipts for the second year. The licensee shall pay any additional license fee due as a result of updating the annualized gross receipts to actual, or be entitled to a refund if the actual gross receipts are less than the estimated/annualized figure and the amount of the refund of the license fee is as least Three Hundred (\$300.00) Dollars.

Any person who shall discontinue doing business within the Town shall file a final business license application for the year of discontinuance stating the actual Gross Income for the final year and remit any fees owing. No refunds of any license fee will be granted due to annexation of a business into a municipality during the license year or in the event a person discontinues doing business within the Town unless a refund of the license fee would equal at least Three Hundred (\$300.00) Dollars.

Section 4-305 Registration Required

The owner, agent, or legal representative of every business subject to this Article, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year, except that a new business shall be required to have a business license prior to operation within the Town.

Application shall be on a form provided by the License Inspector which shall contain the Social Security Number and/or the Federal Employer's Identification Number, the business name as reported on the South Carolina income tax return, and all information about the applicant and the business deemed necessary to carry out the purposes of this Article by the License Inspector. Applicants may be required to submit copies of their tax returns to substantiate Gross Income figures. The applicant shall certify under oath that the information given in the application is true, that the Gross Income is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments and personal property taxes due and payable to the Town have been paid.

Insurance agents and brokers shall report the name of each insurance company for which a policy was issued and the total premiums collected for each company for each type of insurance coverage on a form approved by the License Inspector. Insurance agents employed by more than one company shall be licensed as brokers. An insurance agent not employed by a company shall be licensed as a broker.

Section 4-306 Deductions, Exemptions, and Charitable Organizations

No deductions from Gross Income shall be made except income from businesses on which a license tax is paid to a county or to another municipality, or income that cannot be taxed pursuant to State or Federal Law. The applicant shall have the burden to establish the right to deduction by satisfactory records and proof. No person shall be exempt from the requirements of this Article by reason of the lack of an established place of business within the Town, unless exempted by the State or Federal Law. The License Inspector shall determine the appropriate classification for each business in accordance with the latest issue of the North American Industry Classification System (NAICS) for the United States published by the Office of Management and Budget. No person shall be exempt from this Article by reason of the payment of any other tax, unless exempted by State law, and no person shall be relieved of the liability for the payment of any other tax by reason of the application of this Article.

Organizations holding tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, and tax-exempt status under similar provisions of South Carolina law, shall also be exempt from a business license tax where sponsors, organizers, directors, trustees, or persons who exercise control of the organization receive no part of the proceeds of operation, and all proceeds, except for the payment of necessary costs of operation and reasonable compensation to employees, are devoted to the exempt purposes of the organization. This exemption shall not apply, however, if, and to the extent that proceeds may be derived from business activity not related to the organization's exempt purpose.

Section 4-307 False Application Unlawful

It shall be unlawful for any person subject to the provisions of this Article to make a false application for a business license, or to give or file, or direct the giving or filing of any false information with respect to the license or fee required by this Article.

Section 4-308 Display and Transfer

All persons shall display the license issued to them on the original form provided by the License Inspector in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license

upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the Town.

A change of address must be reported to the License Inspector within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification of the License Inspector and compliance with zoning and building codes. Failure to obtain the approval of the License Inspector for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable and a transfer of fifty percent (50%) or more in ownership shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on the predecessor's business income. To assist in the administration of this law, decals shall be issued to all businesses licensed on Kiawah Island. Such decals displayed on business vehicles as directed by the License Inspector or his designee. Decals for business licenses can be obtained when licenses are issued.

To readily identify on construction sites which vehicles belong to licensed contractors or subcontractors or their employees, beginning with the licenses issued in the year 2000, windshield decals shall be available for workers of contractors having a Town of Kiawah Business License. Decals for employees will be issued to licensed contractors when requested in advance and employment status of the employee has been certified by the business license holder. Employee vehicles and licensed contractors found on the construction site without the identifying decal will be subject to a Thirty Dollar (\$30) administrative fee for each failure to display the required identification. Falsely swearing as to the status of whether a vehicle belongs to an employee or a subcontractor is a misdemeanor under Section 15-307, False Application Unlawful.

Section 4-309 Administration of Article

The License Inspector, who shall be the Town Treasurer unless otherwise designated by Town Council, or his designee shall administer the provisions of this Article, collect license fees, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or revocation procedures, report violations and assist in prosecution of violators, produce forms, make reasonable regulations relating to the administration of this Article, and perform any such other duties.

Section 4-310 Inspection and Audits

For the purpose of enforcing the provisions of this Article, the License Inspector or other authorized agent of the Town is empowered to enter upon the premises of any person subject to this Article to make inspections, examine and audit books and records, and it shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that false information has been filed by the licensee, the costs of the audit shall be added to the correct license fee and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of license fee shall constitute a separate offense.

The License Inspector or his designee shall make systematic inspections and random audits of all businesses within the Town to ensure compliance with the Article. The License Inspector, or his designee, may employ, should he deem it necessary, a Certified Public Accountant or firm of Certified Public Accountants to examine the books and records of any person transacting business in the Town for the purpose of ascertaining compliance with this Article.

Records of inspections and audits shall not be deemed public records, and the License Inspector shall not release the reported Gross Income of any person by name without permission of the licensee, provided that statistics compiled by classifications may be made public. The License Inspector may disclose Gross Incomes of licenses to the Internal Revenue Service, South Carolina Department of Revenue or other governmental entity for the purpose of assisting tax assessments, tax collections and enforcement. Such disclosures shall be for internal, confidential and official use of these governmental agencies and shall not be deemed public records.

Section 4-311 Assessments, Payment Under Protest, Appeal

When any person shall have failed to obtain a business license or to furnish the information required by this ordinance or the License Inspector, the License Inspector may proceed to examine such records of the business or any other available records as may be appropriate and to conduct such investigations and statistical surveys as he may deem appropriate to assess a license tax and penalties as provided herein.

A notice of assessment shall be served by certified mail. And an application for adjustment of the assessment may be made to the License Inspector within five (5) days after the notice is mailed or the assessment will become final. The License

Inspector shall establish by regulation the procedure for hearing an application for adjustment of assessment and issuing a notice of final assessment.

A final assessment may be appealed to Town Council only by payment in full of the assessment under protest within five (5) days, and the filing of a written notice of appeal within ten (10) days after payment pursuant to the provisions of this ordinance relating to appeals to Town Council.

Section 4-312 Delinquent License Fees, Partial Payment

For non-payment of all or any part of the correct license fee, the License Inspector shall levy and collect a late penalty of five (5%) percent of the unpaid fee for each month or portion thereof after the due date until paid. Penalties shall not be waived. The statute of limitations for noncompliance with this Article is three (3) years.

Partial payment may be accepted by the License Inspector to toll imposition of penalties on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

Section 4-313 Notices

The License Inspector may, but shall not be required to, mail written notices that license fees are due, but if notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the Town of Kiawah Island three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax or grounds for waiver of penalties.

Section 4-314 Denial of License

The License Inspector shall deny a license to an applicant when the application is incomplete, contains misrepresentations, false or misleading statements, evasion or suppression of a material fact, or when the activity for which a license is sought is unlawful, or constitutes a public nuisance *per se*. A decision of the License Inspector shall be subject to appeal to the Town Council as herein provided. Denial shall be written with reasons stated.

Section 4-315 Suspension or Revocation of License

When the License Inspector determines that:

- A. A license has been mistakenly or improperly issued or issued contrary to law; or
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this Article; or
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, evasion or suppression of a material fact in the license application; or
- D. A licensee has been convicted of an offense under a law or ordinance regulating business, a crime involving moral turpitude, or an unlawful sale of merchandise or prohibited goods; or
- E. A licensee has engaged in an unlawful activity or nuisance related to the business;

the License Inspector shall give written notice to the licensee or the person in control of the business within the Town by personal service or certified mail that the license is suspended pending a hearing before the Town Council for the purpose of determining whether the license should be revoked. The notice shall state the time and place at which the hearing is to be held, which shall be at a regular or special Council meeting within thirty (30) days from the date of service of the notice, unless continued by written agreement. The notice shall contain a brief statement of the reasons for suspension and proposed revocation and a copy of the applicable provisions of this Article.

Section 4-316 Appeals to Town Council

- A. Any person aggrieved by a decision, final assessment, revocation, suspension or a denial of a business license by the License Inspector may appeal the decision to Town Council by written request stating the reasons therefore filed with the License Inspector within ten (10) days after the payment of the assessment under protest or notice of denial is received. Payment under protest shall be a condition precedent to appeal.
- B. An appeal or a hearing on revocation shall be held by Town Council within thirty (30) days after receipt of a request for appeal or service of notice of suspension at a regular or special meeting of which the applicant or licensee has been given written notice, unless continued by written agreement. At such hearing all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the

party so requesting. The rules of evidence and procedure prescribed by Council shall govern the hearing. Town Council shall by majority vote of members present render a written decision based upon findings of fact and application of the standards herein which shall be served upon all parties or their representatives and shall be final unless appealed to a court of competent jurisdiction within ten (10) days after service.

- C. No person shall be subject to prosecution for doing business without a license until the expiration of ten (10) days after notice of denial or revocation which is not appealed or until after final judgment of a circuit court upholding denial or revocation.

Section 4-317 Permission To Use Streets Required

It shall be unlawful for any person to construct, install, maintain or operate in, on, above or under any street or public place under control of the municipality any line, pipe, cable, pole, structure or facility for utilities, communications, cablevision or other purposes without a consent agreement or franchise agreement issued by the municipal council by ordinance which prescribes the term, fees and conditions for use.

Section 4-318 Consent, Franchise or Business License Fee Required

The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by State law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of or be credited against business license fees unless specifically provided by the franchise or consent agreement.

Section 4-319 Confidentiality

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any official or employee to divulge or make known in any manner the amount of income or any particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns.

Section 4-320 Violations

Any person violating any provision of this Article shall be deemed guilty of an offense and shall be subject to a fine of up to Five Hundred (\$500.00) Dollars or imprisonment for not more than thirty (30) days, or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties and costs provided for herein.

Section 4-321 Severability

A determination that any portion of this Article is invalid or unenforceable shall not affect the remaining portions.

Section 4-322 Article to Conform With Laws and Restrictions

Passage of this Article or issuance of any business license hereunder by the Town of Kiawah Island shall not be deemed to contradict any federal, state, or local laws nor any private covenants or restrictions affecting the corporate limits of the Town. In the event that such a contradiction does arise then the questioned business license will be deemed null and void ab initio and the applicant shall be granted a refund of the fee paid.

Section 4-323 Classification and Rates^{3,4,5}

A. The sectors of businesses included in each Rate Class are listed with the United States North American Industry Classification System (NAICS) codes. The two page NAICS Numerical Index that appears on pages 17 and 18 of the MASC Model Ordinance 2000-1 and the Alphabetical Business Classification Index that appears as Index-1 through Index-27 of the MASC Model Ordinance 2000-1 are hereby incorporated by reference and made a part hereof as if fully set forth verbatim herein. The alphabetical index is a tool for classification, not a limitation on businesses subject to a license tax. The License Inspector shall determine the proper class for a business according to the applicable NAICS manual, whether or not the business is listed in the alphabetical index. A business class that is not listed in the rate class or numerical indexes is not subject to a license tax. Standard Industrial

3 Amended by Ordinance 2003-11. Effective 1/13/04.

4 Amended by Ordinance 2004-6. Effective 10/12/04.

5 Amended by Ordinance 2004-7. Effective 12/2/04.

Classification (SIC) codes included in the index are for administrative use in converting to NAICS codes.

- B. The license fee for each Class of businesses subject to this ordinance shall be computed in accordance with the rate class tables appearing at the end of this section.
- C. The businesses in this subsection are treated as separate and individual subclasses due to provisions of State law, regulatory requirements, service burdens, tax equalization considerations, etc., which are deemed to be sufficient to require individually determined rates. Each NAICS Number designates a separate subclassification. Non-resident rates do not apply except where indicated. These businesses are as follows:

Home-based Consultants

Consultants who are based within the corporate limits of the Town, who conduct business entirely via remote means (including telephone, facsimile, computer, mail, electronic mail, and other remote means) on behalf of customers located outside of the corporate limits of the Town, and who have no employees that work in the home and no customers who come to the home shall pay a business license fee of \$18.00 on the first \$2,000 of Gross Income and \$0.50 per thousand from \$2,001 to \$1,000,000. Declining rates as set forth herein shall apply to Gross Income in excess of \$1,000,000.

[SIC 15, 16 & 17]- NAICS 23- Contractors, Construction, All Types

See Rate Class Table for Class 8 to calculate the business license fee.

No contractor shall apply for a business license until all state and municipal qualification examination and trade license requirements have been met.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job, and no deductions shall be made by general or prime contractors for value of work performed by sub-contract.

No contractor shall apply for a business license until all performance and indemnity bonds required by the Building Code have been filed and approved.

Each prime contractor shall file with the License Inspector a list of sub-contractors furnishing labor or material for each project.

[SIC 481] - NAICS 513 - Telephone Companies:

- a. Notwithstanding any other provisions of the Business License Ordinance, the business license tax for "retail telecommunications services", as defined in S. C. Code section 58-9-2200, shall be at the maximum rate authorized by S.C. Code section 58-9-2220, as it now provides or as provided by its amendment. The business license tax year shall begin on January 1 of each year. The rate for the 2005 business license tax year shall be the maximum rate allowed by State law as in effect on February 1, 2005. Declining rates shall not apply.
- b. In conformity with S.C. Code section 58-9-2220, the business license tax for "retail telecommunications services" shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality. For a business in operation for less than one year, the amount of business license tax shall be computed on a twelve-month projected income.
- c. For the year 2005, the business license tax for "retail telecommunications services" shall be due on February 1, 2005, and payable by February 28, 2005, without penalty. For years after 2005, the business license tax for "retail telecommunications services" shall be due on January 1 of each year and payable by January 31 of that year, without penalty.
- d. The delinquent penalty shall be five percent (5 %) of the tax due for each month, or portion thereof, after the due date until paid.

- e. Exemptions in the business license ordinance for income from business in interstate commerce are hereby repealed. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.
- f. Nothing in this Ordinance shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement in the event that the franchise or contractual agreement should expire after December 31, 2003.
- g. All fees collected under such a franchise or contractual agreement expiring after December 31, 2003, shall be in lieu of fees or taxes which might otherwise be authorized by this Ordinance.

[SIC 4841] - NAICS 51322 - **Television**, Cable or Pay, using streets..Consent or Franchise

[SIC 491] - NAICS 22112 - **Electrical Power Distribution**..
Consent or Franchise

[SIC 492] - NAICS 22121 - **Natural Gas Distribution**..
Consent or Franchise

[SIC 63] - NAICS 5241 - **Insurance Companies**:

Except as to fire insurance, "gross premiums" means gross premiums collected (1) on policies on property or risks located in the municipality, and (2) on policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by the insurance company's office located in the municipality or by the insurance company's employee doing business within the municipality or by the office of the insurance company's licensed or appointed producer (agent) located in the municipality or by the insurance company's licensed or appointed producer (agent) doing business within the municipality. As to fire insurance, "gross premiums" means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums or deposit. Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute doing business

within the municipality whether or not an office is maintained therein. A premium collected on property or a risk located within the municipality shall be deemed to have been collected within the municipality. Declining rates shall not apply.

[SIC 631-632] - NAICS 52411 - **Life, Health and Accident**
...0.75% of Gross Premiums

[SIC 633-635] - NAICS 524126 - **Fire and Casualty** ...2% of
Gross Premiums

[SIC 636] - NAICS 524127 - **Title Insurance**...2% of Gross
Premiums

[SIC 6411] - NAICS 524210 - **Brokers for Fire & Casualty - Non-**
admitted:

As to brokers for non-admitted fire and casualty insurers, "gross premiums" means gross premiums collected by or for fire and casualty insurers not licensed in South Carolina (1) on policies on property or risks located in the municipality and/or (2) on policies, wherever the insured property or risk is located, that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by a broker located in or doing business within the municipality. Brokers shall provide, with their payment of the tax, a copy of the report required by the State Department of Insurance showing the locations of the property or risks insured. 2% of Gross Premiums

[Premiums for non-admitted business are not included in broker's gross commissions for other business. Declining rates shall not apply.]

[SIC 7993 - NAICS 713120 - **Amusement Machines, coin operated**
Music machines, kiddie rides, and amusement machines licensed
pursuant to S.C. Code '12-21-2720(A) (1) and (A) (2)

1. Operator of machine ...\$12.50 per machine
['12-21-2746] PLUS \$12.50 business license for
operation of all machines (not on gross income).

EXHIBIT A TOWN OF KIAWAH ISLAND BUSINESS LICENSE RATES¹

New Rates		New Rates	
Class 1		Class 5	
\$ 0.00 to \$ 2,000.00	\$ 55.00	\$ 0.00 to \$ 2,000.00	\$ 75.00
	<i>(Rate per Thousand)</i>		<i>(Rate per Thousand)</i>
\$ 2,000.00 to 1 Mill	\$ 2.00	\$ 2,000.00 to 1 Mill	\$ 2.45
1 Mill to 2 Mill	\$ 1.81	1 Mill to 2 Mill	\$ 2.21
2 Mill to 3 Mill	\$ 1.60	2 Mill to 3 Mill	\$ 1.96
3 Mill to 4 Mill	\$ 1.41	3 Mill to 4 Mill	\$ 1.72
4 Mill and over	\$ 1.20	4 Mill and over	\$ 1.47
Class 2		Class 6	
\$ 0.00 to \$ 2,000.00	\$ 60.00	\$ 0.00 to \$ 2,000.00	\$ 80.00
	<i>(Rate per Thousand)</i>		<i>(Rate per Thousand)</i>
\$ 2,000.00 to 1 Mill	\$ 2.05	\$ 2,000.00 to 1 Mill	\$ 2.70
1 Mill to 2 Mill	\$ 1.85	1 Mill to 2 Mill	\$ 2.43
2 Mill to 3 Mill	\$ 1.64	2 Mill to 3 Mill	\$ 2.06
3 Mill to 4 Mill	\$ 1.44	3 Mill to 4 Mill	\$ 1.89
4 Mill and over	\$ 1.23	4 Mill and over	\$ 1.62
Class 3		Class 7	
\$ 0.00 to \$ 2,000.00	\$ 65.00	\$ 0.00 to \$ 2,000.00	\$ 85.00
	<i>(Rate per Thousand)</i>		<i>(Rate per Thousand)</i>
\$ 2,000.00 to 1 Mill	\$ 2.10	\$ 2,000.00 to 1 Mill	\$ 3.05
1 Mill to 2 Mill	\$ 1.89	1 Mill to 2 Mill	\$ 2.75
2 Mill to 3 Mill	\$ 1.68	2 Mill to 3 Mill	\$ 2.44
3 Mill to 4 Mill	\$ 1.47	3 Mill to 4 Mill	\$ 2.14
4 Mill and over	\$ 1.26	4 Mill and over	\$ 1.83
Class 4		Class 8	
\$ 0.00 to \$ 2,000.00	\$ 73.00	\$ 0.00 to \$ 2,000.00	\$ 70.00
	<i>(Rate per Thousand)</i>		<i>(Rate per Thousand)</i>
\$ 2,000.00 to 1 Mill	\$ 2.10	\$ 2,000.00 to 1 Mill	\$ 2.40
1 Mill to 2 Mill	\$ 1.89	1 Mill to 2 Mill	\$ 2.16
2 Mill to 3 Mill	\$ 1.68	2 Mill to 3 Mill	\$ 1.92
3 Mill to 4 Mill	\$ 1.47	3 Mill to 4 Mill	\$ 1.68
4 Mill and over	\$ 1.26	4 Mill and over	\$ 1.44

¹ Amended by Ordinance 2009-11. Effective 1-5-2010.

DECLINING RATES

Declining Rates apply in all Classes for gross income in excess of \$1,000,000

Gross Income in \$ Millions	Percent of Class Rate for Each additional \$1,000
0-1	100%
1-2	90%
2-3	80%
3-4	70%
Over 4	60%

NON-RESIDENT RATES

Unless otherwise specifically provided, all minimum fees and rates shall be doubled for businesses and itinerants having no fixed principal place of business within Charleston County.

RATE CLASS INDEX

RATE CLASS 1

NAICS

Business Sector

42	Wholesale Trade
442	Furniture and Home Furnishing Stores
445	Food and Beverage Stores
446	Health and Personal Care Stores
447	Gasoline Stations
451	Sporting Goods, Hobby, Book, Music Stores
721	Accommodation, Hotel, Motel, Inn, Camp
722	Eating Places, Food Services, Restaurants, Caterers, except drinking places
813	Membership Organizations
92	Public Administration

RATE CLASS 2

<u>NAICS</u>	<u>Business Sector</u>
4413	Automotive Parts, Tire Stores
443	Electronic and Appliance Stores
444	Building Material, Garden Equipment and Supply
448	Clothing and Accessory Stores
452	General Merchandise Stores
453	Miscellaneous Store Retailers
454	Nonstore Retailers, except peddlers
45421	Vending Machines
881	Repair and Maintenance Services

RATE CLASS 3

<u>NAICS</u>	<u>Business Sector</u>
1-33	Manufacturing
48	Transportation, except rail

RATE CLASS 4

<u>NAICS</u>	<u>Business Sector</u>
11	Agriculture, Forestry, Fishing and Hunting
21	Mining

2213 Water and Sewerage Systems
 512 Motion Pictures, theaters, production
 56 Administrative and Support, Waste Management and
 Remediation Services
 711 Arts, Sports and Promoters of Events
 712 Museums, Historical Sites, Zoos, Gardens
 713 Amusement and Recreation, except coin-operated machines
 & gambling
 812 Personal Care, Barber, Beauty, Laundry

RATE CLASS 5

NAICS Business Sector

49 Warehousing and Couriers

RATE CLASS 6

NAICS Business Sector

511 Information
 522 Consumer Finance, Mortgage Broker, credit card Issuing,
 except banks and pawnshops
 523 Security and Commodity Brokers
 61 Education Services
 62 Health Care and Social Assistance

RATE CLASS 7

NAICS Business Sector

5131 Radio and Television Broadcasting
 5141 Information Services
 5142 Data Processing Services
 5242 Insurance agencies, except brokers for non-admitted
 insurers
 53 Real Estate and Rental and Leasing
 54 Professional, Scientific, and Technical Services
 55 Management of Companies and Enterprises

RATE CLASS 8

NAICS Business Sector

2211 Electric Utilities
 2212 Gas Utilities

23 Construction
 42193 Recyclable Material, Junk
 4411 Automobile Dealers
 45439 Peddlers, Direct Selling
 482 Rail Transportation
 5132 Cable Television
 5133 Telecommunications
 522298 Pawnshops
 5241 Insurance Carriers
 52421 Brokers for non-admitted Insurance Carriers
 71119 Carnivals, Circuses
 7131 Amusement Arcades, nongambling
 7132 Gambling Industries, Video Poker
 71399 Billiard Parlor, Pool Tables
 72241 Drinking Places, Bars (alcoholic)

Section 4-324 Garage and Charitable Sales

No license fee shall be charged to a Person holding a sale of personal items at the owner's residence, not including imported goods, or to a church, civic, charitable or community group selling items to raise funds for charitable purposes. Persons holding such sales must register information required by the License Inspector at his office prior to the date of sale.

Section 4-325 Council's Authority to Provide Amnesty and Waive Penalties

Council for the Town shall have the authority to waive penalties and fines by enacting a Resolution from time to time providing an opportunity for businesses to come into compliance with this Article. Such Resolution shall specify the time frame within which such businesses shall come into compliance, the manner in which the Town shall notify such businesses, whether penalties shall be waived, and any other action or information necessary for Council to adopt such a Resolution.

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 4

PURCHASING

Section	4-401	Purchasing Agent
Section	4-402	Formal Contract Procedure
Section	4-403	Informal Purchase Procedure (purchases under \$20,000) ¹
Section	4-404	Competitive Bidding
Section	4-405	Award to Lowest Responsible Bidder
Section	4-406	Competitive Bidding Procedure
Section	4-407	Conflict of Interest
Section	4-408	Compliance with State Laws
Section	4-409	Cooperative Purchasing
Section	4-410	Emergency Procurement
Section	4-411	Purchases from Petty Cash
Section	4-412	Sole Source Procurement
Section	4-413	Maintenance of Records
Section	4-414	Surplus Stock
Section	4-415	Professional Services

¹ Amended by ordinance 2002-5. Effective 10/8/02. Amended by ordinance 2005-10. Effective 12/13/05.

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 4

PURCHASING

Section 4-401 Purchasing Agent

The Mayor, or his designee, shall be the Purchasing Agent for the Town. The agent shall be responsible for:

- (1) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the Town government.
- (2) The storage and distribution of all supplies, materials and equipment required by an office, department or agency of the Town government.
- (3) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the Town government. Such specifications should be definite and certain and shall permit competition.
- (4) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies, or equipment stored in storerooms or warehouses.
- (5) Soliciting and maintaining an up-to-date list of qualified suppliers. The Purchasing Agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the Town or have failed to meet established specifications or delivery dates.
- (6) Obtaining as full and open competition as possible of all purchases, contractors and sales.

Section 4-402 Formal Contract Procedure

All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$20,000, shall be purchased by formal written contract from the lowest responsible bidder, after due notice inviting proposals. No contract or purchase shall be subdivided to avoid the requirements of this section. All sales of personal property

which has become obsolete or unusable, when the estimated value shall exceed \$20,000, shall be sold by formal written contract to the highest responsible bidder, after due notice inviting proposals.

Section 4-403 Informal Purchase Procedure (purchases under \$20,000)¹

No purchase shall be subdivided to avoid the requirements of this section. Purchase Requisitions are required for all items which exceed \$100 per unit cost and for all non-routine purchases. A non-routine purchase is a non-recurring purchase of any special or atypical item or service. Purchase Requisitions for routine items, such as office supplies, can be given directly to the Purchasing Agent unless the items exceed the unit cost limitation. A Purchase Order will also be issued and approved by the Town Administrator or Treasurer (1) if required by vendor, (2) if requested by Administrator or Treasurer, or (3) if item is in excess of \$1,000. The following procedures shall pertain to purchases under \$20,000:

1. Purchases \$0.01 - \$1,000. Town Administrator and Treasurer may purchase items and/or services under \$1,000 as they are needed.
2. Purchases \$1,001 - \$10,000. No less than three (3) oral and/or written quotes from qualified vendors, unless on State contract, shall be obtained.
 - a. Purchases under \$10,000 that are specifically budgeted can be approved by the Town Administrator.
 - b. Purchases under \$5,000 that are not specifically budgeted can be approved by the Mayor.
 - c. Purchases between \$5,001 and \$10,000 that are not specifically budgeted can be approved by the Mayor plus one Councilmember.
3. Purchases \$10,001 - \$20,000. No less than three (3) written quotes from qualified vendors, unless on State contract, shall be obtained. The quotes will then be presented to the Ways and Means Committee who will review the results and approve the expenditure.

If, after due diligence, the Purchasing Agent is not able to obtain three (3) oral and/or written quotes, the Purchasing Agent, with concurrence by the Town Treasurer, may waive the bidding requirements of this section. Documentation of the steps taken to gather bids shall be maintained in the contract file as described in Section 4-413.

Section 4-404 Competitive Bidding

Before any purchases or contracts for supplies, materials, equipment or services exceeding \$20,000 are made, the Purchasing Agent shall give ample opportunity for competitive bidding as set forth in Section 4-405 and 4-406. The Council shall not except individual contracts, purchases or sales from the requirement of

competitive bidding; provided, however, emergency purchases may be

¹ Amended by ordinance 2002-5. Effective 10/8/02. Amended by ordinance 2005-10. Effective 12/13/05.

made in accordance with Section 4-410.

Section 4-405 Award to Lowest Responsible Bidder

All contracts for Town improvements, materials, equipment, or services costing more than \$20,000 shall be awarded to the lowest responsible bidder as defined in Section 4-406 (8) (B).

Section 4-406 Competitive Bidding Procedure

1. Invitation to Bid. The Purchasing Agent shall solicit bids by mail, telephone, newspaper, or by any other reasonable means designed to secure responsible bidders. Invitations to bid shall be advertised or noticed ten (10) days prior to the date on which bids are due, unless, due to extraneous time constraints, such cannot be complied with. The notice required shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.
2. Bid Deposits. When deemed necessary by the Purchasing Agent, bid deposits shall be prescribed in the notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the Purchasing Agent has required such. A successful bidder shall forfeit any bid deposit required by the Purchasing Agent upon failure on his part to enter into a contract within 10 days after the award; provided, however, that the Town, in its sole discretion, may waive this forfeiture.
3. Submission and Sealing. Bids shall be submitted to the Purchasing Agent at the designated place no later than the date and time specified in the invitation. Bids shall be securely sealed in an envelope and shall be identified on the envelope in accordance with bid instructions.
4. Opening. Bids shall be opened in public at the time and place stated in the invitation to bid.
5. Tabulation. A tabulation of all bids received shall be available for public inspection.
6. Rejection of bids. The Purchasing Agent shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby.
7. Bidders in default to the Town. The Purchasing Agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license or other monies due to the Town.

8. Award of Contract.

A. Authority in Agent. The Mayor shall have the authority to award contracts within the purview of this procedure provided, however, that prior approval of the Town Council is given for entering into the contract and for:

1. Any item exceeding 10% of the budget allocation for said item, and
2. Contracts not awarded to the lowest responsible bidder.

B. Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder," in addition to price, the Purchasing Agent shall consider:

1. The ability, capacity and skill of the bidder to perform the contract or provide the service;
2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
8. The ability of the bidder to provide further maintenance and service for the use of the subject of the contract;
9. The number and scope of conditions attached to the bid; and

10. The quality of samples requested by the Town.
9. Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Purchasing Agent and filed with the papers relating to the transaction.
10. Tie bids. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the Purchasing Agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the Purchasing Agent shall award the contract to one of the outside tie bidders by drawing lots in public.
11. Performance bonds. The Purchasing Agent shall have the authority to require a performance bond, before entering into a contract, in such form and amount as the Agent shall find reasonably necessary to protect the best interests of the Town.

Section 4-407 Conflict of Interest

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. Any willful violation of this section 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.

Section 4-408 Compliance with State Laws

In all actions involving the procurement of supplies, services, or construction for this municipality, the provisions of Chapter 31, Title 8 (State Ethics Act) South Carolina Code of Laws, 1976, shall be complied with and observed.

Section 4-409 Cooperative Purchasing

The purchasing agent shall have authority to join with other units of government in cooperative purchasing plans when the best interests of the Town would be served thereby; provided, that the purchasing agent of the Town is given the authority to make purchases of supplies and equipment through the Property Division of the State Budget and Control Board and of professional services with Charleston County, without the formality of publication and receiving of competitive bids.

Section 4-410 Emergency Procurement

Notwithstanding any other provision of this procedure, the Mayor, or his designee, 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; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances.

Section 4-411 Purchases from Petty Cash

A purchase of less than \$25.00 may be made from Petty Cash if approved by the Mayor, Town Treasurer, or Town Administrator.

Section 4-412 Sole Source Procurement

A contract may be awarded for a 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

Section 4-413 Maintenance of Records

All written records pertaining to the solicitation, award and performance of a contract shall be maintained in a contract file in the Town offices and shall be open to public inspection.

Section 4-414 Surplus Stock

- (A) The Purchasing Agent shall have authority to transfer stock or surplus supplies to other offices, departments or agencies of the Town.
- (B) If the Purchasing Agent deems it appropriate, surplus stock and supplies can be given to charity or to another public entity; provided, however, that prior approval is given by the Town Administrator for items with an estimated value up to \$500; by the Mayor for items with an estimated value up to \$5,000; and by Council for items with an estimated value over \$5,000, but less than \$20,000.
- (C) If deemed appropriate and approved by Town Council, surplus stock and supplies may be auctioned off to the highest bidder at an auction that has been noticed in a paper of general circulation. Written bids will be accepted on all surplus stock and supplies that have been listed in the auction bulletin. The auction bulletin shall describe each item and its fair market value. Employees, council members and their immediate families are not eligible to bid on auction items.
- (D) Surplus stock and supplies with an estimated value exceeding \$20,000 shall only be sold by formal written contract to the highest responsible bidder, after due notice inviting proposals.

Section 4-415 Professional Services

- (A) Public announcement. It is the policy of the Town to publicly announce all requirements for architectural, engineering, land surveying and other professional services and to negotiate such contracts on the basis of demonstrated competence and qualification at fair and reasonable prices. In the procurement of architectural, engineering, land surveying and other professional services, the Mayor or his designee shall request firms to submit a statement of qualifications and performance data.
- (B) Selection process. The Mayor or his designee shall conduct discussions with no less than three (3) firms regarding the contract and shall select from among them no less than three (3) of the firms deemed most qualified to provide the required services. The selection shall be made in order of preference, based on criteria established and published by the Town.
- (C) Negotiation. The Mayor shall negotiate a contract with the

highest qualified firm for architectural, engineering, land surveying or other professional services at a compensation which is considered to be fair and reasonable to the Town. In making this decision, the Mayor shall take into account the established value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Mayor be unable to negotiate a satisfactory contract with the firm considered to be most qualified, negotiations with that firm shall be formally terminated. The Mayor shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Mayor shall then undertake negotiations with the third most qualified firm. Should the Mayor be unable to negotiate a contract with any of the selected firms, the Mayor shall select additional firms in order of their competence and qualifications, and the Mayor shall continue negotiations in accordance with this section until an agreement is reached. The duties of the Mayor in regards to this section shall not be delegated.

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 5

(RESERVED)

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 6

LOCAL HOSPITALITY TAX

Section	4-601	Local Hospitality Tax Established
Section	4-602	Collection, Reporting and Remittance of Local Hospitality Tax
Section	4-603	Establishment of Special Account
Section	4-604	Penalties

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 6

LOCAL HOSPITALITY TAX

Section 4-601 Local Hospitality Tax Established

Thereby is hereby imposed a tax of one (1%) percent on the gross proceeds of sale of prepared meals and beverages in establishments or sold in establishments which maintain licenses for the on-premise consumption of alcohol, beer and/or wine in the Town of Kiawah Island. The tax shall not be computed on the cost of service, gratuity or other taxes.

The tax imposed by this Ordinance shall be collected from any patron when he or she tenders payment for prepared or beverage and shall be held in trust for the benefit of the Town until the same is paid to the Town Treasurer as herein after provided.

Section 4-602 Collection, Reporting and Remittance of Local Hospitality Tax

Every establishment subject to this Ordinance shall, on the date or within the time period prescribed, make a return to the Treasurer's office of the Town on forms provided by the office delineating gross proceeds of sales of prepared meals and beverages for the previous month, and the amount of the fee due by virtue of this Ordinance. At the time the return is filed, the full amount of any fee due herein under shall be remitted. Fees and required reports shall be submitted to the Treasurer's office by the twentieth (20th) day of the month and shall cover sales for the previous month. Any fees not timely remitted shall be subject to penalty of ten (10%) percent. The failure to collect from patrons the fee imposed by this Ordinance shall not relieve any establishment subject to this Ordinance from making the required remittance.

Section 4-603 Establishment of Special Account

There is hereby established a special account to be known as the "Local Hospitality Tax Account," into which all monies remitted to the Town under this Ordinance shall be deposited. Any and all funds in the Local Hospitality Tax Account, including any interest as may accrue thereon, shall be used for purposes as set forth in Section 6-1-730 of the South Carolina Code of Laws, 1976, as amended.

Section 4-604 Penalties

The failure of an establishment subject to this Ordinance to remit to the Town the fees required by this Ordinance, as and when due, shall constitute a misdemeanor, punishable by a fine of not more than Five Hundred (\$500.00) Dollars or imprisonment for up to thirty (30) days, or both. Notwithstanding the foregoing, any misrepresentation of the information required by the returns as set forth in Section 4-602 above hereof may result in the suspension and/or revocation of the business license of the offending establishment, as may be determined, after a hearing, by the Council. At least ten (10) days notice of any such hearing shall be provided to the owner of the applicable establishment.

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 7

LOCAL ACCOMMODATIONS TAX

Section	4-701	Definition
Section	4-702	Local Accommodations Tax
Section	4-703	Payment of Local Accommodations Tax
Section	4-704	Local Accommodations Tax Special Revenue Fund
Section	4-705	Inspections, Audits and Administration
Section	4-706	Reserved
Section	4-707	Violations and Penalties

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 7

LOCAL ACCOMMODATIONS TAX

Section 4-701 Definition

"Accommodation" is defined as accommodation furnished to transients as provided in Section 12-36-920(A) of the South Carolina Code of Laws, 1976, as amended, and shall include any room (excluding meeting and conference rooms), campground spaces, recreational vehicle spaces, lodgings or sleeping accommodations furnished to transients by any hotel, motel, inn, condominium, "Bed & Breakfast," residents, or any other place in which rooms, lodgings, or sleeping accommodations are furnished for consideration within the Town of Kiawah Island, south Carolina. The gross proceeds received from the lease or rental of sleeping accommodations supplied to the same person or persons for a period of not less than thirty (30) continuous days are not considered proceeds from transients.

Section 4-702 Local Accommodations Tax

A uniform fee equal to One (1%) percent is hereby imposed on the gross proceeds derived from the rental of any accommodations within the Town of Kiawah Island.

Section 4-703 Payment of Local Accommodations Tax

Payment of the local Accommodations Tax established herein shall be the liability of the consumer of the services. The fee shall be paid at the time of delivery of the services to which the fee applies, and shall be collected by the provider of the services. The County of Charleston shall promulgate a form of return which shall be utilized by the provider of the services to calculate the amount of Local accommodations Tax collected and due. This form shall contain a sworn declaration as to the correctness thereof by the provider of services.

The provider of services shall remit the form, a copy of the State of South Carolina sales tax computation form, and the Local Accommodations Tax due not later than the twentieth (20th) of each month to the Charleston County Business License Division Office at #2 Courthouse Square, Room 105, Charleston, SC 29401.

Section 4-704 Local Accommodations Tax Special Revenue Fund

An interest-bearing, segregated and restricted account to be known as the "Town of Kiawah Island Local Accommodations Tax Special Revenue Fund" is hereby established. All revenues received from the Local Accommodations Tax shall be deposited into this Fund. The funds collected from Local Accommodations Tax shall be used in accordance with Section 6-1-530 of the South Carolina Code of Laws, 1976, as amended.

Section 4-705 Inspections, Audits and Administration

For the purpose of enforcing the provisions of this Ordinance, the Treasurer or other authorized agent of the Town is empowered to enter upon the premises of any person or entity subject to this Ordinance and to make inspections, examine and audit books and records. It shall be unlawful for any person or entity to fail or refuse to make available the necessary books and records during normal business hours upon twenty-four (24) hour's written notice. In the event an audit reveals that false information has been filed by the remitter, the cost of the audit shall be added to the correct amount of fees determined to be due. All operational and administrative costs associated with the billing and collection of this Local Accommodations Tax will be charged to the Business License Division and will be paid for from the earned interest paid to the Town. The Treasurer or other authorized agent may make systematic inspections of all accommodations within the Town to ensure compliance with this Ordinance. Records of inspection shall not be deemed public records.

Section 4-706 Reserved

Section 4-707 Violations and Penalties

It shall be a violation of this Ordinance to:

- (1) fail to collect the Local Accommodations Tax in connection with the rental of any accommodations to transients;
- (2) fail to remit the Local Accommodations Tax collected, pursuant to this Ordinance on a monthly basis;
- (3) knowingly provide false information on the form of return, and,
- (4) fail to provide books and records to the Town Treasurer's department the purpose of an audit upon twenty-four (24) hour's written notice.

The penalty for violation of this Ordinance shall be Five (5%) percent per month, charged on the original amount of the Local Accommodations Tax due, up to a maximum of One Hundred (100%) percent. Additionally, violators may be deemed guilty of a misdemeanor, subject to a Five Hundred (\$500.00) Dollar fine and/or imprisonment for up to thirty (30) days for violation of the Ordinance.

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 8¹

SHORT-TERM RENTAL PERMIT

Section	4-801	Rental Residence Data Sheet and Specification Sheet
Section	4-802	Notice of Rental Residence Rules and Regulations
Section	4-803	Short-Term Rental Permit
Section	4-804	Appeals to Town Council

1 Created by Ordinance 2003-6. Effective 3-1-2004.

ARTICLE 4

FINANCE AND TAXATION

CHAPTER 8

SHORT-TERM RENTAL PERMIT

Section 4-801 Rental Residence Data Sheet and Specification Sheet

An owner (or his agent) who applies for a Business License and a Short-Term Rental Permit shall, at the same time, prepare a "Rental Residence Data Sheet" for each rental unit and file it with the Town.

This applicant shall attest to its accuracy. The License Inspector, defined in Article 4, Section 4-309, shall determine the information to be required which may include, but not be limited to, address, and rental agent information, number of bedrooms, bathrooms, and garage bays, maximum number of overnight guests permitted, maximum vehicles permitted, on-site parking locations for vehicles and storage location for bicycles, beach and other gear.

In addition, all applicant owners shall provide the Town with a "Rental Specification Sheet," and place a copy thereof in a clearly visible location within each rental unit. The License Inspector shall determine the information to be required which may include, but not be limited to, the address and phone number of the rental property; the rental agent/owner name, address, and 24-hour phone number; the location of the trash container and beach gear storage area; the approved overnight guest occupancy; and the approved overnight vehicle capacity.

Before any citation is issued, a first offender shall have five (5) days to comply with the provisions of this section. Any person convicted of violating this provision shall be subject to a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Each day of violation shall be considered a separate offense.

Section 4-802 Notice of Rental Residence Rules and Regulations

The Town shall promulgate and distribute Rules and Regulations applicable to the rental of residential property. Further, an owner (or his agent) who rents residential property shall furnish a copy of the Rules and Regulations to each rental guest, and each rental guest shall acknowledge receipt of such Rules and Regulations. In addition, the owner (or his agent) shall post a copy of the Rules and

Regulations in a clearly visible location within each rental unit.

Any person convicted of violating this provision shall be subject to a fine of not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Each day of violation shall be considered a separate offense.

Section 4-803 Short-Term Rental Permit

1. An owner (or his agent) shall apply to the Town and obtain a Short-Term Rental Permit for each calendar year that his residential property is used for short-term rentals; provided, however, that the Town shall not grant a Short-Term Rental Permit until the following conditions are satisfied:
 - a. The owner shall provide evidence sufficient to indicate that all solid waste collection fees have been paid in full.
 - b. If the applicant is someone other than an owner, the applicant shall submit a copy of the owner's written authorization of his right to apply for the Short-term Rental Permit.
 - c. The owner (or his agent) shall provide a written acknowledgement that a violation of the Town's Short-term Rental Permit provisions, either by the applicant, property manager or rental guest, shall be considered a violation by the owner.

2. Short Term Rental Permit Violations

To ensure that residential neighborhoods are not disrupted by renters, the Town shall notify the owner of a residential rental unit of all instances in which nuisance behavior of the rental guest, or the conduct of his agent or property manager, results in a conviction for a Code Violation. Points for such convictions shall be assigned to the owner according to the following schedule:

MAJOR VIOLATIONS

	First Offense	Second Offense	Subsequent Offenses
Noise Violation (15-306)	2	4	8

Exceeding Maximum number of overnight occupants (12A-319)	2	4	8
Exceeding Maximum number of overnight vehicles (12A-404)	2	4	8

MINOR VIOLATIONS

	All Offenses
Screening (8-118)	1
Lighting (15-216)	1
Storage of Bicycles, beach and personal gear (8-119)	1

When an owner has accumulated 16 (or more) points for a particular property within a period of twelve (12) consecutive months, or 24 points within a period of twenty-four (24) consecutive months, the Town shall suspend the Short-term Rental Permit for that property for a period of twelve (12) consecutive months subject to the right of appeal set forth in Section 4-804. Further, the Town shall not issue a new Short-term Rental Permit during the period of suspension. However, twenty-four (24) months after the date of conviction, the Town shall expunge all points associated therewith, and outstanding points relating to the subject property, if any, shall be recalculated to indicate the reduction.

Section 4-804 Appeals to Town Council

1. A person aggrieved by the Town's decision to revoke, suspend or deny a Short-Term Rental Permit, may appeal the decision to the Town Council. The appeal must be filed in writing within thirty (30) calendar days after the revocation, suspension or denial, and it shall set forth a concise statement of the reasons for the appeal. Timely filing of an appeal shall stay the revocation, suspension or denial pending a decision on the appeal by the Town Council.

2. The Town Council shall consider the appeal in an open hearing at a regular or special meeting within thirty (30) calendar days after receipt of a request unless otherwise agreed to, in writing, by the Town and the aggrieved party. The Town Council shall prescribe the rules of evidence and testimony and the

procedures applicable to the conduct of the hearing. All interested parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be electronically recorded and transcribed at the expense of the party so requesting. The Town Council shall render a decision by a majority vote of members present. The decision shall be in writing based upon findings of fact and the application of relevant standards. The decision shall be served upon all parties or their designated representatives and shall be final unless appealed to a court of competent jurisdiction within ten (10) days after service.

3. No person shall be subject to prosecution for doing business without a license and/or a Permit until the expiration of ten (10) calendar days after notice of denial or revocation which is not appealed, or until after final judgment of a circuit court upholding denial or revocation.