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ANNEXATION POLICY PLAN & PROCEDURES MANUAL



Town of Kiawah Island  
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## CHAPTER 1 | ANNEXATION AUTHORITY AND METHODS

### 1.1 AUTHORITY

Changing the corporate limits of a municipality is authorized by S.C. Code Ann. §§ 5-3-10 through 5-3-315, as amended.

### 1.2 TOWN'S COMPREHENSIVE PLAN

The Town of Kiawah Island 2015 Comprehensive Plan, or as amended (the Plan) establishes that the Town of Kiawah Island (Town) "is oriented toward residential, parks, open space, recreation, and limited commercial development to service residents and visitors." The Plan lists five goals to help the Town further realize its Vision when evaluating proposals for change to include thoroughly evaluating any annexation proposals to ensure the protection of environmentally sensitive areas, is consistent with the Town's Vision, the spirit of the Town's Comprehensive Plan, and enhance the character of Kiawah Island.

### 1.3 INITIATION OF ANNEXATION APPLICATION AND REVIEW BY MUNICIPALITY

An Annexation Application is a request by a private property owner or owners or government entity (the "Applicant") to incorporate their property into the Town pursuant to the terms and processes provided herein. Consistent with the S.C. Code of Laws Title 5, Chapter 3, the Town regards Annexation as a voluntary process and does not initiate annexations except for property owned by the Town.

### 1.4 ANNEXATION METHODS

Three methods of Annexation for privately owned property are authorized:

- 100 percent property owner petition and ordinance method [S.C. Code Ann. §5-3-150(3)], as amended
- 75 percent freeholder petition and ordinance method [S.C. Code Ann. §5-3-150(1)], as amended
- 25 percent elector petition and election method [S.C. Code Ann. §5-3-300 – 315], as amended

Annexations of corporate, church or publicly owned property are dealt with in several statutes tailored to fit the type of property and body which holds the title. In addition, the Annexation of the following types of property may be accomplished by Petition or consent of the owner and adoption of an ordinance. More information can be found in the S.C. Code Ann. §§ 5-3-10 through 5-3-315. These annexation procedures are treated individually in detail in the following pages.

CHAPTER 2 | ANNEXATION ASSESSMENT

**2.1 BEST INTEREST OF THE TOWN OF KIAWAH ISLAND**

Annexation is transferring parcels of land from unincorporated areas of Charleston County into the service area and jurisdiction of the Town of Kiawah Island. Annexation and the imposition of land development regulations may also be used as a management tool to implement the Comprehensive Plan.

The Town Council of Kiawah Island is responsible for approving all applications for the proposed Annexation. The Town Council will execute these responsibilities by objectively weighing all relevant factors and making an informed decision on each proposed Application for Annexation.

**2.2 FEASIBILITY STUDY AND COST/BENEFIT ANALYSIS**

The purpose of a feasibility study and cost/benefit analysis is to review and examine the strengths and weaknesses of any proposed Annexation objectively and rationally. The Town Council requires a Feasibility Study and Cost/Benefit Analysis for all Annexation Applications. Town Staff or an independent consultant may prepare the Feasibility Study. If the Mayor and Town Council determine that an independent consultant be utilized, the cost for the Study will be the applicant's responsibility, and payment for the Study will be due upon selection of a consultant.

The Study will be completed prior to the Planning Commission Public Hearing for presentation at that meeting. The Study should address public services the Town will assume or provide, fees required for those services, an estimate of revenue to the Town, and a timetable for services. In addition, the Study must address to the satisfaction of the Town, but not limited to the following:

- Inventory of existing outside services;
- Identification of the provider of each service, contractual obligations, including the availability of service if desired after Annexation;
- If any part of the area to be annexed is currently served by a special service district, the anticipated cost to the Town of complying with S.C. Code Ann. §§ 5-3-310 through 5-3-315, as amended;
- Identification of efficient service areas and areas which cannot be fully served;
- Determination of the level of additional services needed;
- Determination of the most cost-effective way to provide services to the area;
- Projected timetable for the provision of services;
- Revenues required to support services;
- Estimated revenues from taxes (e.g., accommodation and hospitality), fees, and service charges;
- Comparison of cost to property owners before and after Annexation;
- Identification of burdens and benefits of Annexation;
- Projected level of fees required to support services; and
- Possible environmental impact of the proposed Annexation.

**2.3 GUIDING PRINCIPLES FOR ASSESSMENT OF ANNEXATIONS**

Annexation should be of mutual benefit to the applicant (s), the Town of Kiawah, and its citizens in terms of cost and services received. Each Annexation Application involves many unique factors and will be reviewed based upon its own individual merits. The Town sets forth the following guiding principles and considerations for assessing Annexation Applications:

- Meets the principles, policies, and procedures outlined in this Manual;

- Annexation of the property is in the best interest of the Town and the citizens;
- Avoids creating new enclaves (or donut holes) in the Town of Kiawah Municipal Boundary;
- Consistency with the recommendations of the Town of Kiawah Comprehensive Plan, including the Future Annexation Map;
- Appropriateness of requested zoning district(s), land use regulations, development standards, and environmental regulations;
- Consider the costs, benefits, and estimated revenues for a proposed annexation before taking action on the Annexation Application.
- Annexation will not create a measurably reduced level of service(s) provided to existing community and property owners;
- The fiscal impact of providing municipal services;
- Consideration of the annexation area's existing condition of utilities, infrastructure, traffic and future needs for expansion improvements;
- The full impact that Annexation will have on law enforcement fire and emergency services and utility services;
- Demonstrates potential for the diversification of the economic base and job opportunities;
- Consideration and utilization of Development Agreements for the proposed annexation area when applicable;
- Applicant's understanding of all potential costs/benefits associated with Annexation; and
- Input provided by the public and affected agencies during the review process.

## CHAPTER 3 | ANNEXATION GENERAL PROVISIONS

General state statutory provisions applicable to annexations as they currently stand are described below. Each authorized annexation method is explained individually, including the statutory legal and procedural requirements. A checklist of steps necessary to complete the process and sample forms where appropriate. The applicable state statutes may be amended and reviewed for such amendments.

### **3.1 CONTIGUITY**

Property annexed pursuant to S.C. Code Ann. § 5-3-150 or § 5-3-300 must be "contiguous" to the annexing municipality. "Contiguous" is defined by S.C. Code Ann. § 5-3-305, as amended, and means property that is adjacent to a municipality and shares a continuous border. Contiguity is not established by a road, waterway, right-of-way, easement, railroad track, marshland, or utility line which connects one property to another; however, if the connecting road, waterway, easement, railroad track, marshland, or utility line intervenes between two properties, which but for the intervening connector would be adjacent and share a continuous border, the intervening connector does not destroy continuity.

### **3.2 PETITIONS**

A Petition is required for 75 percent and 25 percent annexations. The Petition must be dated before the first signature is affixed. All necessary signatures must be obtained within six months from the Petition Date. The Petition and all signatures are open for public inspection at any time.

### **3.3 PROPERTY OWNER**

For 100 percent annexations, "property owner" means all persons or entities owning real property.

### **3.4 FREEHOLDER**

For the 100 percent, 75 percent, and 25 percent Annexation Methods, and reduction of municipal boundaries under S.C. Code Ann. § 5-3-280, a "freeholder" is any person at least 18 years of age, and any firm or corporation, who or which owns legal title to a present possessory interest in real estate equal to a life estate or greater (expressly excluding leaseholds, easements, equitable interests, inchoate rights, and future interests) and who owns, at the date of the Petition or of the referendum, at least an undivided one-tenth (1/10) interest in a single tract and whose name appears on the county tax records as an owner of real estate. S.C. Code Ann. § 5-3-240.

A property owner is counted as one (1) freeholder regardless of the number of parcels of land owned by that freeholder in the area to be annexed.

### **3.5 ELECTOR**

For the 25 percent elector method, an "elector" is a registered qualified voter who is a resident in the area proposed for Annexation.

### **3.6 ZONING**

The Zoning of the proposed Annexation is an essential factor in reviewing and analyzing an Annexation Application. Therefore, a Zoning Map Amendment Application requesting the Zoning District(s) for the annexation area shall be submitted concurrently with the Annexation Application.

### **3.7 CONCURRENT APPLICATIONS**

Depending on the requested Zoning of the Annexation, other applications may be required. These applications shall be submitted concurrently with the Annexation Application and Zoning Map

Amendment Applications to allow for a complete and thorough review and consideration. These applications include Development Agreement, Concept Plan, and/or Initial Master Plan as applicable.

### **3.8 ASSESSED VALUE OF REAL PROPERTY**

- 25 Percent Method. The assessed value of the real property of any single freeholder shall not at the time of a proposed annexation exceed 25 percent of the assessed value of real property of the existing area of the municipality. S.C. Code Ann. § 5-3-235. This limitation does not apply to any other methods of Annexation. S.C. Code Ann. § 5-3-300(l) contains opt-out provisions for the owner of 25 percent or more of the assessed value of land in the area to be annexed and for the owner of agricultural property.
- 75 Percent Method. Annexation pursuant to the 75 percent petition and ordinance method in S.C. Code Ann. § 5-3-150(1) requires signatures of owners of 75 percent of freeholders owning at least 75 percent of the assessed value of property in the area to be annexed. When reassessment occurs after the Petition is started, but before it is acted upon, it appears from the definition of freeholder in S.C. Code Ann. § 5-3-240 that the assessed value as of the Petition date should be used.

### **3.9 PUBLIC PROCESS**

Notification and involvement throughout the annexation process are essential parts of the public process. Therefore, Annexation Applications are subject to Public Notice requirements as follows:

- Public Notification. Upon receipt of an application for approval that requires a public hearing, the Town shall fix a reasonable time for the hearing. Public notice of the public hearing must be published at least thirty (30) days prior to the hearing date in a newspaper of general circulation in the community. In addition, public notices shall also be electronically published on the Town website and emailed to those upon request.
- Posting of Property. Where the public hearing will be for a specific site, public notice signs shall be placed on the subject property as per the following method:
  - The Planning Manager or its designee shall post an adequate number of "notice of public hearing" signs on the property at least thirty (30) days prior to the date of the public hearing. All signs shall be removed within thirty (30) days after the public hearing.
  - Only official Town signs shall be posted and shall be placed in conspicuous locations on the subject property(s), with at least one sign placed at a location visible from a public thoroughfare.
- Mailing. To assure adjacent property owners and affected public entities are provided adequate public notice of the Application, no less than thirty (30) days prior to the public hearing, the applicant shall send a public notification to all owners of real property within five hundred (500) feet of the subject property as well as the Charleston County Administrator, St. Johns Fire District, and Public Service providers. A sample public hearing notification letter including a map, complete legal description of the area to be annexed, and an official listing of adjacent property owners and other agencies shall be provided to the Applicant by Town Staff no less than 30 days prior to the public hearing. No less than fifteen (15) days prior to the public hearing, the applicant shall submit a notarized, stamped, and sealed Affidavit of Compliance to the Planning Manager or its designee. The Affidavit must contain a list of all property owners contacted.



- Public Notice Compliance. Failure to comply with the public notice requirements shall result in the removal of the Application from the public hearing agenda.

### **3.10 ELECTION PRE-CLEARANCE FOR 25 PERCENT METHOD**

If the election(s) initiated by 25 percent petition pursuant to S.C. Code Ann. § 5-3-300 will be held on a date which has not already been cleared under § 5 of the Voting Rights Act for a county election, it may be necessary to submit the proposed date to the U.S. Attorney General and/or the Department of Justice before giving public notice of the election.

### **3.11 ELECTION TIME LIMITATION**

Annexations are deemed complete upon the adoption of an ordinance. When an annexation is defeated in an election by voters within the Town or the proposed annexed territory, another annexation election in the territory cannot be initiated within twenty-four (24) months after the election. S.C. Code Ann. § 5-3-210.

### **3.12 ORDINANCES**

Ordinances for the incorporation of annexed property into the Town of Kiawah Island necessarily incorporate the amendment of a zoning map and therefore must follow the procedure set forth in S.C. Code Ann. § 6-29-760 and, therefore, require a public hearing, regardless of annexation method. (Property owned by the Town or adjacent County can be annexed by Resolution, so these provisions are not applicable in that situation. S.C. Code Ann. § 5-3-100) Additionally, no governing body member who owns property or stock in a corporation owning property in the area proposed to be annexed is eligible to vote on the ordinance.

### **3.13 APPEALS**

When the limits of a municipality are ordered extended, no contest thereabout shall be allowed unless the person interested therein files, within sixty (60) days after the result has been published or declared, with both the clerk of the municipality and the clerk of court of the County in which the municipality is located, a notice of his intention to contest the Annexation, nor unless, within ninety (90) days from the time the result has been published or declared, an action is commenced in the Charleston County Court of Common Pleas and the original summons and complaint is filed with the Charleston County Clerk of Court. S.C. Code Ann. § 5-3-270.

## CHAPTER 4 | ANNEXATION PETITION APPLICATION

### 4.1 APPLICATION MINIMUM SUBMITTAL REQUIREMENTS

All Annexation Applicants are required to provide the following upon submittal:

- Completed Annexation Application.
- Completed Annexation Petition (type will depend on the annexation method chosen by the applicant).
- Copy(s) of all documents, recorded with the Charleston County Register of Deeds, including:
  - Deed(s);
  - Plat(s);
  - Covenants and Restriction(s);
  - Easement(s); and
  - Agreement(s).
- Location Map of proposed Annexation Area showing:
  - Existing Structures;
  - Current Charleston County Zoning District(s); and
  - Adjacent Property Owners.
- Annexation Letter of Intent:
  - Reason for annexation request and anticipated benefits;
  - Parcel numbers and acreage of each;
  - Contact information for the property owner(s), applicant, attorney, and any other applicable consultant/firm;
  - Existing structure(s);
  - Current Special Districts (overlay, tax, and/or conservation);
  - Current Charleston County Zoning District(s) and Land Use(s);
  - Proposed Zoning District(s) and Land Use(s);
  - Current versus Proposed Zoning District and Land Use Comparison;
  - Consistency with Comprehensive Plan, Future Annexation Area Map, and Future Land Use Map;
  - Estimate of the current population of Annexation Area; and
  - Current utility service providers.
- Photographs of:
  - Existing Structures and Land Use; and
  - Adjacent Property.
- Parcel History letter from Charleston County providing:
  - Application(s) submitted for the past 10 years and their status; and
  - Any zoning, land development, building, or county code violations for the past 10 years and their status.
- Submittal of Zoning Map Amendment Application.
- Submittal of concurrent applications, as applicable, including:
  - Development Agreement;
  - Concept Plan; and/or
  - Planned Unit Development Master Plan.
- Application Fee made payable to the Town of Kiawah Island.

CHAPTER 5 | ANNEXATION NARRATIVES

The Town recognizes that many Annexation Applications include a proposed change to the Town's Zoning Map. Therefore, any annexation necessarily requires compliance with State laws for amending zoning maps, S.C. Code Ann. § 6-29-760, including notice, a public hearing, and additional requirements. The Procedures set forth herein are intended to incorporate the process for amending zoning maps into the annexation process and comply with State law for both processes.

**5.1 100 PERCENT PETITION AND ORDINANCE METHOD**

Annexation of any area or property contiguous to the Town may be initiated by filing an Annexation Application signed by all persons or entities owning real estate in the area requesting Annexation. Upon agreement to accept the Petition and annex the area and enactment of an ordinance by Town Council declaring the area annexed, the Annexation is complete. S.C. Code Ann. § 5-3-150(3).

**Procedure**

<b>Procedure Step 1. Pre-Application Meeting</b>	<b>Applicant &amp; Staff</b>
Prior to filing an Annexation Application, the applicant is required to consult with the Planning Manager or its designee at a Pre-Application Meeting for comments and advice on the appropriate application process and the procedures and specifications necessary and applicable standards required by Town of Kiawah applicable ordinances.	
<b>Step 2. Application Check-In Meeting</b>	<b>Applicant &amp; Staff</b>
Upon receiving input from Staff at the Pre-Application Meeting, the applicant shall submit the Annexation Application and required submittal materials during a mandatory Application Check-In Meeting where the Planning Manager or its designee will review the submission for completeness.	
<b>Step 3. Review by Planning Manager</b>	<b>Staff</b>
If the Planning Manager determines that the Annexation Application is complete, the Application shall advance as prescribed in the Town of Kiawah Island Annexation Policy and Procedure Manual.	
<b>Step 4. Drafting of Annexation Map</b>	<b>Staff</b>
Staff will assist the applicant in the drafting of the final annexation map.	
<b>Step 5. Town Council Intent to Annex Initial Briefing and Acceptance of Annexation Application</b>	<b>Applicant, Staff &amp; Town Council</b>
Town Council will consider the applicant's "intent to annex" for the annexation petition for an initial briefing or "intent to annex". Town Council discussion items for the initial meeting include development agreement (if applicable) and recommended Zoning. This initial meeting allows Town Council to review the "intent to annex" and to initiate the review process to determine if the Annexation of property into the Town would be mutually beneficial to all. The Mayor may create an Annexation Ad Hoc Committee. If Town Council desires to consider the proposed Annexation, Council may accept for consideration via the review process herein the annexation application by majority vote and forward the request to the Annexation Ad Hoc, if applicable.	
<b>Step 6. Annexation Ad Hoc Committee</b>	<b>Applicant, Staff &amp; Annexation Ad Hoc Committee</b>
If applicable, per Town Council direction, the Annexation Ad Hoc Committee shall conduct meetings until the terms of the development agreement or other negotiations are complete. The Application (s) then proceed to Planning Commission for a workshop followed by Public Hearing and recommendation to Town Council.	
<b>Step 7. Planning Commission Public Workshop</b>	<b>Applicant, Staff &amp; Planning Commission</b>
In order to inform the public of the steps, preliminary costs and benefits, as well as a tentative timetable, Planning Commission will hold a public workshop. This will be a forum for the voicing of any concerns or comments. Staff and Planning Commission will also address the Comprehensive Plan, Future Land Use Map and Zoning Districts.	
<b>Step 8. Drafting of Feasibility Study</b>	<b>Staff</b>
The Town Administrator will initiate the preparation of the Annexation Studies and, if applicable pursuant to Section 2.2, request that bids be submitted for its completion and select a consultant for its preparation.	
<b>Step 9. Public Notification</b>	<b>Applicant &amp; Staff</b>

The applicant sends notification letters to each adjacent property owner and submits the registered mail receipts to the Town no later than thirty (30) days prior to the Planning Commission meeting.	
<b>Step 10. Planning Commission Public Hearing and Recommendation</b>	<b>Applicant, Staff &amp; Planning Commission</b>
The Planning Commission holds a public hearing and makes recommendations to Town Council, which will be forwarded to Town Council for consideration. At this time, the Annexation Studies will be presented to the Planning Commission.	
<b>Step 11. Town Council Public Hearing and 1st Reading</b>	<b>Applicant, Staff &amp; Town Council</b>
Town Council will hold the First Reading of the ordinance for the Annexation Petition, Zoning Map Amendment, and any concurrent applications.	
<b>Step 12. Public Notification</b>	<b>Applicant &amp; Staff</b>
The applicant sends notification letters to each adjacent property owner and submits a copy of the same to the Town no later than thirty (30) days prior to the Town Council meeting.	
<b>Step 13. Town Council 2nd and Final Reading</b>	<b>Applicant, Staff &amp; Town Council</b>
Town Council will hold a Public Hearing and 2nd and Final Reading of the Ordinances for the Annexation Application, Zoning Map Amendment, and any concurrent applications.	
<b>Step 14. Annexation Notifications</b>	<b>Staff</b>
Upon adoption of the Annexation Application by ordinance, the Town shall file written notice in accordance with this Manual.	

**5.2 75 PETITION AND ORDINANCE METHOD**

Annexation of any area or property contiguous to the Town may be initiated by filing a petition signed by 75 percent or more of the freeholders owning at least 75 percent of the assessed value of property in the area to be annexed. The Petition must be dated before the first signature is affixed, and all necessary signatures must be obtained within six months from the Petition Date. The Petition and all signatures are open for public inspection at any time. Upon agreement to accept the Petition and annex the area, compliance with required procedures, and enactment of an ordinance by the governing body declaring the area annexed, the Annexation is complete. S.C. Code Ann. § 5-3-150(3) & S.C. Code Ann. § 5-3-150(1).

**Procedure**

<b>Procedure Step 1. Pre-Application Meeting</b>	<b>Applicant/Petitioner &amp; Staff</b>
Prior to filing an Annexation Application, the applicant is required to consult with the Planning Manager or its designee at a Pre-Application Meeting for comments and advice on the appropriate application process and the procedures and specifications necessary and applicable standards required by Town of Kiawah Island applicable ordinances.	
<b>Step 2. Application Check-In Meeting</b>	<b>Applicant/Petitioner &amp; Staff</b>
Upon receiving input from Staff at the Pre-Application Meeting, the applicant shall submit the Annexation Application and required submittal materials during a mandatory Application Check-In Meeting. The Planning Manager or its designee will review the submission for completeness.	
<b>Step 3. Review by Planning Manager</b>	<b>Staff</b>
If the Planning Manager determines that the Annexation Application is complete, the Application shall advance as prescribed in the Town of Kiawah Island Annexation Policy Plan and Procedure Manual.	
<b>Step 4. Drafting of the Preliminary Annexation Map</b>	<b>Applicant/Petitioner &amp; Staff</b>
With the input and assistance of the interested parties, Staff will assist in preparing the first draft of the annexation map detailing the parcel(s) under consideration.	
<b>Step 5. Town Council Notification of Annexation Application</b>	<b>Applicant/Petitioner, Staff &amp; Town Council</b>
Staff will notify Town Council of the Annexation Application at the next available Town Council meeting. This notification serves to provide a basic overview of the Application, such as the Annexation Area, current Zoning, and proposed Zoning. Additionally, Staff will outline the next steps leading to the Petition submittal as well as the subsequent adoption process.	
<b>Step 6. Planning Commission 1st Public Workshop</b>	<b>Applicant/Petitioner, Staff &amp; Planning Commission</b>
To inform the public of the steps, initial costs, and benefits, as well as a tentative timetable, the first in a series of public workshops will be held. This will be the first forum to voice any concerns or comments and ensure that all applicable parcels have been included in the subject area. Staff and Planning Commission will also address the Comprehensive Plan, Future Land Use Map, and Zoning Districts.	
<b>Step 7. Drafting of Final Annexation Map and Petition</b>	<b>Applicant/Petitioner &amp; Staff</b>
Staff will assist the Petitioner in drafting the final annexation map and Petition. The documents will be given to those initiating the Annexation with copies available at Town Hall.	
<b>Step 8. Submission of Petition</b>	<b>Applicant/Petitioner &amp; Staff</b>
Once the initiating party has obtained the requisite number of signatures, the completed Petition will be submitted to the Town for verification by the Charleston County Election Commission.	
<b>Step 9. Challenge to Annexation</b>	<b>Applicant/Petitioner &amp; Staff</b>
A suit to challenge the Annexation may be filed by the municipality, any resident of the municipality, or any resident or owner of property in the area to be annexed.	
<b>Step 10. Planning Commission 2nd Public Workshop</b>	<b>Applicant/Petitioner, Staff &amp; Planning Commission</b>

Once the Petition is certified, and all property owners eligible for opt-out have been notified, a public workshop will be held to discuss the remainder of the process. Any changes to the annexation map that may have occurred due to the opt-out provision will be detailed. The public will be informed of the impending feasibility study and the timetable for completion.	
<b>Step 11. Updated Timetable</b>	<b>Staff</b>
The Town, in conjunction with the initiating party, will recommend a new timetable for action on the petition based on the scheduled completion and analysis of the feasibility study and Staff's completion of a land-use survey and recommended Zoning of the subject area.	
<b>Step 12. Town Council 1st Reading</b>	<b>Applicant/Petitioner, Staff &amp; Town Council</b>
Town Council will hold First Reading "intent to annex" for the annexation petition for an initial briefing or "intent to annex". Town Council discussion items for the initial meeting include development agreement (if applicable) and recommended Zoning. This initial meeting allows Town Council to review the "intent to annex" and determine if the Annexation of property into the Town would be mutually beneficial to all. If applicable, the Town Council may also refer the annexation request to the Annexation Ad Hoc Committee.	
<b>Step 13. Drafting of Feasibility Study Scope and Bids</b>	<b>Staff</b>
Dependent on the size and scope of the Annexation, the Town Administrator will initiate a formal cost/benefit analysis or outline the scope of the Study and request that bids be submitted for its completion, as applicable.	
<b>Step 14. Contract for the Completion of Feasibility Study</b>	<b>Staff</b>
Once the Petition is certified by a resolution of Town Council or the Charleston County Election Commission, a contract for the completion of the feasibility study may be enacted.	
<b>Step 15. Annexation Ad Hoc Committee</b>	<b>Applicant/Petitioner, Staff &amp; Annexation Ad Hoc Committee</b>
If applicable, per the Mayor's direction, the Annexation Ad Hoc Committee shall conduct meetings until the terms of the development agreement or other negotiations are complete. The Application (s) then proceed to Planning Commission for Public Hearing and recommendation.	
<b>Step 16. Public Notification</b>	<b>Applicant/Petitioner &amp; Staff</b>
The applicant sends notification letters to each adjacent property owner and submits a copy to the Town no later than thirty (30) days prior to the Planning Commission meeting.	
<b>Step 17. Planning Commission Public Hearing and Recommendation</b>	<b>Applicant/Petitioner, Staff &amp; Planning Commission</b>
The Planning Commission holds a public hearing and makes recommendations to Town Council for each applicable Application (s), including Zoning, land use, and Planned Unit Development Concept Plan and/or Initial Master Plan approval, as appropriate. The Zoning Map Amendment and applicable concurrent applications will be forwarded to Town Council for second and final Reading.	
<b>Step 18. Town Council Public Hearing, Second and Final Reading</b>	<b>Applicant/Petitioner, Staff &amp; Town Council</b>
Not less than thirty days before acting on an annexation petition, the Town must give notice of a public hearing by publication in a newspaper of general circulation in the community, by posting the notice of the public hearing on the municipal website, and by written notification to the taxpayer of record of all properties within the area proposed to be annexed, written notification to the taxpayer of record of all properties within a radius of five hundred (500) feet, to the chief administrative officer of the County, to all public service or special purpose districts, and all fire departments, whether volunteer or full time. This public hearing must include a map of the proposed annexation area, a complete legal description of the proposed annexation area, a statement as to what public services are to be assumed or provided by the municipality, and the fees required for these services. The notice must include a projected timetable for the provision or assumption of these services. Town Council will hold a Public Hearing and 2 <sup>nd</sup> and Final Reading of the Annexation and Zoning Map Amendment and any concurrent applications.	
<b>Step 19. Annexation Notification</b>	<b>Staff</b>
Upon adoption of the annexation petition by ordinance, the Town shall file written notice in accordance with this Manual.	

### 5.3 ANNEXATION BY ELECTOR PETITION AND ELECTION 25 PERCENT PETITION AND ELECTION METHOD

The 25 percent petition and election method of Annexation authorized by S.C. Code Ann. § 5-3300 adopted in 1988 was not constitutional prior to the 2000 amendment because the election was initiated by a freeholder petition. The amendment changed this provision to a petition of 25 percent of qualified electors residing in the area to be annexed and makes a third method of Annexation of private property available. The procedure for this method is specified in detail in the statute and must be carefully followed.

It should be noted that the election in the area to be annexed is conducted by the Charleston County Election Commission, but the election within the Town is initiated pursuant to S.C. Code Ann. § 5-3-300(F), (G), and (H) by Petition of 5 percent of municipal electors is a municipal election conducted by the Charleston County Election Commission for the Town of Kiawah Island.

#### Procedure

<b>Step 1. Pre-Application Meeting</b>	<b>Applicant/Petitioner &amp; Staff</b>
Prior to filing an Annexation Application, the applicant is required to consult with the Planning Manager or its designee at a Pre-Application Meeting for comments and advice on the appropriate application process and the procedures and specifications necessary and applicable standards required by Town of Kiawah Island applicable ordinances.	
<b>Step 2. Application Check-In Meeting</b>	<b>Applicant/Petitioner &amp; Staff</b>
Upon receiving input from Staff at the Pre-Application Meeting, the applicant shall submit the Annexation Application and required submittal materials during a mandatory Application Check-In Meeting. The Planning Manager or its designee will review the submission for completeness.	
<b>Step 3. Review by Planning Manager</b>	<b>Staff</b>
If the Planning Manager determines that the Annexation Application is complete, the Application shall advance as prescribed in the Town of Kiawah Island's Annexation Policy Plan and Procedure Manual.	
<b>Step 4. Drafting of the Preliminary Annexation Map</b>	<b>Applicant/Petitioner &amp; Staff</b>
With the input and assistance of the interested parties, Staff will assist in preparing the first draft of the annexation map detailing the parcel(s) under consideration.	
<b>Step 5. Town Council Notification of Annexation Application</b>	<b>Applicant/Petitioner, Staff &amp; Town Council</b>
Staff will notify Town Council of the Annexation Application at the next available Town Council meeting. This notification serves to provide a basic overview of the Application, such as Annexation Area, current Zoning, and proposed Zoning. Additionally, Staff will outline the next steps leading to the Petition submittal as well as the subsequent adoption process.	
<b>Step 6. Planning Commission 1st Public Workshop</b>	<b>Applicant/Petitioner, Staff &amp; Planning Commission</b>
To inform the public of the steps, preliminary costs, and benefits, as well as a tentative timetable, the first in a series of public workshops will be held. This will be the first forum to voice any concerns or comments and ensure that all applicable parcels have been included in the subject area. Staff will also address the Comprehensive Plan, Future Land Use Map, and Zoning Districts.	
<b>Step 7. Drafting of Final Annexation Map and Petition</b>	<b>Applicant/Petitioner &amp; Staff</b>
Staff will assist the Petitioner in drafting the final annexation map and Petition. The documents will be given to those initiating the Annexation with copies available at Town Hall. Also, during this step, Staff will collect and organize the necessary parcel-based information and determine if anyone landholder meets the 25 percent of the assessed property value opt-out provision.	
<b>Step 8. Drafting of Final Annexation Map and Petition</b>	<b>Applicant/Petitioner &amp; Staff</b>

Once the initiating party has obtained the requisite number of signatures, the completed Petition will be submitted to Town Council for verification. The Petition must contain a description of the area to be annexed, the signature of the qualified elector, the address of residence, and the act or code section pursuant to which the proposed Annexation is to be accomplished - § 5-3-300.	
<b>Step 9. Town Council Petition Certification Resolution</b>	<b>Staff &amp; Town Council</b>
If the Council finds the Petition has been signed by 25 percent or more of qualified resident electors, it will certify that fact to the Charleston County Election Commission by Resolution.	
<b>Step 10. Notification of Opt-Out Freeholders</b>	<b>Staff</b>
If applicable, the Town will send written notification via certified return receipt letter to any property owners eligible for the opt-out provision. Those eligible are freeholders owning 25 percent of the assessed value of property to be annexed or freeholders owning 10 acres or more of agricultural real property.	
If the freeholder files a written notice with the municipal clerk objecting to the Annexation, the freeholder's property must be excluded from the annexation area. If the freeholder does not reply at least ten days before the election, the area is included in the area to be annexed.	
<b>Step 11. Planning Commission 2<sup>nd</sup> Public Workshop</b>	<b>Applicant/Petitioner, Staff &amp; Planning Commission</b>
Once the Petition is certified, and all property owners eligible for opt-out have been notified, a public workshop will be held to discuss the remainder of the process. Any changes to the annexation map that may have occurred due to the opt-out provision will be detailed, and the public will be informed of the impending feasibility study and the timetable for completion.	
<b>Step 12. Updated Timetable</b>	<b>Staff</b>
In conjunction with the initiating party, the Town will recommend a new timetable for action on the Petition based on the scheduled completion and analysis of the feasibility study and Staff's completion of a land-use survey and recommended Zoning of the subject area.	
<b>Step 13. Town Council Public Hearing and 1<sup>st</sup> Reading</b>	<b>Applicant/Petitioner, Staff &amp; Town Council</b>
A public hearing will be conducted as required for the 25 percent annexation method. The results of the feasibility study will be published and evaluated, and all costs, fees, and public service changes that will be made as a result of the Annexation. Town Council will hold First Reading "intent to annex" for the annexation petition for an initial briefing or "intent to annex". Town Council discussion items for the initial meeting include development agreement (if applicable) and recommended Zoning. This initial meeting allows Town Council to review the "intent to annex" and determine if the Annexation of property into the Town of Kiawah Island would be mutually beneficial to all. If applicable, the Town Council may also refer the annexation request to the Annexation Ad Hoc Committee.	
<b>Step 14. Drafting of Feasibility Study Scope and Bids</b>	<b>Staff</b>
Dependent on the size and scope of the Annexation, the Town Administrator will initiate a formal cost/benefit analysis or outline the scope of the Study and request that bids be submitted for its completion, as applicable.	
<b>Step 15. Contract for the Completion of Feasibility Study</b>	<b>Staff</b>
Once the Petition is certified by a resolution of the Town Council or the Charleston County Election Commission, a contract for the completion of the feasibility study may be enacted.	
<b>Step 16. Annexation Ad Hoc Committee</b>	<b>Applicant/Petitioner, Staff &amp; Annexation Ad Hoc Committee</b>
If applicable, per Town Council direction, the Annexation Ad Hoc Committee shall conduct meetings until the terms of the development agreement or other negotiations are complete. The Application (s) then proceed to Planning Commission for Public Hearing and recommendation.	
<b>Step 17. Planning Commission Public Hearing and Recommendation</b>	<b>Applicant/Petitioner, Staff &amp; Planning Commission</b>
The Planning Commission holds a public hearing and makes recommendations to Town Council for each applicable Application (s), including Zoning, land use, and Planned Unit Development Concept Plan and/or Initial Master Plan approval, as appropriate. The Zoning Map Amendment and applicable concurrent applications will be forwarded to Town Council for Second and Final Reading.	
<b>Step 18. Call for Election</b>	<b>Charleston County Election Commission</b>



Once the Petition is certified, the Charleston County Election Commission will call for a special election to be held within the proposed annexation area under S.C. Code Ann. Title 7 Chap. 13 & 17. The election is for qualified registered electors residing in the proposed annexation area. Furthermore, the election must take place within the subject area. Pre-clearance under § 5 of the Voting Rights Act may be necessary for a date that has not been cleared for a county election. The Commission shall give 30 days' newspaper notice in the area to be annexed. Registered qualified electors residing within the area to be annexed vote in the election. Election box or boxes shall be in the area proposed to be annexed. The election commission shall certify the election result to Town Council.

<b>Step 19. Publishing of Results</b>	<b>Staff</b>
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Town Council must publish the election results if a majority of the qualified electors vote in favor of the Petition to annex. However, suppose a majority of all eligible and qualified voters do not vote in favor of the ordinance. In that case, the motion dies and may not be initiated for twenty-four (24) months from the day of the election.

<b>Step 20. Publishing of Fact</b>	<b>Staff</b>
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After the results of the election are made public, Town Council must publish in a newspaper of general circulation a notice containing:

- a. A description of the area being annexed;
- b. The code section under which the proposed area is being annexed;
- c. A statement that qualified electors in the area voted to be annexed; and
- d. A statement that Town Council may approve the Petition unless a petition signed by five percent or more of the electors within the municipality is presented to the Town Council within (30) days from the date of the notice requesting an election to be held within the municipality on the question of the Annexation.

<b>Step 21. Municipal Election</b>	<b>Charleston County Election Commission</b>
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If a five percent petition is received and certified, a municipal election of all qualified voters in the Town of Kiawah (not including those in the annexation subject area) must be called pursuant to S.C. Code Ann. Title Chap. 13 & 17. Town Council must give at least thirty (30) days' notice.

If a 5 percent petition is presented to Town Council, the Council must delay the final Reading of the annexation ordinance and certify the Petition to the Charleston County Election Commission.

- a. The municipal election must be conducted under S.C. Code Ann. Title 7 Chap. 13 and 17.
- b. The Commission shall give at least 30 days' newspaper notice of the election.
- c. If a majority of electors of the municipality vote in favor of the Annexation, Council shall give final Reading to the ordinance declaring the area annexed.
- d. If a majority of votes are opposed the Annexation, Council shall publish the results and table the proposed annexation ordinance. Another annexation election may not be initiated within the territory for 24 months from the date of the vote. S.C. Code Ann. § 5-3-210.

If no 5 percent petition is presented to Council, the Annexation may be completed by enacting the ordinance 30 days after publication of the notice.

<b>Step 22. Town Council Public Hearing, Second and Final Reading</b>	<b>Applicant/Petitioner, Staff &amp; Town Council</b>
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Town Council will hold a Public Hearing and 2nd and Final Reading of the Annexation and Zoning Map Amendment and any concurrent applications.

<b>Step 23. Annexation Notification</b>	<b>Staff</b>
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Upon adoption of the annexation petition by ordinance, the Town shall file written notice in accordance with this Manual.

CHAPTER 6 | APPENDICES

**100 PERCENT ANNEXATION FORM**

TO THE MAYOR AND COUNCIL OF THE TOWN OF KIAWAH ISLAND:

The undersigned, being 100 percent of the freeholders owning 100 percent of the assessed value of the property in the contiguous territory described below and shown on the attached plat or map, hereby Petition for Annexation of said territory into the Town by ordinance effective as soon hereafter as possible, pursuant to S.C. Code Ann. § 5-3-150(3).

The territory to be annexed is described as follows:

The property is designated as follows on the County tax maps: \_\_\_\_\_

It is requested that the property be zoned as follows: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

Street Address, City, Zip  
\_\_\_\_\_

=====

**FOR MUNICIPAL USE:**

Petition received by: \_\_\_\_\_, Date \_\_\_\_\_

Description and Ownership verified by: \_\_\_\_\_, Date \_\_\_\_\_

Recommendation: \_\_\_\_\_

By: \_\_\_\_\_, Date \_\_\_\_\_

**75 PERCENT PETITION FORM**

TO THE MAYOR AND COUNCIL OF THE TOWN OF KIAWAH ISLAND:

The undersigned, being at least 75 percent of the freeholders owning at least 75 percent of the assessed value of the property in the contiguous territory described below and shown on the attached plat, hereby Petition for Annexation of said territory to the Town by ordinance effective as soon hereafter as possible, pursuant to S.C. Code Ann. § 5-3-150(1).

The territory to be annexed is described as follows:

A plat of the area must be attached.

The property is designated as follows on the County tax maps: \_\_\_\_\_

It is requested that the property be zoned as follows: \_\_\_\_\_

The Petition must be dated before the first signature is affixed, and all signatures must be obtained within six months of that date. The first signature was affixed on this Petition on \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Street Address, City, Zip

=====  
FOR MUNICIPAL USE:  
Petition received by: \_\_\_\_\_, Date \_\_\_\_\_  
Description and Ownership verified by: \_\_\_\_\_, Date \_\_\_\_\_  
Recommendation: \_\_\_\_\_  
By: \_\_\_\_\_, Date \_\_\_\_\_

**NOTICE OF PUBLIC HEARING ON ANNEXATION**

The Mayor and Council of the Town of Kiawah Island will conduct a public hearing at Town Hall \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock\_m pursuant to S.C. Code Ann. § 5-3-150(1) on a petition for annexation of the following property:

The following services for the area will be assumed or provided by the Town on the following timetable:

The taxes and fees required for these services are:

The Petition requests that the property be zoned\_\_\_\_\_.

The Petition is available for public inspection at the Town Clerk's office in Town Hall during normal business hours.

**PUBLICATION CHECKLIST - 30 DAYS PRIOR TO HEARING:**

- ┆ Publish in a newspaper of general circulation in the community.
- ┆ Post on the municipal website.
- ┆ Mail copy of the notice to taxpayers of record of properties in area to be annexed.
- ┆ Mail to the chief administrative officer of the County.
- ┆ Mail to all public service or special purpose districts in the area to be annexed.
- ┆ Mail to all fire departments, whether volunteer or full time, in the area to be annexed.

**25 PERCENT PETITION FORM**

TO THE MAYOR AND COUNCIL OF THE TOWN OF KIAWAH ISLAND:

The undersigned qualified elector's resident within the territory described below hereby Petition for an election in said territory pursuant to S.C. Code Ann. § 5-3-300, et seq., on the question of extension of the corporate limits of the municipality by Annexation of the described territory.

The territory to be annexed is described as follows:

The property is designated as follows on the County tax maps: \_\_\_\_\_

It is requested that the property be zoned as follows: \_\_\_\_\_

The Petition must be dated before the first signature is affixed, and all signatures must be obtained within six months of that date. The first signature was affixed on this Petition on \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Street Address, City, Zip

=====  
FOR MUNICIPAL USE:  
Petition received by: \_\_\_\_\_, Date \_\_\_\_\_  
Description and Ownership verified by \_\_\_\_\_, Date \_\_\_\_\_  
Recommendation: \_\_\_\_\_  
By: \_\_\_\_\_, Date \_\_\_\_\_

**RESOLUTION CERTIFYING 25 PERCENT ANNEXATION PETITION**

BE IT RESOLVED by the Mayor and Council of the Town of Kiawah Island, South Carolina, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, as follows:

It is hereby certified that the Town of Kiawah Island has received petitions signed by 25 percent or more of the qualified electors residing within the area described below, which is proposed to be annexed into the Town pursuant to S.C. Code Ann. § 5-3-300, et seq., and the Charleston County Election Commission is hereby requested to conduct an election to be held on \_\_\_\_\_, 20\_\_\_\_, within the area proposed to be annexed on the question of extension of the corporate limits of the municipality by Annexation of the following described area:

The Charleston County Election Commission is requested to certify the results of the election to Town Council.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_ TOWN CLERK

=====  
[NOTE: If the election is to be held on a date which has not already been precleared under § 5 of the Voting Rights Act for a county election, it may be necessary to submit the proposed date to the U.S. Attorney General before giving public notice of the election. The attorney general has 60 days in which to respond to a complete submission.]

**LETTER TO COUNTY ELECTION COMMISSION REQUESTING ANNEXATION ELECTION**

To: Charleston County Commissioners of Election

Ladies and Gentlemen:

We enclose a copy of the Resolution adopted by the Town Council of the Town of Kiawah Island on \_\_\_\_\_, 20\_\_\_\_, certifying that a proper petition has been received asking for annexation of the area described in the resolution generally known as \_\_\_\_\_ and requesting a special election in the described area on \_\_\_\_\_, 20\_\_\_\_, pursuant to S.C. Code Ann. § 5-3-300, et seq., on the question of the annexation.

The election is not a municipal election, but it is a special county election which must be conducted pursuant to S.C. Code Title 7, Chapters 13 and 17, as provided by S.C. Code Ann. § 5-3-300(D).

We also enclose a Notice of Election for your convenience in giving the necessary notice by newspaper at least 30 days prior to the date set for the election in accordance with S.C. Code Ann. § 5-3-300(D), and a form which you may use to report the results of the election.

Because the proposed election date is not a date already precleared by the U.S. Attorney General under § 5 of the Voting Rights Act for a county election, it was set to allow enough time for a § 5 submission and response.

Yours very truly,

\_\_\_\_\_  
Town Clerk

cc: Municipal Attorney  
County Attorney

**NOTICE TO OWNERS OF PROPERTY ELIGIBLE FOR EXCLUSION**

To: Owners of 25 percent of the assessed value of property to be annexed and *(if applicable, owners of the agricultural property)* in the area to be annexed

Pursuant to S.C. Code Ann. § 5-3-300(I), please take notice that the area described in the enclosed Resolution of the Town Council of the Town of Kiawah Island has been proposed for Annexation to the municipality upon favorable vote of electors in the area in an election to be held on \_\_\_\_\_, 20\_\_\_\_.

You may be a freeholder of property eligible for exclusion from the Annexation. Written notice of your objection to the Annexation of your property must be filed with the undersigned Town Clerk at least ten (10) days prior to the election.

Please refer to S.C. Code Ann. § 5-3-300(I) to determine eligibility for exclusion. A copy is enclosed.

Date mailed \_\_\_\_\_

Sincerely,

Town Clerk

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED



**NOTICE TO ANNEXATION ELECTION**

Date: \_\_\_\_\_

In accordance with the certificate of the Town Council of the Town of Kiawah Island, South Carolina, and pursuant to S.C. Code Ann. § 5-3-300, a special election will be held in the territory described below on \_\_\_\_\_, 20\_, for the purpose of determining whether said territory shall be annexed to the Town of Kiawah Island, South Carolina.

The territory proposed to be annexed is described as follows:

Polling places where registered voters residing in the described area may vote are located at:

The polls will be open from 7:00 AM to 7:00 PM.

Sincerely,

\_\_\_\_\_, Chairman,

Charleston County Election Commission

**CERTIFICATION OF ELECTION RESULTS BY COUNTY ELECTION COMMISSION**

To: Mayor and Council, Town of Kiawah Island  
Re: Annexation Election  
Area: \_\_\_\_\_

Pursuant to S.C. Code Ann. § 5-3-300(D), the results of the annexation election conducted this date in the above area described in the Resolution Certifying the 25 percent Annexation Petition is certified to be as follows:

In favor of annexation \_\_\_\_\_ votes

Opposed to annexation \_\_\_\_\_ votes

Contested ballots \_\_\_\_\_

TOTAL BALLOTS \_\_\_\_\_

CHARLESTON COUNTY ELECTION COMMISSION

Date: \_\_\_\_\_

By: \_\_\_\_\_

**RESOLUTION PUBLISHING ELECTION RESULTS**

BE IT RESOLVED by the Mayor and Council of the Town of Kiawah Island this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, as follows:

Pursuant to S.C. Code Ann. § 5-3-300, et seq., an annexation election was held in the area described in the attached notice by the Charleston County Election Commission which has reported the attached results of election which are hereby published.

The Town Clerk is hereby directed to publish the newspaper notice of intent to annex attached hereto as required by S.C. Code Ann. § 5-3-300(E).

MAYOR

\_\_\_\_\_

Attest:

\_\_\_\_\_ TOWN CLERK

**NOTICE OF INTENT TO ANNEX**

Pursuant to S.C. Code Ann. § 5-3-300, et seq., the qualified electors of the area described below voted in an election on \_\_\_\_\_, 20\_, to be annexed to the Town of Kiawah Island. Town Council intends to approve the Annexation by ordinance 30 days hereafter unless a petition signed by five percent or more of the electors within the Town of Kiawah Island is presented to Town Council within 30 days from the date of publication of this notice requesting an election within the Town of Kiawah Island on the question of Annexation of the following area:

[NOTE: This notice must be run in a newspaper of general circulation within the Town after the results of the annexation election are published by written Resolution of Town council. If a petition is received, an election within the Town must be held pursuant to S.C. Code Ann. § 5-3-300(G), and Annexation must be approved by majority vote.]