

# THE TOWN OF KIAWAH ISLAND

## ORDINANCE 2021-16

### AN ORDINANCE TO AMEND ARTICLE 14 – GENERAL REGULATIONS, CHAPTER 5 - RENTAL APPLICATIONS AND REGULATIONS, SECTION 14-504 – RENTAL BUSINESS LICENSE, AND SECTION 14-505 - SHORT-TERM RENTAL PROPERTY CAPS

**WHEREAS**, the Town of Kiawah Island Municipal Code currently contains Article 14 – General Regulations, and;

**WHEREAS**, the Town wishes to amend the current Chapter 5 - Rental Applications and Regulations, Section 14-504 – Rental Business License, and Section 14-505 - Short-Term Rental Property Caps.

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

#### **Section 1**      **Purpose**

The purpose of this Ordinance is to amend Article 14 – General Regulations, Chapter 5 - Rental Applications and Regulations, Section 14-504 – Rental Business License, and Section 14-505 - Short-Term Rental Property Caps.

#### **Section 2**      **Ordinance**

Article 14 – General Regulations, Chapter 5 - Rental Applications and Regulations, Section 14-504 – Rental Business License is hereby amended as follows:

#### **Sec. 14-504. – Rental Business License**

- (a)** Article 4 – Finance and Taxation, Chapter 3. - Municipal Business Licenses, regulates all business licenses. The following additional regulations apply specifically to STR business license.
- (b)** A short-term Rental Business License expires annually on April 30th. License holders must renew each year and have until April 30th to renew their license without penalty. As of May 1<sup>st</sup>, if the holder of an expired license submits a renewal request, one of the following conditions shall apply:
  - (1)** If the property is in an R1 or R2 zoning district, and the License Cap in Table 15-805.1 has not been reached, the license is renewable subject to a \$1000 late fee, plus all applicable fees.
  - (2)** For properties in all other zones, the license is renewable subject to a \$1000 late fee, plus all applicable fees. If the property is in an R1 or R2 zoning district subject to caps, and the Town is unable to issue a STR business license solely due to the

percentage Caps established herein, (see 14-505.1), a new application can still be filed, and the applicant will be placed on a waiting list. If a permit becomes available, the Town will notify the applicant who has been on the waiting list the longest and allow him/her 7 business days to provide the Town with any and all information necessary to ensure the application is current and otherwise complies with the ordinance. If the applicant fails to respond and/or provide current information within 7 business days, the Town shall remove the applicant from the waiting list and repeat the process until a STR business license, or PLL, has been issued, or all of the applicants on the waiting list have been notified.

**(3)** Late renewals (after the close of business on April 30th), are not permitted for non-conforming use properties previously holding a valid STR business license, including Destination or Vacation Clubs.

**(c)** A license holder shall provide proof of accommodation tax payments for the previous year at the time of license renewal. Failure to pay all required accommodation taxes constitutes grounds to not renew a rental business license.

**(d)** All fees related to STR business licenses must be paid in full at the time of application. Upon the closing of the license, the licensee is responsible for notifying the Town and properly closing their account.

Article 14 – General Regulations, Chapter 5 - Rental Applications and Regulations, Section 14-505 - Short-Term Rental Property Caps is hereby amended as follows:

#### **Sec. 14-505. - Short-Term Rental Property Caps**

Short term rental Caps are established in the R1 zoning district and identified R2 zoning districts (see Table 14-505.1 for details). The limitations and requirements of this section apply to short- term rental properties in the Town's R1 and R2\* zoning districts.

**(1)** License Caps. Licenses for rental properties shall be distributed on a first-come, first-serve basis. Active licenses expire annually on April 30th of each year. Applications received after April 30th are subject to late fees as defined in Section 14-504(b)(1)(2).

- a.** Properties holding a rental business license will have first preference to renew by April 30th to maintain their license, as long as the license is in good standing with the Town.
- b.** Available licenses are subject to the percentage of rental caps allowed within the zoning district, pursuant to Table 14-505.1, Rental Property Zoning Caps.
- c.** If a license cap is reached within the R1/R2\* zoning district, the applicant will be placed on a waiting list until a license becomes available, consistent with provisions in Section 14-504(b)(3).
- d.** STR or PLL licenses are not transferable. In the event of the transfer of property ownership, including the transfer of interests in corporations or partnerships that own a licensed property, the new owner may apply for a new STR or PLL

license, subject to Section 14-502 and all other provisions of this ordinance.

**Exception:** Intra-family transfers of property can include the transfer of a STR or PLL license.

- e. A license may be subject to expiration or may not be renewed should an owner report <\$3,000 of annual rental revenue. In the event of annual revenue below \$3,000, an owner will need to demonstrate the short-term rental property was available and advertised for rental throughout the previous year.

- (2) In calculating the number of rental business licenses available in any license year, the calculation will be based on the percentages defined in Table 14-505.1

Table 14-505.1: Rental Property Zoning Caps			
Zoning District	R-1 and R-2*	All other R-2	R-3
Maximum % of STR properties allowed	20%	No Limit	No Limit
<i>Rental percentages are a ratio of rental licenses (including PLL's) to developed lots within the R1 zoning district, and the specific R2 zoned areas identified below. Developed lot numbers are defined from the County Assessor's Office as of December 31 of the prior calendar year.</i>			
<i>*R-2 districts include: Indigo Park, Ocean Oaks, Ocean Park, and Silver Moss, Osprey Point (Club Cottage Lane, Marsh Cottage Lane, and Shell Creek Landing)</i>			

- (3) Destination Clubs and Private Vacation Clubs are not permitted by the Town's zoning regulations in Residential Zones R1, R2, and R3 unless the Destination Club complies with the following requirements:

- a. The Destination Club obtains a STR business license;
- b. The Destination Club pays all required State Sales Tax (8%), State (2%), County (2%) and Local Accommodation (1%) Taxes on gross receipts collected from STR's;
- c. The Destination Club complies with all other rules and regulations applicable to STR's;
- d. The Destination Club provides no commercial services on the subject property; and
- e. The owner of the property obtains a business license.

Any applicable properties in R1, R2, or R3 holding a valid STR business license as of the effective date of this ordinance shall be grandfathered and included in calculating the license cap, subject to the following conditions:

- a. Residential Business Licenses expire as of April 30th of each year. The license holder has until April 30th to renew. Failure to renew by the close of business on April 30th will result in the expiration of the license. No late renewals will be permitted for non-conforming use properties, including Destination Clubs and

Vacation Clubs.

- b.** All grandfathered properties shall remain subject to the requirements of this Chapter as STRs.
- c.** Destination Clubs and Private Vacations Clubs are permitted in Zones R2/Commercial, R3/Commercial, RST-1, RST-2, RST-1/R3, R-2(DA), R-3(DA), and RST-2(DA) are subject to the approval of uses prescribed in the Zoning Ordinance and the requirements of this Chapter as STRs.

**Section 3**      **Severability**

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

**Section 4**      **Effective Date and Duration**

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

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF KIAWAH ISLAND  
ON THIS 7<sup>th</sup> DAY OF DECEMBER 2021.**

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**John D. Labriola, Mayor**

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**Petra S. Reynolds, Town Clerk**

1<sup>st</sup> Reading - November 2, 2021

2<sup>nd</sup> Reading – December 7, 2021