



**Agenda for the Awendaw Town Council Public Hearing
Thursday, April 2, 2026
6:30 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Invocation**
- 4. Pledge of Allegiance**
- 5. Civility Pledge**
- 6. Approval of the April Public Hearing Agenda**
- 7. Open Public Hearing for the following Items:**
 - a. Ordinance 2026-04:** An ordinance to amend Chapter 153, Zoning Code, Tree Preservation Requirements Division, Subsection 153.195 and 153.196, to restructure the review, mitigation, and site restoration process for the removal of protected trees.
 - b. Ordinance 2026-05:** An ordinance of the Town of Awendaw, South Carolina, to amend Title XV: Land Usage, Chapter 153: Zoning Code, Subdivision Regulations Division, Section 153.305 Water and Sewage Disposal of the Code of the Town of Awendaw.
 - c. Ordinance 2026-06:** An Ordinance of the Town of Awendaw, South Carolina, to Amend Title XV: Land Usage, Chapter 153: Zoning Code, General Provisions of the Code of the Town of Awendaw, South Carolina, by Amending Section 153.009 Definitions, adopting a new Section 153.065 Lighting Regulations, along with new Sections 153.066 through 153.070 thereto, providing for New Lighting Regulations.
 - d. Ordinance 2026-07:** An Ordinance of the Town of Awendaw, South Carolina, to Amend Title XV: Land Usage, Chapter 153: Zoning Code, Wetlands and Waterways Setbacks Division of the Code of the Town of Awendaw, South Carolina, by renaming the Division thereof to Wetlands Protection and repealing the Existing Section 153.225 thereto and adding a New Section 153.225, along with New Sections 153.226 through 153.238 thereto, Providing for the Protection of Tidal and Freshwater Wetlands, and all Effected Sections for Clarity; Section 153.009 Definitions to Include Proposed Definitions, Section 153.025 through 153.032 "Description of Zoning Districts" to reference the Wetlands Standards.
 - e. Ordinance 2026-10:** An ordinance of the Town of Awendaw, South Carolina, to amend Title XV: Land Usage, Chapter 153: Zoning Code, General Provisions of the Code of the Town of Awendaw, South Carolina, by Amending Section 153.009 Definitions, adopting a new Section 153.051 Vested Rights, along with new Sections 152.052 through 153.060 thereto, providing for vested rights ordinance and procedure.

- f. **Ordinance 2026-11:** An ordinance of The Town of Awendaw, South Carolina, to amend Title XV: Land Usage, Chapter 153: Zoning Code, Section 153.009 Definitions to include a definition of “Structure.”

8. Close Public Hearing

9. Adjournment

Notice of Meeting: In accordance with the SC Code of Laws, 1976, Section 30-4-80(d), as amended, the following have been notified of the time, date, place, and agenda of this meeting. The agenda was posted on the bulletin board at Town Hall prior to the meeting.



Town Council

Staff Report

Subject: Ordinance 2026-04 Tree Preservation

Prepared for: Town Council

Date: April 2, 2026

Background

On January 8, 2026, Town Council passed Ordinance 2026-04 Tree Preservation as shown within “Appendix 2026-04-01” attached to this report at first reading. As proposed at first reading, the amendments proposed would apply to the Town’s existing Significant Tree Protection. The first reading version is comprised of amendments recommended by the Planning Commission to Section 153.195 and the proposed amendments to Section 153.196 were brought to staff by Town Council. Planning Commission took up the first reading version of ordinance 2026-04 on January 20th, February 23rd, and March 2nd meetings. A final recommendation was made by the Planning Commission at the March 2nd meeting. Planning Commission facilitated feedback from two professionals who provided recommendations. Those comments can be found attached to this staff report under “Ordinance 2026-04 Staff Report Addendum”. The final version that was recommended for approval by the Planning Commission has considered both of these professional perspectives as well as thoughtful deliberation the made by the Planning Commission.

Overview of First Reading Proposed Revisions

The amendments to the ordinance in effect as proposed in the first reading version of the ordinance are as follows:

Section 153.195 Significant Tree Protection

1. Expand removal criteria to significant hardwood trees.
2. Require site plans to be submitted with all protected trees marked.
3. Require a tree mitigation plan be submitted before tree removal can take place, if necessary.

Section 153.196 Minimum Amount of Protected/Replacement Trees for All Sites

1. Change the tree retention requirements from 20 trees per acre to 160 caliper inches per acre.
 - a. Caliper inches are widely used by other communities rather than trees per acre.
 - b. Depending on the amount and age of trees on a lot, 160 caliper inches can be achieved without the need for additional plantings.
 - c. For existing lots where there are not 160 caliper inches, the property owner would have to plant additional trees to come into compliance.
 - d. Exceptions to this section are to be listed in a future section for special exceptions. Which will remain reserved until it is formally adopted.

Overview of the Planning Commission Recommended Version

The amendments to the ordinance in effect as proposed in the recommended version made by the Planning Commission are as follows:

Section 153.195 Significant Tree Protection

1. This section reclassifies hardwood trees between 12 and 18 inches in Diameter at Breast Height (DBH) to be significant.
 - a. These trees can be removed at the staff level with the existing parameters in place in the ordinance in effect.
2. This section also would establish a tree fund.

Section 153.196 Grand Tree Protection

1. This section classifies any hardwoods over 18-inch DBH or softwoods over 24-inch DBH as Grand trees.
 - a. Grand trees are required to have a tree protection zone (TPZ) radius of ½ a foot per inch of DBH. For an example a hardwood tree of 18 DBH would have a 9' radius, the tree protection zone would then be drawn 9' outward a circle around the tree.
 - i. The Zoning Administrator may approve encroachment into this TPZ of no greater than 33%.
 - ii. Encroachments greater than 33% or removal would require Board of Zoning Appeals approval.

Section 153.197 Minimum Tree Retention

1. This would require the 160 caliber inches to be applied to any major residential subdivision or any non-residential development. Existing lots and minor subdivisions would be exempted from the requirements of this section.
2. This section would establish the size and type of tree required to be used in any replanting across any lot.

Section 153.198 Mitigation

1. This section provides for a prescribed method based on the type of tree if mitigation is required, when and how much.
2. The table was taken from the Town of Mount Pleasant's code of ordinances and modified based on recommendations from the Planning Commission.

Staff Findings

The Planning Commission's proposed revisions would provide stern removal criteria for protected trees as outlined in the new sections and create a new mitigation schedule for any protected tree within the Town. These revisions would complement the intent of the first reading version of the ordinance and expand existing tree protections and create a more detailed review process. Planning Commission made an effort to protect existing and smaller residential development from too restrictive regulations.

Current Status

Following the public hearing Town Council may take the following actions through seconding reading of an ordinance:

1. Adopt the ordinance as proposed a first reading.
2. Adopt the ordinance as recommended by Planning Commission.
3. Adopt the ordinance with partial recommendations by Planning Commission, if certain sections or edits are amenable but Town Council would like to preserve sections from first reading a motion to approving with specific recommendations can be made.
4. Propose new edits or suggested revisions not previously considered by Planning Commission (in which case, the matter will need to be referred back to Planning Commission pursuant to S.C. Code § 6-29-760.)

Attachments:

- Ordinance 2026-04 Staff Report Addendum (February 23, 2026 Planning Commission Meeting) Comments from design professionals
- Ordinance 2026-04 – Tree Protection as adopted at First Reading.
- Ordinance 2026-04 – Tree Protection as recommended by Planning Commission.

**ORDINANCE 2026-04 STAFF REPORT ADDENDUM
(February 23, 2026)**

Staff were asked by the Planning Commission to gather professional feedback from design professionals regarding the proposed revisions to the Tree Preservation Ordinance.

Staff discussed and facilitated comments from a Tree professional and a Site Design Professional.

The tree professional had the following comments:

Sections 153.195

- (A) Several municipalities exclude gums under a certain DBH, he recommended making the DBH requirement be 24" similar to pines.
- (B) No comments
- (C) He stated that "development projects should include a comprehensive tree survey as well as a tree protection plan. All trees over 12" should be included in the survey. This should be validated by a Town Arborist before approving permit.
- (D) No comments
- (E) See table 156.702-1 in the town of mount pleasant zoning ordinance. There needs to be a clear-cut definition of what people can and cannot do. Due to the nature of the town of Awendaw, you may want to consider making residential homeowners exempt from new ordinances. Homeowners must have a primary residence in town limits and have lived there for a period of time greater than X (determined by planning commission). For nonexempt homeowners you will need to have tree graded by town arborist to validate their findings. Any arborist letter presented by homeowner needs to come from an ISA certified arborist.

Table 156.702-1: Tree Mitigation Calculation								
Key: min = minimum required < = less than								
Species Quality Rating	Class/ Points	Species Included (But Not Limited To)	Percent Replacement (min.)¹					
			Existing Residential 2			Commercial/Other/ New Residential Subdivision 2		
			Good	Fair	Declining	Good	Fair	Declining
	I 80-100	Live Oak, Bald Cypress, American Beech, Ginko, American Holly, Southern Magnolia, Sweetbay Magnolia, Tupelo, Chinese Pistache, White Oak, Willow Oak ³ , Overcup Oak, Chestnut Oak, Eastern Red Cedar ³	50	50	25	100	75	50
	II 60-79	Persimmon, Ash species, Hickory species, Tulip Poplar, Sycamore, Swamp White Oak, Scarlet Oak, Southern Red Oak, Shumard Oak, Post Oak, Laurel Oak ³ , Pecan	50	50	25	75	50	25
	III < 60	Sugarberry ³ , Hackberry ³ , Willow species, Water Oak ³ , Black Cherry, American Elm, Red Maple ³	50	25	0	50	25	0
	IV4	Pine species, Sweet Gum, Callary Pear varieties, River Birch, Mimosa, Chinaberry, Chinese Tallow, Camphor tree, White Poplar, Mulberry, Leyland Cypress	0	0	0	0	0	0

- (F) He recommended that we “Establish a grading system will make this process easier on residents and provide clarity. Fees should be determined by the Town Arborist in accordance with the tree mitigation calculator. Fines should be at the discretion of the Town.”

Section 153.196

He recommends the Planning Commission consider:

Separating requirements for both Residential and commercial mitigation plans.

The site design professional recommend changes:

1. The site design professional recommended increasing the caliber inch of replacement trees to more a mature size.

The following proposed revisions were made through discussion with the Design Professional and Town Staff:

Section 153.195 Significant Tree Protection.

- A) ~~No hardwood trees (excluding gums and water oaks) which are twelve inch diameter breast height (12" DBH) or larger in size are to be damaged, destroyed, or removed from any property.~~ Significant Tree Classification. No hardwood trees (excluding gums and water oaks) twelve (12) inches DBH (DBH = diameter breast height) or greater, shall be damaged, destroyed, or removed except in accordance with this Section. All development applications shall include a Tree Survey prepared by a qualified professional depicting all Significant Trees.
- a. Exceptions to this include trees grown for farming activities.
- B) ~~If compliance with tree preservation requirements presents a hardship~~ For removal and encroachment of non-grand trees. If the conditions of this section present a hardship, a person must submit a zoning permit application to the Zoning Administrator. ~~a permit for tree removal may be granted must be applied for. when~~ The Zoning Administrator or their designee determines that any of the following conditions exist may grant a zoning permit based on the following factors:
- a. Trees are diseased, dead or dying;
 - b. Trees pose a safety hazard to nearby buildings, or pedestrian or vehicular traffic;
 - c. Trees prevent essential grade changes or all reasonable utility installations;
 - d. Trees prevent all reasonable site configurations;
 - e. Trees are within the footprint of a proposed residential structure or septic field, as shown on a site plan;
 - f. Removal of trees is the only reasonable means by which building, zoning, subdivision, health, public safety, or other Town requirements can be met.

Section 153.196 Grand Tree Protection.

- A) Grand Tree Classification. Grand Trees are recognized as providing exceptional ecological, environmental, scenic, and cultural value and shall receive enhanced protection under this ordinance. ~~No pines or other softwood~~ trees that are over 24-inch diameter breast height (24" DBH) or larger in size are to be damaged, destroyed, or removed from any property.
- B) All site plans for any new development shall include a tree survey depicting all Protected Trees (as defined in Sections A and B above).
- Grand Tree Protection Zone (TPZ). Each Grand Tree shall have a mandatory Tree Protection Zone (TPZ). The TPZ radius shall equal: 0.5 feet (six inches) of radius per one (1) inch of DBH, measured

from the trunk. Within the TPZ, the following activities are prohibited unless approved through the procedures outlined herein:

- a. grading or fill placement
- b. trenching or utility installation
- c. compaction by vehicles or equipment
- d. storage of materials
- e. alteration of natural drainage patterns

C) ~~Additionally, Protected trees (as defined in Sections A and B above) may be removed by utilities which are if exempted from these regulations by State law.~~

Grand Tree Removal and Encroachment Review Process

- a. Board of Zoning Appeals (BZA) Review Required

The following actions shall require approval by the Board of Zoning Appeals:

- i. Removal of any Grand Tree;
- ii. Encroachment into thirty-three percent (33%) or greater of a Grand Tree TPZ;
- iii. Any activity likely to materially impact long-term survival of a Grand Tree.
- iv. Administrative approval by town staff shall only be for grand tree encroachment of 33% or less. Applicants must provide a tree preservation plan produced by a certified arborist.

- b. The BZA shall make written findings that:

- i. No reasonable site design alternative exists;
- ii. Impacts have been minimized to the greatest extent practicable; and
- iii. Removal is necessary to meet public safety or essential development requirements.

D) ~~If none of the above conditions are deemed to be met by the Zoning Administrator or their designee, removal of such trees ~~a tree mitigation plan~~ must be mitigated by ~~submitted and approved by the Zoning Administrator or their designee before any tree removal can take place.~~ a mitigation plan of replacement trees~~

The ~~A~~ tree mitigation plan shall include the following:

- i. ~~A table showing the replacement~~ the total DBH inches lost on a one inch for one inch basis with no replacement tree being less than 2-inch DBH.
- ii. ~~Show the location~~ the location of trees to be mitigated.
- iii. Where difficulty in replacing the total DBH of inches lost is approved by the ~~Zoning Administrator~~ Board of Zoning Appeals or their designee, the applicant may pay a tree replacement fee of \$100 per DBH inch of significant hardwoods and \$50 per DBH of softwoods.

b. If trees are clearcut for farming or timbering, the land may not be used for development for eight (8) years following the removal of trees.

c. If trees are removed without an approved permit and mitigation plan, the cost of tree replacement will be increased to \$200 per DBH inch of hardwoods and softwoods.

E) Design Priority Standard. Development shall be designed using the following hierarchy:

- a. Preserve Grand Trees;
- b. Preserve existing Significant Trees;
- c. Adjust site layout where feasible;
- d. Utilize mitigation planting only as a last resort.

Section 153.1976 Minimum Amount of Protected/Replacement Trees for All office/commercial/industrial sites.

- (A) ~~For office, commercial or industrial sites,~~ A minimum of ~~20~~ **160 caliper inches** of trees per acre are required to be retained or planted, with the minimum tree size being two and one-half caliper inches.
- (B) The owner or developer is ~~encouraged~~ **required** to retain existing trees on the site **to the maximum extent possible, as determined during the development approval process**, in lieu of replanting.
- (C) **If the required amount of caliper inches per tree to be retained does not exist, or for extraordinary circumstances cannot be retained, an equivalent amount of caliper inches may be planted to satisfy this requirement, with replacement determined during the applicable approval process.**
- (D) **Tree removal is only allowed with an approved development plan; lots may not be cleared without a purpose stated in an approved development plan.**
- (E) **Exceptions to these provisions are delineated in the Chapter 153 Use Conditions division in section 153.132. (CREATION OF SECTION 153.132- SPECIAL EXECPTIONS (RESERVED))**
- (F) **Replacement Trees shall be a minimum of 2.5-inch caliper. The following species are required to be utilized as replacement mitigation trees. List is subjected to staff approval & town administrator.**
 - a. **Live Oak (Quercus virginiana)**
 - b. **Southern Magnolia (Magnolia grandiflora)**
 - c. **Bald Cypress (Taxodium distichum)**
 - d. **Willow Oak (Quercus phellos)**
 - e. **White Oak (Quercus alba)**
 - f. **Blackgum / Tupelo (Nyssa sylvatica)**
 - g. **American Holly (Ilex opaca)**
 - h. **Red Maple (Acer rubrum)**

AN ORDINANCE TO AMEND CHAPTER 153, ZONING CODE, TREE PRESERVATION REQUIREMENTS DIVISION, SUBSECTION 153.195 AND 153.196, TO RESTRUCTURE THE REVIEW, MITIGATION, AND SITE RENTION PROCESS FOR THE REMOVAL OF PROTECTED TREES.

WHEREAS, the Town Council wishes to strengthen the preservation of trees within the Town of Awendaw.

NOW, THEREFORE, be it Ordered and Ordained by the Council of the Town of Awendaw, S. C. that Article 7.1, Tree Preservation Requirements of the Code of the Town of Awendaw, South Carolina, shall be repealed and replaced as follows:

Section 153.195 Significant Tree Protection.

- A) No hardwood trees (~~excluding gums and water oaks~~) which are twelve - inch diameter breast height (12" DBH) or larger in size are to be damaged, destroyed, or removed from any property.
- B) No pines or other softwood trees that are over 24-inch diameter breast height (24" DBH) or larger in size are to be damaged, destroyed, or removed from any property.
 - a. Exceptions to this include trees grown for farming activities.
- C) **All site plans for any new development shall include a tree survey depicting all Protected Trees (as defined in Sections A and B above).**
- D) ~~Additionally,~~ **Protected trees (as defined in Sections A and B above)** may be removed by utilities ~~which are~~ **if** exempted from these regulations by State law.
- E) ~~If compliance with tree preservation requirements presents a hardship~~ **If the conditions of this section present a hardship, a person must submit a zoning permit application to the Zoning Administrator. a permit for tree removal may be granted must be applied for. when** The Zoning Administrator or ~~their~~ **their** designee determines that any of the following conditions exist **may grant a zoning permit based on the following factors:**
 - a. Trees are diseased, dead or dying;
 - b. Trees pose a safety hazard to nearby buildings, or pedestrian or vehicular traffic;
 - c. Trees prevent essential grade changes or all reasonable utility installations;
 - d. Trees prevent all reasonable site configurations;
 - e. Trees are within the footprint of a proposed residential structure **or septic field**, as shown on a site plan;
 - f. Removal of trees is the only reasonable means by which building, zoning, subdivision, health, public safety, or other Town requirements can be met.
- F) If none of the above conditions are deemed to be met by the Zoning Administrator or their designee, ~~removal of such trees~~ **a tree mitigation plan** must be ~~mitigated by~~ **submitted and approved by the Zoning Administrator or their designee before any tree removal can take place. a mitigation plan of replacement trees**
 - a. The tree mitigation plan shall replace the total DBH inches lost on a one-inch-for-one inch-basis with no replacement tree being less than 2-inch DBH.
 - i. Where difficulty in replacing the total DBH of inches lost is approved by the Zoning Administrator or their designee, the applicant may pay a tree replacement fee of \$100 per DBH inch of significant hardwoods and **\$50 per DBH of** softwoods.
 - ii. If trees are clearcut for farming or timbering, the land may not be used for development for eight (8) years following the removal of trees.

- b. If trees are removed without an approved permit and or mitigation plan, the cost of tree replacement will be increased to \$200 per DBH inch of significant hardwoods and softwoods.

Section 153.196 Minimum Amount of Protected/Replacement Trees for All office/commercial/industrial sites.

- (A) ~~For office, commercial or industrial sites,~~ A minimum of ~~20~~ **160 caliper inches** of trees per acre are required to be retained or planted, with the minimum tree size being two and one-half caliper inches.
- (B) The owner or developer is ~~encouraged~~ **required** to retain existing trees on the site **to the maximum extent possible, as determined during the development approval process**, in lieu of replanting.
- (C) **If the required amount of caliper inches per tree to be retained does not exist, or for extraordinary circumstances cannot be retained, an equivalent amount of caliper inches may be planted to satisfy this requirement, with replacement determined during the applicable approval process.**
- (D) Tree removal is only allowed with an approved development plan; lots may not be cleared without a purpose stated in an approved development plan.
- (E) Exceptions to these provisions are delineated in the Chapter 153 Use Conditions division in **section 153.132. (CREATION OF SECTION 153.132- SPECIAL EXECPTIONS (RESERVED))**

Severability

The provisions of this ordinance are intended to be severable, and if a court of competent jurisdiction should hold any part of this ordinance invalid, unconstitutional, or otherwise unlawful, such ruling shall not affect the remainder of the ordinance, which shall remain in full force and effect.

Be it further ordained that the Town Council declares its intention that the “Pending Ordinance Doctrine” be effective upon first reading of this ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Chris Crolley, Mayor
Town of Awendaw

First reading: January 8, 2026
Public Hearing:
Planning Commission Recommendation:
Second and Final Reading:

Donna F. Steed, Clerk of Council

AN ORDINANCE TO AMEND CHAPTER 153, ZONING CODE, TREE PRESERVATION REQUIREMENTS DIVISION, SUBSECTION 153.195 AND 153.196~~8~~, TO RESTRUCTURE THE REVIEW, MITIGATION, AND SITE RENTION PROCESS FOR THE REMOVAL OF PROTECTED TREES.

WHEREAS, the Town Council wishes to strengthen the preservation of trees within the Town of Awendaw.

NOW, THEREFORE, be it Ordered and Ordained by the Council of the Town of Awendaw, S. C. that Article 7.1, Tree Preservation Requirements of the Code of the Town of Awendaw, South Carolina, shall be repealed and replaced as follows:

Section 153.195 Significant Tree Protection.

A) ~~No hardwood trees (excluding gums and water oaks) which are twelve (12) inch diameter breast height (12" DBH) or larger in size are to be damaged, destroyed, or removed from any property.~~ Significant Tree Classification. No hardwood trees (excluding gums and water oaks) between twelve (12) inches Diameter Breast Height (DBH) and eighteen (18) inches DBH, shall be damaged, destroyed, or removed except in accordance with this Section.

a. Exceptions to this include trees grown for farming activities.

i. If trees are clearcut for mining, farming or timbering, the land may not be used for development for six (6) years following the removal of trees.

B) For removal and encroachment of significant trees. If the conditions of this section present a hardship, a person must submit a zoning permit application to the Zoning Administrator. All development applications shall include a Tree Survey prepared by a qualified professional depicting all Significant Trees. The Zoning Administrator or their designee may grant a zoning permit based on the following factors:

a. Trees are diseased, dead or dying;

b. Trees pose a safety hazard to nearby buildings, or pedestrian or vehicular traffic;

c. Trees prevent essential grade changes or all reasonable utility installations;

d. Trees prevent all reasonable site configurations;

e. Trees are within the footprint of a proposed residential structure or septic field if there is no other feasible location.

f. Removal of trees is the only reasonable means by which building, zoning, subdivision, health, public safety, or other Town requirements can be met.

g. Removal of trees by utilities are exempted from these regulations

~~No pines or other softwood trees that are over 24 inch diameter breast height (24" DBH) or larger in size are to be damaged, destroyed, or removed from any property.~~

~~h. Exceptions to this include trees grown for farming activities.~~

~~All site plans for any new development shall include a tree survey depicting all Protected Trees (as defined in Sections A and B above).~~

~~Additionally, Protected trees (as defined in Sections A and B above) may be removed by utilities which are if exempted from these regulations by State law.~~

C) ~~If compliance with tree preservation requirements presents a hardship~~ ~~If the conditions of this section present a hardship,~~ a person must submit a zoning permit application to the Zoning

~~Administrator. a permit for tree removal may be granted must be applied for. when The Zoning Administrator or their designee determines that any of the following conditions exist may grant a zoning permit based on the following factors:~~

- ~~a. Trees are diseased, dead or dying;~~
- ~~b. Trees pose a safety hazard to nearby buildings, or pedestrian or vehicular traffic;~~
- ~~c. Trees prevent essential grade changes or all reasonable utility installations;~~
- ~~d. Trees prevent all reasonable site configurations;~~
- ~~e. Trees are within the footprint of a proposed residential structure or septic field, as shown on a site plan;~~
- ~~f. Removal of trees is the only reasonable means by which building, zoning, subdivision, health, public safety, or other Town requirements can be met.~~

D) If none of the above conditions are deemed to be met by the Zoning Administrator or their designee, ~~removal of such trees~~ a tree mitigation plan must be ~~mitigated by~~ submitted and approved by the Zoning Administrator or their designee in accordance with section 153.198 before any significant tree removal can take place. a mitigation plan of replacement trees

- ~~a. The tree mitigation plan shall replace the total DBH inches lost on a one inch for one inch basis with no replacement tree being less than 2 inch DBH.~~

E) Tree Fund.

- a. A Tree Fund shall be established to allow the Town to assist residents in replanting or arborist services that are required by this section. The Town shall collect the following fees and serve as restricted funds for the purposes of replanting or arborist services for residents.
 - i. Where difficulty in replacing the total DBH of inches lost is approved by the Zoning Administrator or their designee, the applicant may pay a tree replacement fee of \$100 per DBH inch of significant hardwood and \$50 per DBH of softwoods.
 - ii. If trees are removed without an approved permit and or mitigation plan, the cost of tree replacement will be increased to \$200 per DBH inch of significant hardwoods and softwoods.
 - iii. ~~If trees are clearcut for mining, farming or timbering, the land may not be used for development for six eight (86) years following the removal of trees.~~

Section 153.196 Grand Tree Protection.

- A) Grand Tree Classification. Grand Trees are recognized as providing exceptional ecological, environmental, scenic, and cultural value and shall receive enhanced protection under this ordinance. No hardwood trees that are over 18-inch diameter breast height (18" DBH) or softwoods 24-inch diameter breast height (24" DBH) or larger in size are to be damaged, destroyed, or removed from any property, except as provided in this section.
- B) Grand Tree Protection Zone (TPZ). Each Grand Tree shall have a mandatory Tree Protection Zone (TPZ). The TPZ radius shall equal: 0.5 feet (six inches) of radius per one (1) inch of DBH, measured from the trunk.
 - a. Administrative approval by Zoning Administrator shall only be for grand tree encroachment of 33% or less. Applicants must provide a tree preservation plan produced by a certified arborist. Within the TPZ, the following activities are prohibited unless approved through the procedures outlined herein:

- i. grading or fill placement
 - ii. trenching or utility installation
 - iii. compaction by vehicles or equipment
 - iv. storage of materials
 - v. alteration of natural drainage patterns
- C) Grand Tree Removal and Encroachment Review Process
- a. Board of Zoning Appeals (BZA) Review Required
The following actions shall require special exception approval by the Board of Zoning Appeals:
 - i. Removal of any Grand Tree;
 - ii. Encroachment greater than thirty-three percent (33%) into a Grand Tree TPZ;
 - iii. Any activity likely to materially impact long-term survival of a Grand Tree.
 - b. The BZA shall make written findings that:
 - i. No reasonable site design alternative exists;
 - ii. Impacts have been minimized to the greatest extent practicable; and
 - iii. Removal is necessary to meet public safety or essential development requirements.

Section 153.1976 Minimum Amount of Protected Significant and Grand Tree Replacement Trees for All office/commercial/industrial sites.

- (A) Existing Single-Family lots and new minor subdivisions after the passage of this ordinance are exempt from this section, phased developments, major subdivisions, or any non-residential Development must comply with the following requirements:
- a. ~~For office, commercial or industrial sites,~~ a With the exception of minor subdivisions, a minimum of ~~20~~ **160 caliper inches** of trees per acre are required to be retained or planted, with the minimum tree size being two and one-half caliper inches.
 - b. The owner or developer is ~~encouraged~~ **required** to retain existing trees on the site **to the maximum extent possible, as determined during the development approval process**, in lieu of replanting.
 - c. **If the required amount of caliper inches per tree to be retained does not exist, or for extraordinary circumstances cannot be retained, an equivalent amount of caliper inches may be planted to satisfy this requirement, with replacement determined during the applicable approval process.**
 - d. **Tree removal is only allowed with an approved development plan; lots may not be cleared without a purpose stated in an approved development plan.**
 - e. **Exceptions to these provisions are delineated in the Chapter 153 Use Conditions division in section 153.132. (CREATION OF SECTION 153.132- SPECIAL EXECPTIONS (RESERVED))**
- (B) Replacement Trees shall be a minimum of 2.5-inch caliper. Table 153.198-1 list the Tree species that require mitigation, the species listed in Class I, II, and III must be utilized as replacement trees.

Section 153.198 Mitigation Requirements

- (A) Mitigation. Mitigation shall be required for the removal of significant or grand trees as determined by the Zoning Administrator or as required by the Board of Zoning appeals.
 - a. Where five (5) or less significant trees are removed the mitigation required shall be one-to-one tree replacement, replacement trees must be at least 2.5-inch caliper or greater at time of planting.
 - b. Where more than five (5) significant trees or one or more grand trees are removed the mitigation shall follow Table 153.198-1

Table 153.198-1 : Tree Mitigation Calculation								
Key: min = minimum required < = less than								
Species Quality Rating	Class/ Points	Species Included (But Not Limited To)	Percent Replacement (min.)¹					
			<i>Existing Residential</i>			<i>Commercial/Other/ New Major Residential Subdivision</i>		
			<i>Good</i>	<i>Fair</i>	<i>Declining</i>	<i>Good</i>	<i>Fair</i>	<i>Declining</i>
			I 80-100	Live Oak, Bald Cypress, American Beech, Ginko, American Holly, Southern Magnolia, Sweetbay Magnolia, Tupelo, Chinese Pistache, White Oak, Willow Oak ³ , Overcup Oak, Chestnut Oak, Eastern Red Cedar ³	50	25	0	100
II 60-79	Persimmon, Ash species, Hickory species, Tulip Poplar, Sycamore, Swamp White Oak, Scarlet Oak, Southern Red Oak, Shumard Oak, Post Oak, Laurel Oak ³ , Pecan	25	25	0	75	50	25	
III < 60	Sugarberry ³ , Hackberry ³ , Willow species, Water Oak ³ , Black Cherry, American Elm, Red Maple ³	25	25	0	50	25	0	
IV ⁴	Pine species, Sweet Gum, Callary Pear varieties, River Birch, Mimosa, Chinaberry, Chinese Tallow, Camphor tree, White Poplar, Mulberry, Leyland Cypress	0	0	0	0	0	0	

Severability

The provisions of this ordinance are intended to be severable, and if a court of competent jurisdiction should hold any part of this ordinance invalid, unconstitutional, or otherwise unlawful, such ruling shall not affect the remainder of the ordinance, which shall remain in full force and effect.

Be it further ordained that the Town Council declares its intention that the "Pending Ordinance Doctrine" be effective upon first reading of this ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Chris Crolley, Mayor
Town of Awendaw

First reading: January 8, 2026
Public Hearing:
Planning Commission Recommendation:
Second and Final Reading:

Donna F. Steed, Clerk of Council



Staff Report

Subject: Ordinance 2026-05 Water and Sewage Disposal
Prepared for: Town Council
Date: April 2, 2026

Background

On January 15, 2026, Town Council passed Ordinance 2026-05 Water Supply and Sewage Disposal at first reading, and as shown in “Appendix 2026-05-01”. As proposed the amendments would apply to Section 153.305 Water and Waste Disposal. The Planning Commission took up the first reading version of ordinance 2026-05 on February 17th and March 2nd. These amendments would largely affect the placement of septic systems and wells on newly created lots. **These revisions would affect newly subdivided lots after the passage of this ordinance.** A final recommendation was made by Planning Commission at the March 2nd meeting.

Compliance with the Comprehensive Plan

The Comprehensive plan addresses septic systems in several relevant sections. Specifically, as indicated in the Environmental Stewardship section the “careful evaluation of septic system installation”. Staff drafted these amendments following the suggested purpose of implementing septic regulations in Awendaw. Prior to drafting these amendments staff engaged in discussion with the South Carolina Department of Environmental Control (SCDES), other Coastal Municipalities, Private Onsite Wastewater Specialists, the South Carolina Rural Water Association, and the National Rural Water Association. These amendments would promote environmental stewardship through more sustainable and resilient land development techniques. The Comprehensive plan includes a strategy to prohibit the permitting of engineered septic systems. These amendments would not restrict the usage of any particular type system; however, it would promote sustainable land management and could provide further protection of water quality as indicated by the goals and strategies under H-5.

Land Development Regulations

The Local Government Comprehensive Planning Enabling Act of 1994, address what can be included in land development regulations, specifically in **§6-29-1130 (B)**:

*“These regulations may include requirements as to the extent to which and the manner in which streets must be graded, surfaced, and improved, and water, sewers, septic tanks, and other utility mains, piping, connections, or other facilities **must be installed as a condition precedent to the approval of the plan.** The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after a public hearing on it, giving at least thirty days' notice of the time and place by publication in a newspaper of general circulation in the municipality or county.”*

These amendments were drafted in accordance with this section and would amend the Town’s land development regulation, specifically, how any water and or septic tanks systems must be installed as a condition precedent to the approval of the plan (“site-specific development plan”).

SCDES Regulations on Septic *Engineered vs. Non-Engineered*

The South Carolina Department of Environmental Services (SCDES) is the state entity that regulates and permits septic systems. These regulations are found in R. 61-56. Septic systems and their regulations are very complex. However, septic systems can be broken into two distinct categories, (1) non-engineered and (2) engineered.

- (1) A “non-engineered” or “standard” system is one that can be designed and permitted without an engineer’s stamp. These systems can be designed by an SCDES certified employee or a private contractor as indicated in R.61-56.
- (2) An “engineered system” or a “modified septic system” specifically a Standard 610 – Specialized Onsite Wastewater System (OWS) Design (less than 1500 gpd) is a system must be designed by an engineer and installed by a Tier 3 installer as outlined in R.61-56.

Both engineered and non-engineered systems can have pump assistance, the need for pump assistance is dependent on the site conditions, specifically topography, soil, and water table. Whether a property owner may need a 610/611 or any other system is also dependent on the site conditions.

A common misconception with Engineered septic systems is that they allow for higher density. While some engineered systems may be more compact and can fit on smaller lots, not all “engineered” systems are compact. Permitted higher density residential use is a result of favorable zoning that allows higher density. Since the Town does not have any public sewer the only lot size reduction is for connection to the Town’s Public water system or as allowed by variance to the Zoning Code. Additionally, SCDES in 2022 updated their regulations to include that any subdivisions of *10 lots or more* are **REQUIRED**, to have a professional engineer or professional soil classifier design and install the systems associated with the subdivision.

Another common misconception is that Engineered systems have a higher proficiency for failure. Engineered systems still need to be sited appropriately and maintained just like a “conventional” or “traditional” system, however, maintenance must occur more frequently for engineered systems. As a result of these more advanced components Engineered systems can have a higher probability of reduction in the amount of pathogens, nutrients, and other pollutants released into the environment.

While there is no right or wrong way of treating wastewater with a permitted system by SCDES there are pros and cons to all systems. An unmaintained system regardless of its parts or features poses a threat to the environment. Education and community resources are a cornerstone to responsible septic management.

Overview of First Reading Amendments

What will these amendments do?

1. Foster environmental stewardship by requiring private wells and septic systems to follow building setbacks.
2. Protect water quality by increasing the minimum distance from the application of effluent to the Zone of Saturation (ZOS) or Seasonal water table, by 6" (12") for systems without advanced treatment technology and by 2" (8") for systems with advanced treatment technology.
3. Promote sustainable land development activities by leaving the septic area undisturbed until the system is installed.
4. Require a maintenance and monitoring schedule to be created and record with the lots/deeds

What systems will be affected?

1. Any **newly created** lots after **July 1, 2026**, will be required to meet the new septic requirements.
 - a. Ultra shallow systems
 1. Systems that are designed to be placed in an area where the ZOS is <18".
 - b. Financial costs
 1. The ZOS offsets would result in systems with advanced treatment being more feasible financially accessible than a system without.
 2. Advanced treatment comes with frequent maintenance and inspections; these practices will promote more sustainable wastewater management.
2. This ordinance **does not** affect **existing lots**, this ordinance as proposed would *require lots being created in future subdivisions after (July 1, 2026) to comply with the new regulations*. This is designed to properly manage applications and phasing out older regulations to ensure that interested parties are given the correct information.

Overview of Planning Commission Recommendations

The recommendations made by the Planning Commission would:

1. Provide relevant terms as defined in R.61-56 regarding septic systems and water systems.
2. Create a new term for Advanced Treatment Methods, these options are listed in R.61-56, however, SCDES does not list this as a defined term.
3. Establishes setback requirements for wells to be 15' from any property line and 75' from any component of a septic tank as required by State Law.
4. Septic system regulations changes:
 - a. Septic Drainfield Buffer
 1. An area to remain undisturbed until the drainfield is installed. If encroachment takes place the soil will have to be reclassified and if necessary, the septic system be redesigned.
 - b. Septic Drainfield Design
 1. ZOS offsets for systems with advanced treatment would be lowered to the minimum allowed by SCDES at a 6" vertical offset.
 2. Septic drainfield be setback 15' from any property line.

Staff Findings

Staff prepared and proposed Ordinance 2026-05 for Town Council's consideration at First reading to promote sustainable land management practices based on recommendations from SCDES, and Design Professionals. The recommended changes following the March 2, 2026, Planning Commission meeting have been included in purple. Staff have the following key findings based on the first reading and Planning Commission's recommended version of the ordinance:

1. Staff proposed the following modification of minimum vertical distance to the zone of saturation:
 - a. The Planning Commission recommended changing the vertical offset distance to minimum allowed of 6" for systems with Advanced Treatment Methods. The first reading reversion had an additional two-inch increase in vertical offset requirements. Staff consulted with an onsite wastewater professional to determine that as proposed in the Planning Commission version the cost of a system with advanced treatment would be more feasible than one without.
 - b. An additional consideration that was previously provided to the Planning Commission takes a more site-specific approach:
 - i. Based on a soil classifier's finding, if the ZOS is between 0-12" then the offset should be highest and as the ZOS is further down the offset decrease. SCDES minimum offset is 6", staff concluded that the minimum should be granted to systems with AT to protect water quality.
2. The remaining changes are relatively similar to what was originally proposed in first reading the Planning Commission's recommended version structured better and includes important terms. Staff find that the Planning Commission's recommended changes would complement the intent of the first reading version of the ordinance and provide for a more organized ordinance.

Septic Management Plan

Other coastal communities and regional partners within South Carolina are taking comprehensive approaches to Septic System management within their communities. The Edisto Island Open Land Trust and Town of Mt. Pleasant have started programs to educate and assist residents in their communities. These programs have been established through the use of strategic planning with research to identify vulnerabilities within their communities. Staff have been meeting with regional partners such as Sea Grant, South Carolina Office of Resiliency (SCOR), and other entities to find opportunities for the Town to collaborate or create projects locally to assist our community. The U.S. Environmental Protection Agency recommend communities that rely solely on decentralized waste disposal systems (Septic Systems) to establish a Septic Management Plan. The Town of Awendaw should thoroughly consider the impacts of the existing septic systems within our jurisdiction and in unincorporated areas nearby on water quality and how impacts from external factors such as sea-level rise, future development, and future waste management policies that could result in larger impacts to the community.

Current Status

Following the public hearing Town Council may take the following actions through seconding reading of an ordinance:

1. Adopt the ordinance as proposed a first reading.
2. Adopt the ordinance as recommended by Planning Commission.
3. Adopt the ordinance with partial recommendations by Planning Commission, if certain sections or edits are amenable but Town Council would like to preserve sections from first reading a motion to approving with specific recommendations can be made.
4. Propose new edits or suggested revisions not previously considered by Planning Commission (in which case, the matter will need to be referred back to Planning Commission pursuant to S.C. Code § 6-29-760.)

Attachments:

- Ordinance 2026-05 – Water and Waste Disposal as adopted at First Reading.
- Ordinance 2026-05 – Water and Waste Disposal as recommended by Planning Commission.

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, SUBDIVISION REGULATIONS DIVISION, SECTION 153.305 WATER AND SEWAGE DISPOSAL OF THE CODE OF THE TOWN OF AWENDAW.

WHEREAS, Town Council is authorized to adopt ordinances and amend the Town of Awendaw "Town" Code of Ordinances from time to time;

WHEREAS, Town Council now believes it is in the best interest of its citizens to now act as provided herein;

WHEREAS, in conformance with the goals and objectives of the recently adopted Comprehensive Plan, the Town wishes to impose additional regulations regarding on-site wastewater disposal systems to further protect water quality and rural identity;

WHEREAS, in order to protect water quality for existing and future residents the implementation of site design requirements for private water and sewage disposal systems; and

NOW THEREFORE, be it ordered and ordained by the Council of the Town of Awendaw, S. C., and it is ordained by the authority of said Council that the Town of Awendaw Code of Ordinances shall be and hereby is amended as stated herein above and as provided herein below:

SECTION 153.305 WATER SUPPLY AND SEWAGE DISPOSAL

(A) In accordance with State Department of Health and Environmental Control **Services** regulations, all subdivisions shall be served **obtain the necessary permits for** by approved public water and sewerage systems, if accessible for connection, or, a private well, and an on-site, private waste disposal system, **subject to the following applicable requirements:** if in the opinion of the State Department of Health and Environmental Control, the public's health and the environment would best be protected by the installation of such systems. Where public sewer is not available, all buildable lots must meet minimum soil requirements established by the State Department of Health and Environmental Control.

(1) Public Water System

1. The developer shall install public water lines where public water service is available within 300 feet of the property (measured along adjacent rights-of-way).

(2) Private Water Systems

1. Private water systems may only service lots no smaller than 30,000 square feet.
2. Private water systems must not be placed within any identified setbacks or buffers.
3. Private water systems that serve lands or structures that are leased or rented must be tested annually to monitor water quality.

(3) Private On-site Wastewater Disposal Systems

1. Effective on (July 1, 2026) on-site wastewater disposal systems "septic systems" for all new construction within the incorporated limits of the Town of Awendaw must meet the following requirements:
 - a. Drain fields without advanced treatment mechanisms must maintain a 12" vertical distance from the zone of saturation or seasonal water table whichever occurs first. If advanced treatment is being propose this distance may be reduced to no less than 8".

- b. The drain field must be designed to not encroach into identified setbacks or buffers.
- c. No construction activities are permitted to take place within the footprint of the septic system or its components.
- d. For all new systems, a maintenance and monitoring schedule shall be created and recorded with any Covenants, Conditions and Restrictions (CC&Rs) applicable to the new subdivision or with the deed of subdivided lots.

~~(B) The developer shall install public water lines where public water service is available within 500-300 feet of the property (measured along adjacent rights-of-way), provided that this requirement shall not apply when the decision-making body determines that the extension of public water service is infeasible; or that the property owner would be required to consent to annexation in order to obtain public water service.~~

~~—(C) The developer shall install public sanitary sewer lines where public sanitary sewer service is available within 500 feet of the property (measured along adjacent rights of way), provided that this requirement shall not apply when the decision-making body determines that the extension of public water service is infeasible; or that the property owner would be required to consent to annexation in order to obtain public sanitary sewer service.~~

Severability

The provisions of this ordinance are intended to be severable, and if a court of competent jurisdiction should hold any part of this ordinance invalid, unconstitutional, or otherwise unlawful, such ruling shall not affect the remainder of the ordinance, which shall remain in full force and effect.

Be it further ordained that the Town Council declares its intention that the “Pending Ordinance Doctrine” be effective upon first reading of this ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Chris Crolley, Mayor
Town of Awendaw

First reading:
Planning Commission Review and Recommendation:
Public Hearing:
Second and Final Reading:

Donna F. Steed, Clerk of Council

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, SUBDIVISION REGULATIONS DIVISION, SECTION 153.305 WATER AND SEWAGE DISPOSAL AND SECTION 153.009 DEFINITIONS OF THE CODE OF THE TOWN OF AWENDAW.

WHEREAS, Town Council is authorized to adopt ordinances and amend the Town of Awendaw "Town" Code of Ordinances from time to time;

WHEREAS, Town Council now believes it is in the best interest of its citizens to now act as provided herein; and,

WHEREAS, in conformance with the goals and objectives of the recently adopted Comprehensive Plan the Town wishes to impose additional regulations regarding on-site waste water disposal systems to further protect water quality and rural identity;

WHEREAS, in order to protect water quality for existing and future residents the implementation of site design requirements for private water and sewage disposal systems;

Be it ordered and ordained by the Council of the Town of Awendaw, S. C. and it is ordained by the authority of said Council that the Town of Awendaw Code of Ordinances shall be and hereby is amended as stated herein above and as provided herein below:

SECTION 153.009 DEFINITIONS

"Advanced Treatment Methods" Any modification to a septic tank or drainfield that may disperse treated effluent by means of pre-treatment systems, subsurface drip irrigation, low-pressure pipe distribution, landscaped drainfields with native South Carolina shallow rooted plants or as allowed by Department of Environmental Services

"Gleying" Bluish, greenish, or grayish colors in the soil profile that are indicative of markedly reduced conditions due to prolonged saturation. This condition can occur in both mottled and unmottled soils, and can be determined by using the gley page of the soil color charts.

"Public Water System" Any publicly or privately owned waterworks system that provides drinking water for human consumption

"Redox Depletions" Morphological features that are formed by the processes of reduction and translocation of iron and manganese oxides in saturated soils. These features may be revealed as spots, blotches, or streaks and are lighter shades of color compared with the dominant matrix color.

"Subsurface Wastewater Infiltration Area" (Drain Field) - A specific area where a network of wastewater infiltration trenches or other devices of sewage application are installed to provide the final treatment and disposal of effluent.

"Zone of Saturation" Any zone in the soil profile that has soil water pressures that are zero or positive at some time during the year. For the purpose of this regulation, the beginning of such a zone shall be utilized in determining all required vertical separations from the deepest point of effluent application. This zone shall be defined as the shallowest of those points at which either redox depletions of value four (4) or

more and chroma two (2) or less appear or gleying is first observed; or, in the absence of other field identification methods, the maximum groundwater elevation as determined by wet season monitoring performed in accordance with criteria approved by the Department of Environmental Services.

SECTION 153.305 WATER SUPPLY AND SEWAGE DISPOSAL

(A) In accordance with State Department of Health and Environmental Control Services (SCDES) regulations, all subdivisions shall be served design and obtain the necessary permits for by approved public water and sewerage systems, if accessible for connection, or, a private well, and an on-site, private waste disposal system, subject to the following applicable requirements: if in the opinion of the State Department of Health and Environmental Control, the public's health and the environment would best be protected by the installation of such systems. Where public sewer is not available, all buildable lots must meet minimum soil requirements established by the State Department of Health and Environmental Control.

(1) Public Water System

1. The developer shall install public water lines where public water service is available within 300 feet of the property (measured along adjacent rights-of-way).

(2) Private Water Systems

1. Private water systems may only service lots no smaller than 30,000 square feet.
2. Private water systems must not be placed within any identified setbacks or buffers-15 feet of any property line or 75 feet within any component of a septic system.
3. Private water systems that serve lands or structures that are leased or rented must be tested annually to monitor water quality.

(3) Private On-site Wastewater Disposal Systems

1. Effective on (July 1, 2026) on-site wastewater disposal systems "septic systems" for all new private on-site wastewater systems being permitted for the purpose of a subdivision within must meet the following requirements: construction within the incorporated limits of the Town of Awendaw must meet the following requirements:

a. Septic Drainfield Buffer

- a. A protective buffer must be established and shown on all subdivision plats following a soil classification. This buffer shall remain undisturbed until the system has been permitted and installed.
 - i. The buffer must be designed to accommodate the entire drain field of the proposed septic system.
 - ii. In the event the buffer is disturbed by more than 25% of the total area, the Planning Manager shall require the site to be reassessed by a soil classifier.

b. Septic Drainfield Design Standards

- a. All Drain fields must maintain a 12" vertical distance from the zone of saturation or seasonal water table whichever occurs first. If the proposed system utilizes advanced treatment methods this distance may be reduced to no less than 6".
- b. The entirety of drain field must be located at least 15 feet from all property lines.

c. Septic Maintenance Plans

a. For all new systems a maintenance and monitoring schedule shall be created per SCDES requirements and recorded with Covenants, Conditions and Restrictions (CC&Rs) applicable to the new subdivision or with the deeds of subdivided lots.

~~d.—Drain fields without advanced treatment mechanisms must maintain a 12” vertical distance from the zone of saturation or seasonal water table whichever occurs first. If advanced treatment is being propose this distance may be reduced to no less than 8”.~~

~~e.—The drain field must be designed to not encroach into identified setbacks or buffers.~~

~~f.—No construction activities are permitted to take place within the footprint of the septic system or its components.~~

~~g.—For all new systems a maintenance and monitoring schedule shall be created and record with any Covenants, Conditions and Restrictions (CC&Rs) applicable to the new subdivision or with the deed of subdivided lots.~~

~~(B) The developer shall install public water lines where public water service is available within 500-300 feet of the property (measured along adjacent rights-of-way). provided that this requirement shall not apply when the decision-making body determines that the extension of public water service is infeasible; or that the property owner would be required to consent to annexation in order to obtain public water service.~~

~~—(C) The developer shall install public sanitary sewer lines where public sanitary sewer service is available within 500 feet of the property (measured along adjacent rights-of-way), provided that this requirement shall not apply when the decision-making body determines that the extension of public water service is infeasible; or that the property owner would be required to consent to annexation in order to obtain public sanitary sewer service.~~

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Introduced:

Planning Commission Recommendation:

Final Reading:

Chris Crolley
Mayor, Town of Awendaw

Attest: _____

Donna Steed
Clerk of Council



Staff Report

Subject: Ordinance 2026-06 Lighting Regulations
Prepared for: Town Council
Date: April 2, 2026

Background

On January 15, 2026, Town Council passed Ordinance 2026-06 Lighting Regulations as shown within “Appendix 2026-06-01” attached to this report at first reading. As proposed at first reading the ordinance would adopt a new section to the Town’s zoning code to create lighting regulations. The Planning Commission took up the first reading version of 2026-06 ordinance on February 17th and 23rd. A final recommendation was made by the Planning Commission at the February 23rd meeting. The Planning Commission has recommended the proposed revisions be considered for approval at the final adoption of the ordinance. The Planning Commission proposed these revisions to align with most current version of the Dark Sky International policy. The Planning Commission also recommended that in lieu of a lighting district with an adopted map, that lighting standards be set per district by lumens per acre.

Proposed Revisions by Planning Commission

The proposed revisions to this ordinance include, replacement of older terms with updated language in both the text of the ordinance as well as within the definition.

Major Revisions include the following:

1. Section 153.069 – Lighting Criteria
 - a. The revisions to this section include the restructuring of the listed lighting criteria, the revisions include five new subsections, (B) Shielding, (C) Lighting Color, (D) Height, (E) Building Lighting, and (F) Landscape Lighting.
2. New Sections
 - a. 153.070 Lighting Levels
 - i. This section provides for lighting requirements for the Town’s existing zoning districts. The lighting levels are based on lumens per acre, the lowest allowed is in the conservation district while the most in our commercial use zoning districts. Lumens are defined in the ordinance; lumens can easily be located on any light blub available to the general public. For residential and agricultural zoning districts the maximum allowed is 10,000 lumens per acre.
 - b. 153.071 Sports Field Lighting
 - i. This section was added to the ordinance with the provisions provided by the Dark Sky Association with the addition of the height of 30 feet for sports lighting.
 - c. 153.072 Street Lighting
 - i. Provides for a new section to cover street lighting for both public and private roads. Street lighting is provided by the utility companies that service the Town.

- d. 153.073 Lighting Plan Required
 - i. This provides for a set plan that individuals may provide for the Town when applying to the Town for any of the requested activities. Plans can be submitted in two forms as proposed in this ordinance. Additionally, this section also provides review procedures and how a decision can be made.

Staff Findings

Staff have the following key findings based on the first reading of the ordinance.

1. Other communities have used Dark Sky ordinances to regulate commercial or recreational facilities that would normally result in large amounts of light pollution.
2. It's important to ensure that any proposed lighting requirements do not conflict with any applicable State or Federal Law.
3. A feasible process for compliance and enforcement of this ordinance should be created to assist staff in ensuring these requirements are met.

Staff have drafted the following key points for the Town Council's consideration when reviewing the proposed changes to Ordinance 2026-06 Lighting Regulations recommended for approval by the Planning Commission.

1. The proposed revisions would include the most recent accepted terms by the Dark Sky International Association.
2. The proposed revisions would create easily understandable requirements for each zoning district that staff can review and that do not require a design professional to create.
3. At the time of drafting this report, staff have not consulted with a design expert on this matter.
4. Stakeholder engagement will be necessary with utility providers to ensure that the streetlights they provide meet the requirements of this ordinance.
5. These revisions would fall under the original intent of the ordinance to preserve the Town's Dark Sky while not creating additional burden on its residents.

Current Status

Following the public hearing Town Council may take the following actions through seconding reading of an ordinance:

1. Adopt the ordinance as proposed a first reading.
2. Adopt the ordinance as recommended by Planning Commission.
3. Adopt the ordinance with partial recommendations by Planning Commission, if certain sections or edits are amenable but Town Council would like to preserve sections from first reading a motion to approving with specific recommendations can be made.
4. Propose new edits or suggested revisions not previously considered by Planning Commission (in which case, the matter will need to be referred back to Planning Commission pursuant to S.C. Code § 6-29-760.)

Attachments:

- Ordinance 2026-06 – Lighting Regulations as adopted at First Reading.
- Ordinance 2026-06 - Lighting Regulations as recommended by Planning Commission.

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, GENERAL PROVISIONS OF THE CODE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, BY AMENDING SECTION 153.009 DEFINITIONS, ADOPTING A NEW SECTION 153.065 LIGHTING REGULATIONS, ALONG WITH NEW SECTIONS 153.066 THROUGH 153.070 THERETO, PROVIDING FOR NEW LIGHTING REGULATIONS.

WHEREAS, the Town of Awendaw recognizes the importance of regulating outdoor lighting to preserve the natural night environment and reduce sky glow, glare, and light pollution; and

WHEREAS, the Town of Awendaw is committed to promoting energy efficiency and reducing energy costs through the implementation of outdoor lighting standards; and

WHEREAS, the Town of Awendaw seeks to ensure that exterior lighting is designed to illuminate surroundings effectively without causing annoyance or discomfort to the public and neighboring property users due to glare and light spill over; and

WHEREAS, the Town of Awendaw aims to enhance the quality of life for its residents by adopting measures that protect the night sky and maintain the aesthetic appeal of the community;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Awendaw that the following standards for outdoor lighting are hereby established.

LIGHTING REGULATIONS

SECTION 153.065 TITLE & EFFECTIVE DATE

- (A) Title. This ordinance is hereby officially known and cited as the Dark Sky Ordinance of the Town of Awendaw, South Carolina. References herein to “the ordinance” or “this ordinance” shall be interpreted as references to this Dark Sky Ordinance.
- (B) Effective Date. This ordinance shall take effect and be in force from and after the date of its adoption by the Town Council of the Town of Awendaw, adopted this [REDACTED] day of [REDACTED], 2026.

SECTION 153.066 AUTHORITY; CONFLICT; ABROGATION; SEVERANCE

- (A) Authority. This ordinance is enacted pursuant to the authority conferred upon the Town of Awendaw by the South Carolina General Assembly to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (B) Conflict of Law. This ordinance shall be constructed so as to not conflict with any provision of state or federal law. However, the provisions of this ordinance shall control if more restrictive than other local, state, or federal laws or regulations
- (C) Abrogation. This ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing vested rights established pursuant to law.
- (D) Severance. If any portion of this ordinance is legally invalid by a court of competent jurisdiction, all remaining provisions shall continue to be of full force and effect.

SECTION 153.067 PURPOSE

The Town of Awendaw hereby finds and declares that the public interest and general welfare of the residents of the Town of Awendaw will be served through the creation of unified lighting regulations and criteria to preserve the Town of Awendaw's rural appearance and prevent further light pollution. The intent and purpose of this ordinance is to regulate outdoor lighting so that exterior lights minimize sky glow, glare and light pollution. Adherence to the standards contained in the ordinance should lower energy cost, yet illuminate surroundings without causing annoyance to the public and users of property near the light source by reason of glare and light spill over.

SECTION 153.009 DEFINITIONS

"Cutoff fixture" - An outdoor light fixture shielded or constructed in such a manner that no more than two and one half percent of the total light emitted by the fixture is projected above the horizontal plane of the fixture.

"Footcandle (FC)" - A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

"IES" - The Illuminating Engineering Society of North America, a nonprofit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

"Kelvin" is a measure of a light's color temperature. While this is traditionally a measurement of heat it is also related to appearance, therefore it is used as a guide to colors. Color temperatures greater than 4,000 Kelvin are bluish white and are "cooler" colors. Color temperatures less than 3,000 Kelvin are yellowish and are "warm."

"Light pollution" - Spill light which, because of quantitative or directional characteristics, results in annoyance, distraction, or a reduction in the ability to see essential information, such as a traffic signal or the night sky.

"Lumen" - The amount of light which falls upon an area of one square meter, every point of which is one meter distant from a source of one candela. Therefore, a one-candela source produces a total of 12.57 lumens.

"Shielding" - A design feature or a device that is applied to a luminaire to prevent its luminous output from being visible from selected locations or horizontal and/or vertical angles.

"Sky glow" - The brightening of the night sky that results from the reflection of radiation (visible and non-visible), scattered from the constituents of the atmosphere (gaseous molecules, aerosols, and particulate matter), in the direction of the observer. It comprises two separate components:

"Spill light" - Light emitted by a lighting installation which falls outside the boundaries of the property or right-of-way on which the installation is located.

SECTION 153.068 EXEMPTIONS AND PROHIBITIONS

(A) Exemptions

- (1) Lighting requirements mandated by Federal or State law with superseding authority, including but not limited to:
 1. Navigation lighting systems regulated by the Federal Aviation Administration and the US Coast Guard.
 2. Any contradictory South Carolina Adopted Building Code or Department of Transportation illumination requirements.
 3. Lighting for worker safety as mandated by the Occupational Safety and Health Administration.
 4. Temporary lighting used by authorized first responders during emergency procedures.
- (2) Temporary and semi-permanent lighting approved by the Town of Awendaw for special events, festivals, and community benefits.
- (3) Seasonal lighting.

(B) Prohibitions

- (1) Lighting systems must not interfere with the safe movement of motor vehicles. Any lighting that distracts or disables the vision of a motor vehicle operator (e.g., excessively bright or rapid blinking, flashing, and/or motion video) or contributes to traffic control confusion (e.g., sources resembling or imitating traffic or railroad signals) is prohibited.
- (2) Beacons and searchlights, except for emergency use by authorized first responders.

SECTION 153.069 LIGHTING CRITERIA

(A) General Requirements

- (1) Lighting shall be from a concealed light source fixture and with effective provisions made to avoid spill-light into adjoining properties, Roadways, or in any way interfere with the vision of oncoming motorists.
- (2) Lighting shall conform to applicable building code requirements and not exceed the maximum allowable standards.

(B) For all new construction, including but not limited to major or minor subdivisions, a photometric lighting plan shall be submitted in accordance with the regulations listed herein.

- (1) The Planning Manager shall review and approve lighting plans based on the requirements listed in the ordinance, unless approval is otherwise required to be granted by the Planning Commission.
- (2) Site lighting and Plans shall include and conform to the following requirements:
 1. All site lighting must be IES cut-off fixtures. Lighting shall utilize shielding the light source from direct view from any adjoining residential or agricultural use or zoned Lot and public Right-of-Way.
 2. All lamps shall have a color range no greater than 3000 Kelvin (K).
 3. Site lighting shall not exceed 12 feet from the average surrounding grade for residential or agricultural use.
 4. Site lighting shall not exceed 18 feet from the average surrounding grade for commercial use.

5. Foot-candle levels from all fixtures shall not exceed 10 foot-candle levels at any point and shall provide uniform light levels.

Be it further ordained that the Town Council declares its intention that the "Pending Ordinance Doctrine" be effective upon first reading of this ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Chris Crolley, Mayor
Town of Awendaw

First reading:

Planning Commission Review and Recommendation:

Public Hearing:

Second and Final Reading:

Donna F. Steed, Clerk of Council

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, GENERAL PROVISIONS OF THE CODE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, BY AMENDING SECTION 153.009 DEFINITIONS, ADOPTING A NEW SECTION 153.065 **OUTDOOR** LIGHTING REGULATIONS, ALONG WITH NEW SECTIONS 153.066 THROUGH 153.070 **072** THERETO, PROVIDING FOR NEW **OUTDOOR** LIGHTING REGULATIONS.

WHEREAS, the Town of Awendaw recognizes the importance of regulating outdoor lighting to preserve the natural night environment and reduce sky glow, glare, and light ~~pollution~~ **trespass**; and

WHEREAS, the Town of Awendaw is committed to promoting energy efficiency and reducing energy costs through the implementation of outdoor lighting standards; and

WHEREAS, the Town of Awendaw seeks to ensure that exterior lighting is designed to illuminate surroundings effectively without causing annoyance or discomfort to the public and neighboring property users due to glare and light ~~spill over~~ **trespass**; and

WHEREAS, the Town of Awendaw aims to enhance the quality of life for its residents by adopting measures that protect the night sky and maintain the aesthetic appeal of the community;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of Awendaw that the following standards for outdoor lighting are hereby established.

LIGHTING REGULATIONS

SECTION 153.065 TITLE & EFFECTIVE DATE

- (A) Title. This ordinance is hereby officially known and cited as the Dark Sky Ordinance of the Town of Awendaw, South Carolina. References herein to “the ordinance” or “this ordinance” shall be interpreted as references to this Dark Sky Ordinance.
- (B) Effective Date. This ordinance shall take effect and be in force from and after the date of its adoption by the Town Council of the Town of Awendaw, adopted this day of , 2026.

SECTION 153.066 AUTHORITY; CONFLICT; ABROGATION; SEVERANCE

- (A) Authority. This ordinance is enacted pursuant to the authority conferred upon the Town of Awendaw by the South Carolina General Assembly to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (B) Conflict of Law. This ordinance shall be constructed so as to not conflict with any provision of state or federal law. However, the provisions of this ordinance shall control if more restrictive than other local, state, or federal laws or regulations.
- (C) Abrogation. This ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing vested rights established pursuant to law.
- (D) Severance. If any portion of this ordinance is legally invalid by a court of competent jurisdiction, all remaining provisions shall continue to be of full force and effect.

SECTION 153.067 PURPOSE

The Town of Awendaw hereby finds and declares that the public interest and general welfare of the residents of the Town of Awendaw will be served through the creation of unified lighting regulations and criteria to preserve the Town of Awendaw's rural appearance and prevent further light ~~pollution~~ trespass. The intent and purpose of this ordinance is to regulate outdoor lighting so that exterior lights minimize sky glow, glare and light ~~pollution~~ trespass. Adherence to the standards contained in the ordinance should lower energy cost, yet illuminate surroundings without causing annoyance to the public and users of property near the light source by reason of glare and light ~~spill over~~ trespass.

SECTION 153.009 DEFINITIONS

~~"Cutoff fixture" - An outdoor light fixture shielded or constructed in such a manner that no more than two and one half percent of the total light emitted by the fixture is projected above the horizontal plane of the fixture.~~

~~"Footcandle (FC)" - A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.~~

"Fully-shielded" - A luminaire designed or shielded in such a manner that no light is emitted, either directly or indirectly, at or above a horizontal plane running through the lowest light-emitting part of the luminaire.

"Glare" - Lighting entering the eye directly from luminaires or indirectly from reflective surfaces that causes visual discomfort or reduced visibility.

"IES" - The Illuminating Engineering Society of North America, a nonprofit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

"Kelvin" is a measure of a light's color temperature. While this is traditionally a measurement of heat it is also related to appearance, therefore it is used as a guide to colors. Color temperatures greater than 4,000 Kelvin are bluish white and are "cooler" colors. Color temperatures less than 3,000 Kelvin are yellowish and are "warm."

~~"Light pollution" - Spill light which, because of quantitative or directional characteristics, results in annoyance, distraction, or a reduction in the ability to see essential information, such as a traffic signal or the night sky.~~ **Artificial light at night traveling into areas where it is not needed or wanted. This can be in the form of light trespass, glare, or sky glow.**

"Light trespass" - Light emitted by a luminaire that falls outside the boundaries of the property or right-of-way on which the luminaire is located.

"Lumen" - The amount of light ~~which~~ **that** falls upon an area of one square meter, every point of which is one meter distant from a source of one candela. Therefore, a one-candela source produces a total of 12.57 lumens.

“Luminaire” - A complete lighting unit, including the light source, housing, optics, electronics, and other necessary components for the purpose of providing outdoor illumination.

“Mounting height” - The height of the photometric center of a luminaire above grade level.

“Seasonal lighting” - Outdoor lighting that is portable, temporary, decorative, and used in connection with holidays and traditions.

"Shielding" - A design feature or a device that is applied to a luminaire to prevent its luminous output from being visible from selected locations or horizontal and/or vertical angles.

"Sky glow" - The brightening of the night sky that results from the reflection of radiation (visible and non-visible), scattered from the constituents of the atmosphere (gaseous molecules, aerosols, and particulate matter), in the direction of the observer. ~~It comprises two separate components:~~ Sky glow is caused by light directed or reflected upwards or sideways and reduces one's ability to view the night sky.

~~"Spill light" - Light emitted by a lighting installation which falls outside the boundaries of the property or right-of-way on which the installation is located.~~

SECTION 153.068 APPLICABILITY, EXEMPTIONS AND PROHIBITIONS

(A) **Applicability.** These lighting requirements apply to all new construction and major and minor subdivisions.

(B) **Exemptions.**

(1) Lighting requirements mandated by Federal or State law with superseding authority, including but not limited to:

1. Navigation lighting systems regulated by the Federal Aviation Administration and the US Coast Guard.
2. Any contradictory South Carolina Adopted Building Code or Department of Transportation illumination requirements.
3. Lighting for worker safety as mandated by the Occupational Safety and Health Administration.
4. Temporary lighting used by authorized first responders during emergency procedures.

(2) Temporary and semi-permanent lighting approved by the Town of Awendaw for special events, festivals, and community benefits.

(3) Seasonal lighting.

(4) Underwater lighting in fountains, swimming pools, and other water features.

(C) **Prohibitions**

(1) Lighting systems must not interfere with the safe movement of motor vehicles. Any lighting that distracts or disables the vision of a motor vehicle operator (e.g., excessively bright or rapid blinking, flashing, and/or motion video) or contributes to traffic control confusion (e.g., sources resembling or imitating traffic or railroad signals) is prohibited.

(2) Beacons and searchlights, except for emergency use by authorized first responders.

- (3) Nuisance lighting that creates excessive glare or light trespass such that it has a significant and ongoing negative impact on nearby lots, buildings or roads.

SECTION 153.069 LIGHTING CRITERIA

(A) General Requirements

- (1) Lighting shall be from a concealed light source fixture and with effective provisions made to avoid ~~spill light~~ **light trespass** ~~into~~ **onto** adjoining properties, roadways, or in any way interfere with the vision of oncoming motorists.
- (2) Lighting shall conform to applicable ~~Building~~ **Code** requirements and not exceed the maximum allowable standards.

~~For all new construction, including but not limited to major or minor subdivisions, a photometric lighting plan shall be submitted in accordance with the regulations listed herein.~~

- ~~(3) The Planning Manager shall review and approve lighting plans based on the requirements listed in the ordinance, unless approval is otherwise required to be granted by the Planning Commission.~~

- ~~(4) Site lighting and Plans shall include and conform to the following requirements:~~

(B) Shielding. All site lighting must be ~~IES cut-off fixtures~~ **fully-shielded**. Lighting shall utilize shielding ~~the light source from direct view from any adjoining residential or agricultural use or zoned Lot and public Right of Way.~~

(C) Lighting Color. All lamps shall have a **correlated color range temperature** no greater than 3000 Kelvin (K).

(D) Height.

- (1) ~~For residential or agricultural use, the mounting height of all exterior Site lighting shall not exceed~~ **is limited to** 12 feet from the average surrounding grade. ~~for residential or agricultural use.~~
- (2) ~~For commercial and other non-residential uses, the mounting height of all exterior Site lighting shall not exceed~~ **is limited to** 18 feet from the average surrounding grade. ~~for commercial use.~~
- (3) Building lighting is limited to the height of the building on which it is located.
- (4) Sport field lighting shall follow the height requirements listed in Section 153.071 (B)(2).

(E) Building lighting.

- (1) Directional luminaries used for building façade illumination are allowed if they are shielded and aimed to hit their target such that the light is contained by architectural elements.
- (2) Floodlights are allowed, but are subject to the standards in this section and Section 153.070 Lighting levels.

(F) Landscape Lighting. Landscape lighting is allowed if it does not exceed 450 lumens and is aimed such that the light source cannot be seen from any reasonable viewing point on an adjacent lot. ~~Foot-candle levels from all fixtures shall not exceed 10 foot-candle levels at any point and shall provide uniform light levels.~~

SECTION 153.070 LIGHTING LEVELS

- (A) Conservation Zoning District
 - (1) Lighting levels per lot shall be limited to 5,000 lumens per acre within the Conservation Zoning District.
- (B) Agricultural and Residential Zoning Districts
 - (1) Lighting levels per lot shall be limited to 10,000 lumens per acre within the Agricultural and Residential Zoning Districts.
- (C) Office residential, General Commercial, and Town Center Zoning District
 - (1) Lighting levels per lot shall be limited to 20,000 lumens per acre within Office Residential, General Commercial, and Town Center Zoning Districts.

SECTION 153.071 SPORTS FIELD LIGHTING

- (A) Applicability. Sports Field lighting shall conform to the following requirements.
- (B) General.
 - (1) All lighting fixtures must be equipped with a glare control package (e.g., louvers, shields, or similar devices) and aimed so their beams are directed and fall within the primary playing area.
 - (2) Outdoor sports field lighting is limited to 30 feet from the average surrounding grade.
 - (3) The hours of operation for the lighting system for any game or event shall not continue for more than one hour after the end of the game or event.

SECTION 153.072 STREET LIGHTING

Where provided, all fixtures installed for the purpose of illuminating public and private streets must:

- (A) Be fully shielded;
- (B) Comply with 153.069(C): Lighting Color; and
- (C) If applicable, comply with all County or SCDOT requirements for location and placement in the right-of-way.

SECTION 153.073 LIGHTING PLAN REQUIRED

- (A) Submittal: Whenever a building, subdivision, site plan, or outdoor lighting permit is applied for, an outdoor lighting plan must be submitted along with a compliance statement that the proposed work will comply with all [ordinance] requirements. The outdoor lighting plan must follow one of the following:
 - (1) Schedule Method: Lighting plans must include a table with the following information:
 - 1. Luminaire identifications (i.e., manufacturer, model number, type);
 - 2. Luminaire quantities;
 - 3. Installation locations; and
 - 4. Lumen outputs for each.
 - (2) Calculation Method: Available for all project types but required for sports lighting and when specifically requested by the planning commission; an outdoor lighting design

shall be prepared by a certified lighting professional or licensed professional engineer using lighting design software and Luminaire .ies files. This outdoor lighting plan shall include:

1. Luminaire identification (model number), installation locations, mounting heights, targeted directions, buildings, and other physical objects within the site that could affect the lighting outcome.
- (B) Review: Submitted spreadsheets, site lighting plans, and compliance affidavits shall be subject to review and approval by the Planning Manager, or designee. The Planning Manager shall have the authority to refer any application to the Planning Commission if deemed appropriate.
- (C) Appeals: Any appeals related to decisions regarding outdoor lighting shall be heard before the Board of Zoning Appeals.



Staff Report

Subject: Ordinance 2026-07 Wetland Protection Ordinance
Prepared for: Town Council
Date: April 2, 2026

Background

The existing Wetland Protection Ordinance (Ordinance No. 2025-42) was passed on November 6, 2025, by Town Council. Ordinance 2025-42 was Planning Commission reviewed and recommended for approval on September 15, 2025. At second reading on November 6, 2025, Town Council adopted the version that was proposed by Planning Commission with minor verbiage changes. Following the enactment of Ordinance 2025-42, Staff and members of Town Council discussed necessary revisions of the recently adopted Wetland Protection ordinance. These revisions are as shown in “Appendix Ordinance 2026-07-01” and approved at first reading by Town Council on January 15, 2026. Planning Commission took up the first reading version of this ordinance on February 17th and March 2nd with final recommendations being made on March 2nd. These recommendations primarily come from the reviews of substantive modifications made by other Coastal Communities that have adopted the South Carolina Environmental Law Project’s template ordinance.

Overview of the First Reading Version

These changes mostly provide clarity on the State’s role in review of wetland impacts to wetlands within the coastal zone and critical areas. The amendments would also apply to the review of wetland impact applications. As proposed in the first reading version, any and all wetland impacts would be reviewed by the Planning Commission.

Overview of the Planning Commission Recommended Version

The major changes to the first reading version of the ordinance would be to the buffer requirements in section 153.231 as proposed.

1. General Wetlands the buffer requirements would be lowered for all uses, however the additional 15’ setback would stay in place (total area with setback).
 - a. General Wetland buffers for residential use would be lowered to 35’ (50’) from 75’ (90’).
 - b. General Wetland buffers for industrial or commercial use would be lowered to 55’ (70’) from 100’ (115’).
 - c. General Wetland buffers for agriculture use would be lowered to 55’ (70’) from 100’ (115’).
2. Wildlife Refuge, Wildlife Sanctuary or Nature Preserve Wetland Buffer
 - a. This section was removed from the ordinance since these areas could be classified under National Parks or protected areas.

Overview of the Planning Commission Recommended Version - continued

3. Local, State, or National Park or Forest Wetland Buffers
 - a. This section was modified to only include wetlands part of or adjacent to a local, state, or national park.
 - b. This would also exclude residential uses; staff interpret this to mean that residential use would still need to meet the 50' buffer and setback requirements.

Section 153.232 Applicability – NEEDS TO BE FORMALLY ESTABLISHED

As proposed, the wetland impact and notification would apply to any activity that would encroach into the identified setback or buffer. These would be submitted in conjunction with any activity that is preliminarily or formally reviewed by the Planning Department or Commission.

1. Since this ordinance would require the new buffer and setback requirements on **any newly created lots**, Wetland Impact Applications should be reviewed for any **new development proposing impacts to wetlands**.
 - a. These activities should follow the purview of the Planning Commission for a subdivision proposing any wetland impacts.
2. Prior nonconforming use, activity, or structures as detailed in this ordinance should be reviewed under a wetland notification.
 - a. Wetland notifications should be handled at the staff level. This would not deviate from existing purview of Staff and if appealed would result in a Board of Zoning Appeals hearing.
 - b. Any activity may be elevated to the Planning Commission at the discretion of the Planning Manager.

Section 153.233 Procedures – NEEDS TO BE FORMALLY ESTABLISHED

To avoid an administrative misstep or creation of a policy without formal approval staff incorporated this revision into the first reading version of the ordinance to ensure if the Town Council wished to have additional fees and applications for this regulation it adopted formal applications and processes for each application.

1. If no fee or application is created, staff will review wetland impacts/notifications based on the submission.
 - a. If the application falls under the normal purview of the Planning Commission like a subdivision plat, then it will be reviewed in accordance with the requirements set out in this ordinance and those established in the Town's existing code.
 - b. Similarly, if there is an existing non-conforming structure, it will be reviewed by Town Staff at a zoning approval level in accordance with the requirements set out in this ordinance and those established in the Town's existing code.

Section 153.234 Standards and Criteria for approval or disapproval of Wetland Impact Applications

1. The Planning Commission recommended that the Town adopt more objective criteria for a rationale for the approval or disapproval of an application. Other communities have adopted the same criteria within this section. This language as proposed comes from Georgetown County's proposed ordinance.

Overview of the Planning Commission Recommended Version - continued

Section 153.235 Activities Restricted/Exempted

1. Staff recommended the replacement of the term prohibited with the term restricted. The use of the term prohibited is misleading based on the intent of the ordinance. No disturbance is necessarily prohibited, rather it is restricted.
2. If the Town wishes to prohibit certain activities within wetland buffers and setbacks it should be written out in its own category. Staff suggest that the Town prepare a list of activities that will not be allowed within the Town. If an individual wants to perform said prohibited activity they need to get a wavier from the Board of Zoning appeals.

Requested Workshop

Since there is a wetlands ordinance in place the Planning Commission requested that Town Council and Planning Commission host a joint workshop to discuss these recommended amendments by the Planning Commission.

Staff Findings

Staff have identified the following key points when considering the recommended version as proposed by the Planning Commission:

1. These revisions would lower the buffer requirements these changes would mirror other communities.
 - a. The current regulations what was proposed in first reading would have large buffers, the smallest buffer and setback would be 90'. Staff have noticed that this would have an impact on individuals seeking to subdivide family parcels.
2. Provide the foundation for how wetland impact or notifications applications are reviewed.
3. Modified review criteria for approval or denial of a request that are less subjective.

Town Council's further considerations

1. Town Council should outline prohibited activities, restricted activities, and exempt activities.
2. Establishment of a fee and application.
 - a. Town Council must consider the creation of an additional fee and application if it determines that it is necessary.
3. Consider annual review of denied applications to determine if modifications to the requirements of the ordinance are necessary.

Staff Recommendations

Planning Commission's recommendations thus far have been around community feedback and recommended environmental planning practices. These regulations would complement the intent of the ordinance; however, it would refine the ordinance from more of a "template" version to something that is more tailored to Awendaw. Based on these discussions with the Planning Commission, community members, regional partners, and other municipalities staff recommend that additional amendments are necessary before final adoption. Staff have outlined specific items as listed in "further considerations". Town Council may agree that these are of concern or not, however, these items will alter the application and enforcement of this ordinance. Staff generally agree that lower buffer requirements should be applied to residential use as recommended by Planning Commission. As proposed, a buffer and setback area of 50' in total is an optimal buffer/setback distance for residential uses. Staff would suggest that if the residential use is adjacent to a protected or critical wetland, the buffer or setback should be increased to reflect that. Staff also recommend that wetland buffers be established based on 1) Use and 2) Wetland type. The use will establish the minimum buffers necessary, the wetland type based on significance should be considered when increasing the minimum buffers requirements.

Current Status

Following the public hearing Town Council may take the following actions through seconding reading of an ordinance:

1. Adopt the ordinance as proposed a first reading.
2. Adopt the ordinance as recommended by Planning Commission.
3. Adopt the ordinance with partial recommendations by Planning Commission, if certain sections or edits are amenable but Town Council would like to preserve sections from first reading a motion to approving with specific recommendations can be made.
4. Propose new edits or suggested revisions not previously considered by Planning Commission (in which case, the matter will need to be referred back to Planning Commission pursuant to S.C. Code § 6-29-760.)

Attachments:

- Ordinance 2026-06 – Wetland Protection as adopted at First Reading.
- Ordinance 2026-06 – Wetland Protection as recommended by Planning Commission.

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, WETLANDS AND WATERWAYS SETBACKS DIVISION OF THE CODE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, BY RENAMING THE DIVISION THEREOF TO WETLANDS PROTECTION AND REPEALING THE EXISTING SECTION 153.225 THERETO AND ADDING A NEW SECTION 153.225, ALONG WITH NEW SECTIONS 153.226 THROUGH 153.238 THERETO, PROVIDING FOR THE PROTECTION OF TIDAL AND FRESHWATER WETLANDS, AND ALL EFFECTED SECTIONS FOR CLARITY; SECTION 153.009 DEFINITIONS TO INCLUDE PROPOSED DEFINITIONS, SECTION 153.025 THROUGH 153.032 "DESCRIPTION OF ZONING DISTRICTS" TO REFERENCE THE WETLANDS STANDARDS.

WHEREAS, Town Council is authorized to adopt ordinances and amend the Town of Awendaw Code of Ordinances from time to time;

WHEREAS, Town Council now believes it is in the best interest of its citizens to now act as provided herein; and,

WHEREAS, the Town of Awendaw is surrounded by a vast network of tidal and freshwater wetlands, which are biologically diverse and essential ecosystems that support the overall health of the environment; and,

WHEREAS, healthy wetlands provide crucial functions and values, including flood control and mitigation, storm protection and erosion control, and natural filtration for pollutants, all of which are vital to the public health, safety, and welfare of the community; and,

WHEREAS, wetlands offer significant benefits for habitat (including for rare, endangered, and threatened species), carbon sequestration, and provide unique opportunities for recreation, tourism, and scientific research; and,

WHEREAS, historic and continued loss and degradation of wetlands due to development have directly contributed to the Town's existing and future problems with flooding and decreased water quality, which are contrary to the public health, safety, and welfare of residents; and,

WHEREAS, the detrimental consequences of wetland loss include increased flooding, increased erosion, and decreased water quality because the land's natural water absorption and pollutant removal capacities are significantly reduced; and,

WHEREAS, existing local, state, and federal regulations for wetlands are inconsistent, deficient, and constantly shifting, failing to provide the clarity and uniformity necessary to adequately protect all vital wetland systems within the Town of Awendaw; and,

WHEREAS, greater legal protection through the adoption of local standards is necessary to preserve these vital ecosystems and their buffers, thereby furthering the Town's goals of protecting natural resources, ensuring public safety, and maintaining environmental integrity; and,

WHEREAS, Town Council now believes it is in the best interest of its citizens to now act as provided herein; and,

NOW THEREFORE, be it ordered and ordained by the Council of the Town of Awendaw, S. C. and it is ordained by the authority of said Council that the Town of Awendaw Code of Ordinances shall be and hereby is amended as stated herein above and as provided herein below:

WETLANDS PROTECTION**SECTION 153.225 TITLE & EFFECTIVE DATE**

- (A) Title. This Ordinance is hereby officially known and cited as the Wetland Protection Ordinance of the Town of Awendaw, South Carolina. References herein to “the Ordinance” or “this Ordinance” shall be interpreted as references to this Wetland Protection Ordinance.
- (B) Effective Date. This Ordinance shall take effect and be in force from and after the date of its adoption by the Town Council of the Town of Awendaw, adopted this _____ day of _____, 2026.

SECTION 153.226 AUTHORITY; CONFLICT; ABROGATION; SEVERANCE

- (A) Authority. This Ordinance is enacted pursuant to the authority conferred upon the Town of Awendaw by the South Carolina General Assembly to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (B) Conflict of Laws. This Ordinance shall be construed so as to not conflict with any provision of state or federal law. However, the provisions of this Ordinance shall control if more restrictive than other local, state, or federal laws or regulations.
- (C) Abrogation. This Ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law.
- (D) Severance. If any portion of this Ordinance is held legally invalid by a court of competent jurisdiction, all remaining provisions shall continue to be of full force and effect.

SECTION 153.227 FINDINGS

- (A) Wetland Resources. The area surrounding the Town of Awendaw is home to many tidal creeks that are surrounded and supported by a vast network of fresh and salt water wetlands.
- (B) Benefits of Wetlands. Healthy wetlands are vitally important, biologically diverse ecosystems that regulate water quality and quantity. Wetland functions support ecological and economic health and contribute to the public health, safety, and welfare of the community. These unique areas are not only essential to the overall health of the environment, but also have the capacity to address local water-related problems that affect the area. Benefits of wetlands include the following functions and values:
- (1) Flood control and mitigation. Wetlands serve the vital ecological function of flood control and water retention during flood and rain events through hydrologic absorption and storm water flow regulation. Their topography and location allow them to capture, store, and slowly release water, providing protection for people, property, and infrastructure. Natural wetlands are more cost-effective and

efficient at addressing flooding concerns than engineered stormwater infrastructure.

- (2) Storm protection and erosion control. Wetlands provide natural protection from hurricanes, storm events, and erosion. Their vegetation and spongy soils stabilize waterways by reducing the velocity of water, preventing stream scour and bank cutting. Deeply-rooted wetland vegetation stabilizes soils and protects shorelines from erosive forces like wind and water. Through their erosion control function, wetlands also help to conserve soil and water for farms and forests.
 - (3) Pollution control and filtration. Wetlands naturally remove harmful nutrients and pollutants from the environment through biological degradation and chemical oxidation. The natural friction wetlands create slows down water flows, allowing suspended sediments to settle. Nutrients from sources like fertilizers, leaking septic systems, sewage, and manure, can then be removed from the environment through vegetation uptake or microorganism absorption. Wetlands are also effective at removing heavy metals (e.g. lead-Pb) from runoff.
 - (4) Habitat. Wetlands are some of the most biologically diverse ecosystems in the world, comparable to tropical rainforests and coral reefs in their species diversity. Wetlands provide spawning, nesting, breeding, feeding, and migration habitat for a wide variety of plants, birds, mammals, amphibians, reptiles, crustaceans, insects, and microorganisms, including rare, endangered, and threatened species. Coastal wetlands indirectly support the fishing industry by providing habitat and nursery grounds for economically valuable aquatic species like fish, shrimp, and crabs.
 - (5) Recreation, tourism, and aesthetics. Wetlands provide unique spaces for a variety of recreational activities, including hiking, boating, fishing, hunting, birdwatching, wildlife viewing, and photography.
 - (6) Groundwater. Groundwater-connected wetlands receive and recharge groundwater, contributing to healthy aquifers and maintaining drinking water supplies for communities. A healthy range of wetlands supports overall watershed health.
 - (7) Education and scientific research. Wetlands are naturally occurring classrooms and laboratories, providing excellent opportunities for education and scientific research on a wide range of topics, including soil types, water quality, and unique species of plants and animals.
 - (8) Carbon sequestration. Wetlands are heavily vegetated with plants that remove carbon dioxide from the air. Unlike other ecosystems, the characteristic wet conditions of wetlands prevent rapid decomposition of organic matter, allowing carbon to be stored long-term in the soil. In this way, wetlands help offset human carbon emissions that are harmful to the global climate.
- (C) Importance of Wetland Buffers. Wetland buffers, also known as vegetated or riparian buffers, provide a transition between uplands and wetlands and are essential to

preserving the health of wetlands and waterways. In addition to supplementing and enhancing the benefits of wetlands listed above, wetland buffers serve the additional purpose of facilitating wildlife movement to other habitats (“wildlife corridors”).

- (D) The S.C. Office of Resilience (SCOR) and the ~~Bureau of Office of Ocean and Coastal Resource Management (BCM)(OCRM)~~ within the S.C. Department of Environmental Services (DES), formerly known as the S.C. Department of Health and Environmental Control (DHEC), encourage the development and implementation of local ordinances in support of wetland buffers within the eight coastal counties, including Charleston County and the Town of Awendaw.
- (E) Loss of Wetlands. Historic wetland loss and degradation has contributed directly to the Town of Awendaw’s flooding and water quality problems. The continued loss of this natural resource due to development has had and will continue to have detrimental, irreversible, long-term implications not only for the natural environment, but for the current and future residents of the town. Further loss of wetlands and uplands adjacent to wetlands is contrary to public health, safety, and welfare of the Town and its residents. Loss of wetland areas through the practice of filling in wetlands and building on them has both direct and indirect consequences, including the following:
- (1) Increased flooding. Filling wetlands dramatically reduces the natural water absorption capacity of the land. Excess rainwater during flood and rain events that would otherwise be absorbed or distributed under normal conditions results in runoff and flooding putting people and structures directly at risk.
 - (2) Decreased water quality. Wetland loss decreases the ability of the land to naturally remove pollutants from the environment. Without absorption and vegetative uptake, pollutants are carried downstream in high concentrations during rain and flood events.
 - (3) Increased erosion. As runoff and flooding increases, so does the velocity of water flow. Fast-moving water has the power to change the entire landscape of an area. In addition to scouring, deepening, and re-routing of waterways, erosion also threatens the structural integrity of existing homes, roads, and other infrastructure.
- (F) Wetland Fluctuations. Wetlands are fluid ecosystems that experience changes depending on the season or the year. They may be more difficult to identify during dry periods, giving a false sense of security that they are suitable for development.
- (G) Existing Regulations. Unmitigated wetland loss and degradation is often a function of unregulated human activity. Existing local, state, and federal regulations do not fully contemplate or encompass all wetlands within the Town of Awendaw. In particular, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers’ authority over wetlands is constrained by the Clean Water Act’s definition of “waters of the United States,” and is constantly changing and reforming through decades of litigation and case law. These shifts do not provide the clarity and uniformity necessary to adequately protect and maintain healthy wetland systems that are necessary for the safety and welfare of the Town’s residents, as well as for the maintenance of healthy wildlife populations. South Carolina’s authority over wetlands is only through its indirect

authority in providing certifications that certain projects are consistent with the state's Coastal Management Program; however, this authority fails to capture projects that would degrade or destroy wetlands. In addition, Awendaw does not presently have any protections for wetlands. Because of the inconsistencies and deficiencies with the state and federal regulation, greater legal protection at the local level is needed to protect and preserve these vital ecosystems.

SECTION 153.228 PURPOSE

The Town of Awendaw hereby finds and declares that the public interest and general welfare of the residents of the Town of Awendaw will be served through the creation of procedures for the protection, conservation, enhancement, and proper maintenance of all existing wetlands and wetland buffer areas within the Town of Awendaw and for the protection of existing wetlands and wetland buffer areas from encroachment, pollution, degradation, alteration, or elimination. These protections are an integral part of the Town of Awendaw's broader surface and groundwater management plans. These protections are also a crucial element of the Town of Awendaw's resiliency plan in anticipation of more frequent and severe storm events as well as documented and projected sea level rise. In light of these stated findings and purposes, and in keeping with the Town of Awendaw Comprehensive Plan, the Town of Awendaw enacts these provisions to incorporate wetland area protections into all of Town of Awendaw's land use, planning, and development approval procedures.

SECTION 153.009 DEFINITIONS

- (A) Buffer. An area of non-disturbance between a wetland and a setback where natural vegetation must be maintained in order to protect the wetland or its functions. **Wetland Buffer** widths are established pursuant to Section ~~VIII~~ **153.231(A)** of this Ordinance.
- (B) Degraded structure. Any building, wall, road, dock, water control device, or other structure of any kind that is determined by the Planning Manager to be more than fifty-percent (50%) destroyed or damaged.
- (C) Disturbance. Any human-made land alterations, disturbances, or construction activities, including, but not limited to, filling; clearing; grading; dredging; excavating; draining; construction; mining; removal of peat, sand, gravel, or other sediment; altering the water level or water table; altering surface drainage characteristics, sediment patterns, or flood retention characteristics; installation of septic tanks; or any other alteration or use of wetland areas.
- (D) Nonconforming. Any use, activity, or structure in operation or existence on the date of this Ordinance that would otherwise not be permissible according to the terms herein.
- (E) Person. Any individual, firm, partnership, association, trust, corporation, company, organization, or legal entity of any kind, whether public or private, including municipal corporations, governmental agencies, or subdivisions thereof.
- (F) Public Interest. As used herein, public interest, also referred to as "overriding public interest" must be demonstrated by all applicants as a prerequisite to

application approval. Public interest is defined as a purpose that directly benefits the welfare or the well-being of the community at large as opposed to benefiting a singular person, organization, or entity. An overriding public interest contemplates the purpose of the final, completed proposed project and does not include any limited public benefits that may be derived prior to project completion, such as economic benefits from providing construction jobs, etc.

- (G) Setback. An **undisturbed area** between the buffer and the upland where construction of any building or structure is prohibited. **Wetland** Setback widths are established pursuant to Section ~~VIII~~ **153.231(B)** of this Ordinance.
- (H) Water control devices. Dams, retaining walls, terraces, sluices, culverts, dikes, levees, ditches, farm pounds, or any other human-made device or structure designed to regulate the natural flow of water.
- (I) Wetland(s). Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (as defined by the United States Army Corps of Engineers and the Environmental Protection Agency). Wetlands are identified and characterized by three things: (1) predominantly hydric soils, meaning soils that are formed under wet conditions; (2) species of plants that tolerate wet conditions (hydrophytes); and (3) the presence of water above or just below the soil surface for at least a portion of the growing season each year. Wetlands generally include lands and waters meeting this definition, and encompass areas referred to as swamps, marshes, tidal flats, bays, bogs, estuaries, wetland meadows, ephemeral and tributary systems, vernal pools, banks, reservoirs, ponds, lakes, lands under water bodies, and other similar areas. Determination of wetland boundaries shall be performed in accordance with the provisions contained herein.
- (1) Jurisdictional wetlands. The U.S. Army Corps of Engineers determines whether wetlands qualify as “waters of the United States” through the Corps Wetland Delineation Manual and Southeast Supplement. Federal case law on what constitutes “waters of the United States” continues to evolve. For that reason, local governments need consistency in determining what areas are entitled to protection outside of the Corps’ regulatory authority.
- (2) Non-jurisdictional wetlands. Wetlands falling outside the purview of “waters of the United States” are still “wetlands” and provide the same benefits and environmental services as jurisdictional wetlands. This Ordinance contemplates protections for both jurisdictional and non-jurisdictional wetlands.
- (3) Critical area wetlands. Tidally influenced wetlands falling under the direct permitting authority of the South Carolina Department of Environmental Services' (SCDES) Bureau of Coastal Management (BCM). SCDES BCM is responsible for establishing critical area lines which locate the upland boundary of tidally influenced systems as outlined in State law. For the

purpose of this ordinance, critical area wetlands are those wetlands below a certified and valid critical area line as delineated by SCDES BCM.

- (J) Upland. An area of land that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands. ~~Thus, an upland is a non-protected area beyond the setback.~~

SECTION 153.229 ADMINISTRATION

- (A) The provisions of this Ordinance shall be administered and enforced by the Town of Awendaw Planning Manager or by such other official, officer, or department as ~~may be~~ designated by the Town Council.
- (B) The Planning Manager shall institute, or cause to be instituted, such actions necessary to ensure compliance with these provisions, and/or the conditions placed upon any permit or other approval.
- (C) The Planning Manager shall have the authority to cause whatever actions are necessary at a site or location where a violation of this Ordinance has occurred to ensure that it is returned to its original quality and function, and the same cause of action shall be at no cost to the Town of Awendaw and shall be assessed to the violator.
- (D) The Planning ~~Manager~~ **Commission** has the authority to issue, deny, or conditionally approve **Wetland Certifications** consistent with the standards, goals, and criteria set forth in this Ordinance, and subject to the procedures outlined herein.
- (E) Regulation of land uses. The regulation of land uses both within and adjacent to wetlands, having been determined to be in the best interest of the **Town of Awendaw**, shall be done in a manner consistent with the review procedures and performance standards identified herein which reflect the relative importance, values, and functions of these areas.

SECTION 153.230 WETLAND DELINEATION

For all proposed land disturbances taking place within the ~~unincorporated~~ areas of **the Town of Awendaw** as defined herein, and all applicable activities, as enumerated herein, the following shall apply:

- (A) Where unexpired wetland delineations have already been approved by the Army Corps of Engineers, such delineations will constitute “wetlands” for the purposes of this Ordinance. This Ordinance encompasses all delineated wetlands regardless of whether they are jurisdictional or non-jurisdictional.
- (B) Where unexpired critical area lines have already been approved by SCDES BCM, such delineations will constitute “critical area wetlands” for the purposes of this Ordinance. Critical area lines must be updated every five (5) years in accordance with SCDES BCM. Expired critical area lines will not be accepted as a valid delineation.
- (C) In all other cases, a landowner or authorized agent of the landowner shall submit to the Planning Manager either an affidavit attesting that no wetlands or wetland buffer areas exist on the site; or a professional wetlands delineation.

SECTION 153.231 WETLAND BUFFERS AND SETBACKS

(A) Wetland Buffer Areas. Wetland buffers are to be calculated by measuring horizontally outward from and perpendicular to the edge of the wetland, as defined herein. They must extend the entire perimeter of the wetland delineation within the property. If a wetland falls into more than one of the categories below, the more restrictive buffer width shall control. The following wetland buffer widths are applicable to all uses and activities subject to the purview of this Ordinance:

(1) General Wetland Buffers. A minimum buffer of seventy-five (75) feet must be observed for all **jurisdictional, non-jurisdictional, or critical area wetlands unless other outlined in this section:** ~~as defined by this Ordinance.~~

1. Industrial or Commercial Use Buffers. To counteract the increased risk of pollution from industrial or commercial activities, an additional buffer of twenty-five (25) feet must be observed between general wetland buffer and industrial activities or uses.
2. Agricultural Use Buffers. To counteract the increased risk of pollution from fertilizer, pesticide, and animal waste, an additional buffer of twenty-five (25) feet must be observed between general wetland buffer and agricultural activities or uses.

(2) Wildlife Refuge, Wildlife Sanctuary, or Nature Preserve Wetland Buffers. A buffer of two-hundred (200) feet must be observed when a wetland is part of, adjacent to, or within one-hundred (100) feet of a Wildlife Refuge, a Wildlife Sanctuary, or a Nature Preserve, **that has been established and operates under enabling state law.**

(3) Local, State, or National Park or Forest Wetland Buffers. A buffer of one-hundred (100) feet must be observed when a wetland is part of, adjacent to, or within one hundred (100) feet of a local, state, or national park.

(4) Riparian Wetland Buffers. A buffer of one-hundred (100) feet must be observed when a wetland is adjacent to a river or a tributary of a river.

~~(5) Industrial Buffers. To counteract the increased risk of pollution from industrial activities, a buffer of one hundred (100) feet must be observed between wetlands and industrial activities or uses.~~

~~(6) Agricultural Buffers. To counteract the increased risk of pollution from fertilizer, pesticide, and animal waste, a buffer of one hundred (100) feet must be observed between wetlands and agricultural activities or uses.~~

(B) Wetland Setbacks.

(1) A setback line of fifteen (15) feet must be observed around all wetland buffer areas.

- (2) Wetland setbacks are to be calculated by measuring horizontally outward from and perpendicular to the edge of the wetland buffer area. They must extend the entire length of the wetland buffer within the property.

SECTION 153.232 APPLICABILITY

- (A) Any person proposing to carry out a wetland disturbance under this subsection must, prior to the commencement of the activity, submit a Wetlands Impact Application to the Planning Manager.
- (B) Applicable Activities. This Ordinance shall apply to any proposed land disturbance use or activity within a wetland or wetland buffer area. A Wetlands Impact Application should be submitted simultaneously with ~~any action that results in land disturbance, including but not limited to~~ the following:
- (1) Applications for land use or zoning permits;
 - (2) **Building Permit**;
 - (3) Site plan and plat approvals for major and minor subdivisions;
 - (4) Requests for approval of site improvement construction plans;
 - (5) Any request for development approvals or permits related to land use, including those for stormwater management or other infrastructure improvements;
 - (6) Requests for permission to fill in ditches along town roads and rights-of-way;
 - (7) Applications for waste disposal permits;
 - (8) Any other land use action or permit required by the Town Code that may involve land disturbance.
- (C) No approval, **zoning or building** permit for land disturbance shall be issued until the required Wetlands Impact Application has been submitted and approved. Additionally, no project shall be considered fully approved until the site is certified by an on-site inspection by the Planning Manager or his/her designee.
- (D) Non-conforming buffers. All developed lots and all undeveloped but recorded single-family house lots on the effective date of this Ordinance that do not comply with the buffer and setback requirements of this Ordinance shall be grandfathered as legal non-conforming lots. However, existing **setbacks landscaping** on these legal non-conforming lots, which satisfies either partially or wholly the buffer requirements of this Ordinance, shall be required to be **undisturbed maintained**. Other exempted or prohibited provisions for nonconformities can be found in Section 153.235.C of this ordinance.
- (E) Permits issued by local, state, or federal agencies do not relieve a person of the requirement to seek approval under this Ordinance.

SECTION 153.233 PROCEDURES

- (A) Generally.
- (1) Wetland Notification Form and Wetlands Impact Application. The Planning Manager shall develop a Wetlands Notification Form and

Wetlands Impact Application and shall make it easily accessible to the public.

- (2) Filing Fees. The Town Council shall adopt a fee and an application form before this ordinance may be administered. ~~is authorized to create a filing fee regime, and to set reasonable rates comparable to other permit application fees.~~ The applicant must pay this non-refundable fee at the time of filing.

(B) Initiation; Wetlands Notification Form and Wetlands Impact Application.

- (1) Any person wishing to undertake an “applicable activity” as defined herein, or otherwise disturb a wetland shall submit a Wetlands Impact Application to the Planning Manager. For applicants who will adhere to all buffer and setback requirements and will not impact wetlands, a Wetlands Notification Form may be submitted.
- (2) The contents of both the Wetlands Notification Form and Wetlands Impact Application shall include the following:
- (a) Full name, mailing address, telephone number(s), and e-mail address of the owner and applicant (if different);
 - (b) Whether the applicant is the owner, lessee, licensee, etc. of the subject property (if the applicant is not the owner of record, written consent of the owner or his/her legal designee must be attached);
 - (c) Physical address, TMS number, and/or geographic coordinates of the property in question;
 - (d) Zoning classification and restrictions relating to the property;
 - (e) An existing or recent (within the last two years) property survey containing the following information:
 - (a) the lot size of the entire property;
 - (b) the legal boundaries of the property;
 - (c) the legal ownership and lot size of adjacent properties;
 - (d) ~~Location and type of wetlands,~~ a recent or unexpired wetland delineation as outlined per in 153.230;
 - (e) the corresponding wetland buffer and setback as required in 153.231
 - (f) the proposed project area; and
 - (g) any surface water bodies located on or within 100 feet of the legal boundaries of the property.
 - (f) Photographs of the proposed project site showing the existing condition of the site;

- (g) Purpose and detailed description of the project, including the type of proposed activity, project dimensions, and distance from any road or water body;
- (3) If the applicable activity will result in impacts to wetlands or buffers and setbacks, the applicant must submit the following additional materials as part of the Wetlands Impact Application:
- (a) Description of anticipated direct and indirect wetland impacts of the proposed land disturbance;
 - (b) A detailed explanation of why this activity cannot be located at an upland location, along with descriptions of any alternatives that were considered;
 - (c) A detailed description of all measures proposed to reduce or compensate for project impacts; and
 - (d) A statement demonstrating how the purpose of the completed proposed project serves an overriding public interest, as defined herein.
- (4) The Planning Manager shall review all materials submitted by an applicant and shall have the authority to require additional information about the project from the applicant, schedule a site visit, or require a preliminary meeting with the applicant. The Planning Manager may also request a review of the project by planning commission.
- (5) Upon receipt of the Wetlands Impact Application, supplemental materials where applicable, and payment of applicable fees, the Planning Manager shall notify the applicant in writing that the Application has been deemed completed **and the next available date for the planning commission meeting.**
- (6) Public Notice Period. The Planning Manager shall post all Wetland Impact Applications on the Town website for public review and inspection once the application is deemed complete. This information shall remain posted for a period of ~~fourteen~~ **fifteen (15)** calendar days. During this time frame, ~~the Office of the Planning Manager~~ **the Planning Department must will** accept written public comments on all Wetland Impact Applications and ~~must the Planning Manager must consider~~ **forward** those ~~all public written comments to the Planning Commission to consider~~ **all public written comments to the Planning Commission to consider** when making a final determination. Such ~~written~~ **public** comments may be facilitated by mail or electronically, via email or another comparable internet-based comment mechanism. **The Planning Manager shall post all Wetland Impact Applications on the** Planning Commission agenda at least seven (7) days prior to the Planning Commission meeting. A copy of the agenda will be posted on the Town's website.
- (7) Notice to Adjacent Landowners. Once an **application is placed on its public notice period by applicant** ~~receives notice from the Planning Manager~~ **Department shall place a** ~~that all materials have been received~~

~~and its on a Planning Commission agenda, the applicant must retrieve a sign from the Town of Awendaw~~ **on the subject property** for the purpose of ~~posting of the property~~ **public notice** at least ~~seven~~ **fifteen (15)** days prior to the meeting. ~~unless otherwise instructed by the Planning Manager.~~ Property posting shall be visible from all street frontages, and in the case of corner lots, multiple signs may be needed for sufficient notice. **The Planning Department must** give written notice thereof, by certified mail (return receipt requested) ~~or hand-delivered,~~ to all **directly** adjacent landowners. This notice must include a copy of the completed Wetland Impact Application or shall state where copies may be examined or obtained by the public.

- (8) Amendment or Withdrawal. An applicant may amend or withdraw a Wetlands Impact Application at any time before a final determination is made.
- (9) Final Determination. **The final determination on application are made by the Planning Commission. After approval from the Commission, the Planning Manager shall** issue a written final determination on any Wetlands Impact Application stating the reason(s) why the application was approved, conditionally approved, or denied, no later than ~~fourteen~~ **fifteen (15)** calendar days **after the decision by the Planning Commission.** ~~Failure to do so without due cause constitutes approval.~~
- (10) Scope of Approval. The Wetlands Impact Application shall be deemed a part of the underlying application for development approval and a condition of any permit or land use decision.
- (11) Recording Procedures. The Wetlands Impact Application shall be recorded with the underlying application for development approval.

SECTION 153.234 STANDARDS AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF WETLAND IMPACT APPLICATION

- (A) In addition to consideration of the materials submitted by the applicant, the Planning ~~Manager~~ **Commission** must consider other relevant factors, and shall require the applicant to demonstrate evidence of such, including, but not limited to, the following:
 - (1) The functions and values of the wetlands in question;
 - (2) The proximity of the wetland to other waterbodies;
 - (3) The environmental impact of the proposed disturbance;
 - (4) Alternatives to the proposed disturbance and suitability of the area;
 - (5) Threats to other properties from increases in flooding, erosion, and/or pollution;
 - (6) The loss of wetland habitat and the loss of flora/fauna;
 - (7) The cumulative impact of the above factors in relation to all known previous, pending, and reasonably anticipated future wetland disturbances;

- (8) Whether the purpose of the completed proposed project serves an overriding public interest, as defined herein;
 - (9) Input from members of the public, if applicable; and
 - (10) Input from federal, state, or local agencies, if applicable.
- (B) Conditional Approval. The Planning ~~Manager~~ **Commission** shall have the authority to require certain prerequisites, plan modifications, wetland management plans, and/or compensatory mitigation plans as a condition to application approval if it deems such conditions are necessary to further the purposes of this Ordinance, and shall have the authority to fix a reasonable time within which any conditions must be completed. These conditions can include, but are not limited to:
- (1) Design modifications to reduce project impacts to wetlands and adjacent areas;
 - (2) Flood and erosion loss reduction measures to prevent hazard losses;
 - (3) Compensatory mitigation measures to offset losses to wetland area acreage, functions, and values;
 - (4) Increasing wetland buffer widths to protect sensitive areas;
 - (5) Requiring structures to be elevated on piles, flood-proofed, or otherwise protected from hazards including flood heights, velocities, and erosion potential;
 - (6) Modification of waste disposal and water supply facilities to reflect flooding, high ground water, and erosion hazards;
 - (7) Inclusion in the deed for the property a warning that the property contains a wetland area and that any activities in the wetland area are subject to special regulatory requirements;
 - (8) Deed restrictions, covenants, or conservation easements regarding future use of lands, including but not limited to preservation of undeveloped areas; and/or
 - (9) Erection of permanent wetland area markers or signs.
- (C) The Planning ~~Manager~~ **Commission** shall *not* approve any application, conditional or otherwise, *unless* if it finds that the proposed disturbance:
- (1) will not cause a net loss of wetland area functions, values;
 - (2) will avoid wetland areas to the maximum extent practicable;
 - (3) will not increase flood, erosion, subsidence, or pollution;
 - (4) will not adversely modify wildlife habitat or otherwise jeopardize plant, animal, or other wildlife species;
 - (5) will preserve natural drainage features to the maximum extent possible and minimize the need to construct, repair, maintain, or replace structural water management systems;

- (6) will not permanently alter the aquatic ecosystem in the vicinity of the project
- (7) will not threaten public health or safety;
- (8) will not harm the public interest;
- (9) will not negatively impact recreational opportunities for the public, where applicable;
- (10) will not impair public rights in public waters;
- (11) will not create a nuisance to neighboring property owners or the community at large; and
- (12) will not violate other applicable federal, state, or local laws.

SECTION 153.235 ACTIVITIES PROHIBITED/EXEMPTED

- (A) Prohibited Activities. Unless exempted below, any wetland disturbance shall be prohibited unless the proper authorization has been given to an Applicant by the Planning ~~Manager~~ **Commission**.
- (B) Exempted Activities. The following activities are exempted from the purview of this Ordinance and may be undertaken without a Wetlands Impact Application, where otherwise allowable by law.
 - ~~(1) Installation of nature trails or pervious pedestrian access paths no greater than four (4) feet in width;~~
 - (1) Pruning or trimming of grasses, shrubs, and other smaller vegetation;
 - (2) Planting native species of plants **to the location**;
 - (3) Removal of invasive species of plants **with hand tools only**;
 - (4) Any outdoor recreation activities not otherwise proscribed by the property owner or another applicable law or regulation, to include hiking, swimming, kayaking, canoeing, boating, horseback riding, hunting, fishing, shell fishing, and camping;
 - (5) Research of soil, vegetation, water, fish, or wildlife for educational, scientific, or conservation purposes;
 - (6) Maintenance or repair of existing water-control devices or structures, provided the device or structure is not “degraded” as defined herein, and the maintenance or repair does not involve enlarging, expanding, constructing, or relocating such water-control structures or devices; or
 - (7) **Minor** maintenance and repair of existing utilities and roadways, provided the activity does not involve enlarging, expanding, constructing, or relocating such utilities and roadways.
- (C) Prior nonconforming use, activity, or structure.
 - (1) Prior nonconforming uses, activities, or structures, as defined herein, shall not be enlarged or expanded to further encroach onto or otherwise disturb wetlands, wetland waterbodies, or wetland watercourses.

- (2) No nonconforming use, activity, or structure which has been discontinued for two (2) years or more shall be resumed without a permit.
- (3) Degraded structures, as defined herein, shall not be rebuilt without a permit.

SECTION 153.236 OTHER REQUIREMENTS.

- (A) Notification of Start of Project. The holder of a permit issued pursuant to this Ordinance must notify the Planning Manager in writing at least five (5) business days prior to the start of a project that the stated project is going to begin.
- (B) Temporary Survey Stakes. Temporary survey stakes or flags delineating boundaries between wetlands, buffer areas, setbacks, and adjacent property must be placed at all project sites by an engineer or surveyor. The markers shall follow the contour of the wetlands, buffer areas, and setbacks and shall be placed not more than fifty (50) feet apart.
- (C) Inspections. Every certification issued pursuant to this Ordinance shall grant the Planning Manager, or his/her designee, the right to inspect a project to determine compliance with conditions and provisions of this Ordinance or to perform any duty imposed upon him/her by this Ordinance.
- (D) Duration of Wetland Certifications. Wetland Certifications shall be valid concurrent with the underlying permit approval(s).

SECTION 153.237 APPEALS

Any affected person may appeal a decision of the Planning Manager **Commission** pursuant to this Ordinance to the **Circuit Court** ~~Town of Awendaw Board of Zoning Appeals~~ pursuant to all applicable provisions to do so.

SECTION 153.238 MONITORING, REPORTING, AND ENFORCEMENT

- (A) Criminal Penalties. Any person who violates any provision of this Ordinance or who fails to comply with any of the requirements thereof shall be guilty of a misdemeanor, according to applicable town and state code provisions, ~~punishable in accordance to law.~~ In the case of a continuing violation, each day's violation shall constitute a separate and distinct offense.
- (B) Stop Work Orders; Permit Revocation or Suspension. The Planning Manager may, through cooperation with zoning officials, building officials, code enforcement, and the planning department if necessary, issue a Stop Work Order if he/she finds that the holder of a Wetland Certification is in violation of provisions or conditions of their approval, or if the permittee is in violation of other applicable laws and/or regulations. Such notice shall be in writing and shall be given to the owner of the property or to his/her agent, or to the person doing the work, or posted in a conspicuous place at the job site.

- (C) Restoration. The Planning Manager shall have the power to order restoration of a wetland area in the event of a violation. If the responsible person or agent does not complete such restoration within a reasonable time frame determined by the Planning Manager. The Town Council shall have the authority to restore the affected wetlands to their prior condition, and the person or agent responsible for the violation shall be held liable to the town for the costs of such restoration.
- (D) Reporting Violations. Whenever a violation of this Ordinance is alleged, any person may file a complaint with the Planning Manager. All such complaints must be in writing, accompanied by photos and supporting evidence, if possible. The Planning Manager shall record such complaints, immediately investigate, and determine the appropriate course of action pursuant to the provisions of this Ordinance.
- (E) Citizen Enforcement Provision. Causes of action resulting from the violation of this Ordinance inure to any such person or persons damaged as a result of any such violation.

Be it further ordained that the Town Council declares its intention that the "Pending Ordinance Doctrine" be effective upon first reading of this ordinance.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Introduced:

Planning Commission Recommendation:

Final Reading: _____

Chris Crolley

Mayor, Town of Awendaw

Attest: _____

Donna Steed

Clerk of Council

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, ~~WETLANDS AND WATERWAYS SETBACKS DIVISION OF THE CODE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, BY RENAMING THE DIVISION THEREOF TO WETLANDS PROTECTION AND REPEALING THE EXISTING SECTION 153.225 THERETO AND ADDING A NEW SECTION 153.225, ALONG WITH NEW SECTIONS 153.226 THROUGH 153.238~~ THERETO, PROVIDING FOR THE PROTECTION OF TIDAL AND FRESHWATER WETLANDS, AND ALL EFFECTED SECTIONS FOR CLARITY; SECTION 153.009 DEFINITIONS TO INCLUDE PROPOSED DEFINITIONS, SECTION 153.025 THROUGH 153.032 "DESCRIPTION OF ZONING DISTRICTS" TO REFERENCE THE WETLANDS STANDARDS.

WHEREAS, Town Council is authorized to adopt ordinances and amend the Town of Awendaw Code of Ordinances from time to time;

WHEREAS, Town Council now believes it is in the best interest of its citizens to now act as provided herein; and,

WHEREAS, the Town of Awendaw is surrounded by a vast network of tidal and freshwater wetlands, which are biologically diverse and essential ecosystems that support the overall health of the environment; and,

WHEREAS, wetland buffers, also known as vegetated or riparian buffers, provide a transition between uplands and wetlands and are essential to preserving the health of wetlands and waterways. In addition to supplementing and enhancing the benefits of wetlands listed above, wetland buffers serve the additional purpose of facilitating wildlife movement to other habitats ("wildlife corridors").

WHEREAS, healthy wetlands provide crucial functions and values, including flood control and mitigation, storm protection and erosion control, and natural filtration for pollutants, all of which are vital to the public health, safety, and welfare of the community; and,

WHEREAS, wetlands offer significant benefits for habitat (including for rare, endangered, and threatened species), carbon sequestration, and provide unique opportunities for recreation, tourism, and scientific research; and,

WHEREAS, historic and continued loss and degradation of wetlands due to development have directly contributed to the Town's existing and future problems with flooding and decreased water quality, which are contrary to the public health, safety, and welfare of residents; and,

WHEREAS, the detrimental consequences of wetland loss include increased flooding, increased erosion, and decreased water quality because the land's natural water absorption and pollutant removal capacities are significantly reduced; and,

WHEREAS, existing local, state, and federal regulations for wetlands are inconsistent, deficient, and constantly shifting, failing to provide the clarity and uniformity necessary to adequately protect all vital wetland systems within the Town of Awendaw; and,

WHEREAS, greater legal protection through the adoption of local standards is necessary to preserve these vital ecosystems and their buffers, thereby furthering the Town's goals of protecting natural resources, ensuring public safety, and maintaining environmental integrity; and,

WHEREAS, Town Council now believes it is in the best interest of its citizens to now act as provided herein; and,

NOW THEREFORE, be it ordered and ordained by the Council of the Town of Awendaw, S. C. and it is ordained by the authority of said Council that the Town of Awendaw Code of Ordinances shall be and hereby is amended as stated herein above and as provided herein below:

WETLANDS PROTECTION

SECTION 153.225 TITLE & EFFECTIVE DATE

- (A) Title. This Ordinance is hereby officially known and cited as the Wetland Protection Ordinance of the Town of Awendaw, South Carolina. References herein to “the Ordinance” or “this Ordinance” shall be interpreted as references to this Wetland Protection Ordinance.
- (B) Effective Date. This Ordinance shall take effect and be in force from and after the date of its adoption by the Town Council of the Town of Awendaw, adopted this _____ day of _____, 2026.

SECTION 153.226 AUTHORITY; CONFLICT; ABROGATION; SEVERANCE

- (A) Authority. This Ordinance is enacted pursuant to the authority conferred upon the Town of Awendaw by the South Carolina General Assembly to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (B) Conflict of Laws. This Ordinance shall be construed so as to not conflict with any provision of state or federal law. However, the provisions of this Ordinance shall control if more restrictive than other local, state, or federal laws or regulations.
- (C) Abrogation. This Ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law.
- (D) Severance. If any portion of this Ordinance is held legally invalid by a court of competent jurisdiction, all remaining provisions shall continue to be of full force and effect.

SECTION 153.227 FINDINGS

- (A) Wetland Resources. The area surrounding the Town of Awendaw is home to many tidal creeks that are surrounded and supported by a vast network of fresh and salt water wetlands.
- (B) Benefits of Wetlands. Healthy wetlands are vitally important, biologically diverse ecosystems that regulate water quality and quantity. Wetland functions support ecological and economic health and contribute to the public health, safety, and welfare of the community. These unique areas are not only essential to the overall health of the environment, but also have the capacity to address local water-related problems that affect the area. Benefits of wetlands include the following functions and values:

- (1) Flood control and mitigation. Wetlands serve the vital ecological function of flood control and water retention during flood and rain events through hydrologic absorption and storm water flow regulation. Their topography and location allow them to capture, store, and slowly release water, providing protection for people, property, and infrastructure. Natural wetlands are more cost-effective and efficient at addressing flooding concerns than engineered stormwater infrastructure.
- (2) Storm protection and erosion control. Wetlands provide natural protection from hurricanes, storm events, and erosion. Their vegetation and spongy soils stabilize waterways by reducing the velocity of water, preventing stream scour and bank cutting. Deeply-rooted wetland vegetation stabilizes soils and protects shorelines from erosive forces like wind and water. Through their erosion control function, wetlands also help to conserve soil and water for farms and forests.
- (3) Pollution control and filtration. Wetlands naturally remove harmful nutrients and pollutants from the environment through biological degradation and chemical oxidation. The natural friction wetlands create slows down water flows, allowing suspended sediments to settle. Nutrients from sources like fertilizers, leaking septic systems, sewage, and manure, can then be removed from the environment through vegetation uptake or microorganism absorption. Wetlands are also effective at removing heavy metals (e.g. lead-Pb) from runoff.
- (4) Habitat. Wetlands are some of the most biologically diverse ecosystems in the world, comparable to tropical rainforests and coral reefs in their species diversity. Wetlands provide spawning, nesting, breeding, feeding, and migration habitat for a wide variety of plants, birds, mammals, amphibians, reptiles, crustaceans, insects, and microorganisms, including rare, endangered, and threatened species. Coastal wetlands indirectly support the fishing industry by providing habitat and nursery grounds for economically valuable aquatic species like fish, shrimp, and crabs.
- (5) Recreation, tourism, and aesthetics. Wetlands provide unique spaces for a variety of recreational activities, including hiking, boating, fishing, hunting, birdwatching, wildlife viewing, and photography.
- (6) Groundwater. Groundwater-connected wetlands receive and recharge groundwater, contributing to healthy aquifers and maintaining drinking water supplies for communities. A healthy range of wetlands supports overall watershed health.
- (7) Education and scientific research. Wetlands are naturally occurring classrooms and laboratories, providing excellent opportunities for education and scientific research on a wide range of topics, including soil types, water quality, and unique species of plants and animals.
- (8) Carbon sequestration. Wetlands are heavily vegetated with plants that remove carbon dioxide from the air. Unlike other ecosystems, the characteristic wet

conditions of wetlands prevent rapid decomposition of organic matter, allowing carbon to be stored long-term in the soil. In this way, wetlands help offset human carbon emissions that are harmful to the global climate.

- (C) Importance of Wetland Buffers. Wetland buffers, also known as vegetated or riparian buffers, provide a transition between uplands and wetlands and are essential to preserving the health of wetlands and waterways. In addition to supplementing and enhancing the benefits of wetlands listed above, wetland buffers serve the additional purpose of facilitating wildlife movement to other habitats (“wildlife corridors”).
- (D) The S.C. Office of Resilience (SCOR) and the ~~Bureau of Office of Ocean and Coastal Resource Management (BCM)(OCRM)~~ within the S.C. Department of Environmental Services (DES), formerly known as the S.C. Department of Health and Environmental Control (DHEC), encourage the development and implementation of local ordinances in support of wetland buffers within the eight coastal counties, including Charleston County and the Town of Awendaw.
- (E) Loss of Wetlands. ~~Historic wetland loss and degradation has contributed directly to the Town of Awendaw’s flooding and water quality problems. The continued loss of this natural resource due to development has had and will continue to have detrimental, irreversible, long-term implications not only for the natural environment, but for the current and future residents of the town.~~ Further loss of wetlands and uplands adjacent to wetlands is contrary to public health, safety, and welfare of the Town and its residents. Loss of wetland areas through the practice of filling in wetlands and building on them has both direct and indirect consequences, including the following:
- (1) Increased flooding. Filling wetlands dramatically reduces the natural water absorption capacity of the land. Excess rainwater during flood and rain events that would otherwise be absorbed or distributed under normal conditions results in runoff and flooding putting people and structures directly at risk.
 - (2) Decreased water quality. Wetland loss decreases the ability of the land to naturally remove pollutants from the environment. Without absorption and vegetative uptake, pollutants are carried downstream in high concentrations during rain and flood events.
 - (3) Increased erosion. As runoff and flooding increases, so does the velocity of water flow. Fast-moving water has the power to change the entire landscape of an area. In addition to scouring, deepening, and re-routing of waterways, erosion also threatens the structural integrity of existing homes, roads, and other infrastructure.
- (F) Wetland Fluctuations. Wetlands are fluid ecosystems that experience changes depending on the season or the year. They may be more difficult to identify during dry periods, giving a false sense of security that they are suitable for development.
- (G) Existing Regulations. Unmitigated wetland loss and degradation is often a function of unregulated human activity. Existing local, state, and federal regulations do not fully contemplate or encompass all wetlands within the Town of Awendaw. In particular, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers’ authority

over wetlands is constrained by the Clean Water Act's definition of "waters of the United States," and is constantly changing and reforming through decades of litigation and case law. These shifts do not provide the clarity and uniformity necessary to adequately protect and maintain healthy wetland systems that are necessary for the safety and welfare of the Town's residents, as well as for the maintenance of healthy wildlife populations. South Carolina's authority over wetlands is only through its indirect authority in providing certifications that certain projects are consistent with the state's Coastal Management Program; however, this authority fails to capture projects that would degrade or destroy wetlands. In addition, Awendaw does not presently have any protections for wetlands. Because of the inconsistencies and deficiencies with the state and federal regulation, greater legal protection at the local level is needed to protect and preserve these vital ecosystems.

SECTION 153.228 PURPOSE

The Town of Awendaw hereby finds and declares that the public interest and general welfare of the residents of the Town of Awendaw will be served through the creation of procedures for the protection, conservation, enhancement, and proper maintenance of all existing wetlands and wetland buffer areas within the Town of Awendaw and for the protection of existing wetlands and wetland buffer areas from encroachment, pollution, degradation, alteration, or elimination. These protections are an integral part of the Town of Awendaw's broader surface and groundwater management plans. These protections are also a crucial element of the Town of Awendaw's resiliency plan in anticipation of more frequent and severe storm events as well as documented and projected sea level rise. In light of these stated findings and purposes, and in keeping with the Town of Awendaw Comprehensive Plan, the Town of Awendaw enacts these provisions to incorporate wetland area protections into all of Town of Awendaw's land use, planning, and development approval procedures.

SECTION 153.009 DEFINITIONS

- (A) Wetland Buffer. An area of non-disturbance between a wetland and a setback where natural vegetation must be maintained in order to protect the wetland or its functions. ~~Wetland~~ Buffer widths are established pursuant to Section ~~VIII 153.231(A)~~ of this Ordinance.
- (B) ~~Degraded structure~~. ~~Any building, wall, road, dock, water control device, or other structure of any kind that is determined by the Planning Manager to be more than fifty percent (50%) destroyed or damaged.~~
- (C) Disturbance. Any human-made land alterations, disturbances, or construction activities, including, but not limited to, filling; clearing; grading; dredging; excavating; draining; construction; mining; removal of peat, sand, gravel, or other sediment; altering the water level or water table; altering surface drainage characteristics, sediment patterns, or flood retention characteristics; installation of septic tanks; or any other alteration or use of wetland areas.
- (D) Nonconforming. Any use, activity, or structure in operation or existence on the date of this Ordinance that would otherwise not be permissible according to the terms herein.

- (E) Person. Any individual, firm, partnership, association, trust, corporation, company, organization, or legal entity of any kind, whether public or private, including municipal corporations, governmental agencies, or subdivisions thereof.
- (F) Public Interest. As used herein, public interest, also referred to as “overriding public interest” must be demonstrated by all applicants as a prerequisite to application approval. Public interest is defined as a purpose that directly benefits the welfare or the well-being of the community at large as opposed to benefiting a singular person, organization, or entity. An overriding public interest contemplates the purpose of the final, completed proposed project and does not include any limited public benefits that may be derived prior to project completion, such as economic benefits from providing construction jobs, etc.
- (G) Setback. An **undisturbed area** between the **wetland** buffer and the **required setback** ~~upland~~ where ~~construction of any building or structure is restricted prohibited~~. **Wetland** Setback widths are established pursuant to Section ~~VIII~~ **153.231(B)** of this Ordinance.
- (H) Water control devices. Dams, retaining walls, terraces, sluices, culverts, dikes, levees, ditches, farm pounds, or any other human-made device or structure designed to regulate the natural flow of water.
- (I) Wetland(s). Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (as defined by the United States Army Corps of Engineers and the Environmental Protection Agency). Wetlands are identified and characterized by three things: (1) predominantly hydric soils, meaning soils that are formed under wet conditions; (2) species of plants that tolerate wet conditions (hydrophytes); and (3) the presence of water above or just below the soil surface for at least a portion of the growing season each year. Wetlands generally include lands and waters meeting this definition, and encompass areas referred to as swamps, marshes, tidal flats, bays, bogs, estuaries, wetland meadows, ephemeral and tributary systems, vernal pools, banks, reservoirs, ponds, lakes, lands under water bodies, and other similar areas. Determination of wetland boundaries shall be performed in accordance with the provisions contained herein.
- (a) Jurisdictional wetlands. The U.S. Army Corps of Engineers determines whether wetlands qualify as “waters of the United States” through the Corps Wetland Delineation Manual and Southeast Supplement. Federal case law on what constitutes “waters of the United States” continues to evolve. For that reason, local governments need consistency in determining what areas are entitled to protection outside of the Corps’ regulatory authority.
- (b) Non-jurisdictional wetlands. Wetlands falling outside the purview of “waters of the United States” are still “wetlands” and provide the same benefits and environmental services as jurisdictional wetlands. This

Ordinance contemplates protections for both jurisdictional and non-jurisdictional wetlands.

- (c) Critical area wetlands. Tidally influenced wetlands falling under the direct permitting authority of the South Carolina Department of Environmental Services' (SCDES) Bureau of Coastal Management (BCM). SCDES BCM is responsible for establishing critical area lines which locate the upland boundary of tidally influenced systems as outlined in State law. For the purpose of this ordinance, critical area wetlands are those wetlands below a certified and valid critical area line as delineated by SCDES BCM.
- (J) Upland. An area of land that does not qualify as a wetland because the associated hydrologic regime is not sufficiently wet to elicit development of vegetation, soils, and/or hydrologic characteristics associated with wetlands. ~~Thus, an upland is a non-protected area beyond the setback.~~

SECTION 153.229 ADMINISTRATION

- (A) The provisions of this Ordinance shall be administered and enforced by the Town of Awendaw Planning Manager or by such other official, officer, or department as ~~may be~~ designated by the Town Council.
- (B) The Planning Manager shall institute, or cause to be instituted, such actions necessary to ensure compliance with these provisions, and/or the conditions placed upon any permit or other approval.
- (C) The Planning Manager shall have the authority to cause whatever actions are necessary at a site or location where a violation of this Ordinance has occurred to ensure that it is returned to its original quality and function, and the same cause of action shall be at no cost to the Town of Awendaw and shall be assessed to the violator.
- (D) The Planning Manager has the authority to issue, deny, or conditionally approve Wetland Notification Applications consistent with the standards, goals, and criteria set forth in this Ordinance, and subject to the procedures outlined herein.
- (E) The Planning Manager ~~Commission~~ has the authority to issue, deny, or conditionally approve ~~Wetland Certifications~~ Wetland Impact Applications consistent with the standards, goals, and criteria set forth in this Ordinance, and subject to the procedures outlined herein.
- (F) Regulation of land uses. The regulation of land uses both within and adjacent to wetlands, having been determined to be in the best interest of the Town of Awendaw, shall be done in a manner consistent with the review procedures and performance standards identified herein which reflect the relative importance, values, and functions of these areas.

SECTION 153.230 WETLAND DELINEATION

For all proposed land disturbances taking place within the ~~un~~incorporated areas of the Town of Awendaw as defined herein, and all applicable activities, as enumerated herein, the following shall apply:

- (A) Where unexpired wetland delineations have already been approved by the Army Corps of Engineers, such delineations will constitute “wetlands” for the purposes of this Ordinance. This Ordinance encompasses all delineated wetlands regardless of whether they are jurisdictional or non-jurisdictional.
- (B) ~~Where unexpired critical area lines have already been approved by SCDES BCM, such delineations will constitute “critical area wetlands” for the purposes of this Ordinance. Critical area lines must be updated every five (5) years in accordance with SCDES BCM. Expired critical area lines will not be accepted as a valid delineation.~~
- (C) In all other cases, a landowner or authorized agent of the landowner shall submit to the Planning Manager either an affidavit attesting that no wetlands or wetland buffer areas exist on the site; or a professional wetlands delineation.

SECTION 153.231 WETLAND BUFFERS AND SETBACKS

(A) Wetland Buffer Areas. Wetland buffers are to be calculated by measuring horizontally outward from and perpendicular to the edge of the wetland, as defined herein. They must extend the entire perimeter of the wetland delineation within the property. If a wetland falls into more than one of the categories below, the more restrictive buffer width shall control. The following wetland buffer widths are applicable to all uses and activities subject to the purview of this Ordinance:

(1) General Wetland Buffers. A minimum buffer of ~~seventy-five (75)~~ thirty-five (35) feet must be observed for all jurisdictional, non-jurisdictional, or critical area wetlands ~~unless other outlined in this section: as defined by this Ordinance.~~

1. Industrial or Commercial Use Buffers. To counteract the increased risk of pollution from industrial or commercial activities, an additional buffer of ~~twenty-five (25)~~ twenty (20) feet must be observed between general wetland buffer and industrial activities or uses.

2. Agricultural Use Buffers. To counteract the increased risk of pollution from fertilizer, pesticide, and animal waste, an additional buffer of ~~twenty-five (25)~~ twenty (20) feet must be observed between general wetland buffer and agricultural activities or uses.

~~(2) Wildlife Refuge, Wildlife Sanctuary, or Nature Preserve Wetland Buffers. A buffer of two hundred (200) feet must be observed when a wetland is part of, adjacent to, or within one hundred (100) feet of a Wildlife Refuge, a Wildlife Sanctuary, or a Nature Preserve, that has been established and operates under enabling state law.~~

(3) Local, State, or National Park or Forest Wetland Buffers. A buffer of one hundred (100) feet must be observed when a wetland is part of, adjacent to, ~~or within one hundred (100) feet of~~ a local, state, or national park, except for residential uses.

(4) Riparian Wetland Buffers. A buffer of ~~one hundred (100)~~ fifty (50) feet must be observed when a lot is immediately adjacent to the Wando River

~~or a tributary of the Wando River. a wetland is adjacent to a river or a tributary of a river.~~

~~(5) Industrial Buffers. To counteract the increased risk of pollution from industrial activities, a buffer of one hundred (100) feet must be observed between wetlands and industrial activities or uses.~~

~~(6) Agricultural Buffers. To counteract the increased risk of pollution from fertilizer, pesticide, and animal waste, a buffer of one hundred (100) feet must be observed between wetlands and agricultural activities or uses.~~

(B) Wetland Setbacks.

(1) A setback line of fifteen (15) feet must be observed around all wetland buffer areas.

(2) Wetland setbacks are to be calculated by measuring horizontally outward from and perpendicular to the edge of the wetland buffer area. They must extend the entire length of the wetland buffer within the property.

SECTION 153.232 APPLICABILITY

~~(A) Any person proposing to carry out a wetland disturbance under this subsection must, prior to the commencement of the activity, submit a Wetlands Impact Application to the Planning Manager.~~

~~(BA) Applicable Activities. This Ordinance—~~ **A Wetland Impact or Wetland Notification Application shall be required for** ~~apply to~~ any proposed land disturbance use or activity that would require encroachment within a wetland or wetland buffer area.

(1) A Wetlands Impact **and Wetland Notification** Application should be submitted simultaneously with any **application for disturbance including the following actions** ~~action that results in land disturbance including but not limited to the following:~~

- a. Applications for land use or zoning permits;
- b. **Building Permit;**
- c. Site plan and plat approvals for major and minor subdivisions;
- d. Requests for approval of site improvement construction plans;
- e. Any request for development approvals or permits related to land use, including those for stormwater management or other infrastructure improvements;
- f. Requests for permission to fill in ditches along town roads and rights-of-way;
- g. Applications for waste disposal permits;
- h. Any other land use action or permit required by the Town Code that may involve land disturbance.

(2) No approval **or zoning or building** permit for land disturbance shall be issued until the required Wetlands Impact Application has been submitted and approved.

Additionally, no project shall be considered fully approved until the site is certified by an on-site inspection by the Planning Manager or his/her designee.

- (C) Non-conforming buffers. All developed lots and all undeveloped but recorded single-family house lots on the effective date of this Ordinance that do not comply with the buffer and setback requirements of this Ordinance shall be grandfathered as legal non-conforming lots. However, existing setbacks landscaping on these legal non-conforming lots, which satisfies either partially or wholly the buffer requirements of this Ordinance, shall be required to be undisturbed maintained. Other exempted or restricted prohibited provisions for nonconformities can be found in Section 153.235.C of this ordinance.
- (E) Permits issued by local, state, or federal agencies do not relieve a person of the requirement to seek approval under this Ordinance.

SECTION 153.233 PROCEDURES

(A) Generally.

- (1) Wetland Notification Form and Wetlands Impact Application. The Planning Manager shall develop a Wetlands Notification Form and Wetlands Impact Application and shall make it easily accessible to the public.
- (2) Filing Fees. The Town Council shall adopt a fee and an application form before this ordinance may be administered. ~~is authorized to create a filing fee regime, and to set reasonable rates comparable to other permit application fees.~~ The applicant must pay this non-refundable fee at the time of filing.

(B) Initiation; Wetlands Notification Form and Wetlands Impact Application.

- (1) Any person wishing to undertake an “applicable activity” as defined herein, or otherwise disturb a wetland shall submit a Wetlands Impact or Wetland Notification Application to the Planning Manager. ~~For applicants who will adhere to all buffer and setback requirements, and will not impact wetlands, a Wetlands Notification Form may be submitted.~~
- (2) The contents of both the Wetlands Notification Form and Wetlands Impact Application shall include the following:
- (a) Full name, mailing address, telephone number(s), and e-mail address of the owner and applicant (if different);
 - (b) Whether the applicant is the owner, lessee, licensee, etc. of the subject property (if the applicant is not the owner of record, written consent of the owner or his/her legal designee must be attached);
 - (c) Physical address, TMS number, and/or geographic coordinates of the property in question;
 - (d) Zoning classification and restrictions relating to the property;

- (e) An existing or recent (within the last two years) property survey containing the following information:
- (a) the lot size of the entire property;
 - (b) the legal boundaries of the property;
 - (c) the legal ownership and lot size of adjacent properties;
 - (d) ~~Location and type of wetlands,~~ a recent or unexpired wetland delineation as outlined per in 153.230;
 - (e) the corresponding wetland buffer and setback as required in 153.231
 - (f) the proposed project area; and
 - (g) any surface water bodies located on or within 100 feet of the legal boundaries of the property.
- (f) Photographs of the proposed project site showing the existing condition of the site;
- (g) Purpose and detailed description of the project, including the type of proposed activity, project dimensions, and distance from any road or water body;
- (3) If the applicable activity will result in encroachment within the impacts to wetlands or buffers and setbacks, the applicant must submit the following additional materials as part of the ~~Wetlands Impact~~ Application:
- (a) Description of anticipated setback encroachment ~~direct and indirect wetland impacts~~ of the proposed land disturbance;
 - (b) A detailed explanation of why this activity cannot be located at an upland location, along with descriptions of any alternatives that were considered; and
 - (c) ~~A detailed description of all measures proposed to reduce or compensate for project impacts;~~
 - (d) A statement demonstrating how the purpose of the completed proposed project serves an overriding public interest, as defined herein.
- (4) The Planning Manager shall review all materials submitted by an applicant and shall have the authority to require additional information about the project from the applicant, schedule a site visit, or require a preliminary meeting with the applicant. The Planning Manager may also request a review of the project by planning commission.
- (5) Upon receipt of the Wetlands Impact Application, supplemental materials where applicable, and payment of applicable fees, the Planning

Manager shall notify the applicant in writing that the Application has been deemed completed **and the next available date for the planning commission meeting.**

- (6) Public Notice Period. The Planning Manager shall post all Wetland Impact Applications on the Town website for public review and inspection once the application is deemed complete. This information shall remain posted for a period of ~~fourteen~~ **fifteen (15)** calendar days. During this time frame, the ~~Office of the Planning Manager~~ **the Planning Department must will** accept written public comments on all Wetland Impact Applications and **must** ~~the Planning Manager must consider~~ **forward** those **all public written** comments **to the Planning Commission to consider** when making a final determination. Such ~~written~~ **public** comments may be facilitated by mail or electronically, via email or another comparable internet-based comment mechanism. **The Planning Manager shall post all Wetland Impact Applications on the** Planning Commission agenda at least seven (7) days prior to the Planning Commission meeting. A copy of the agenda will be posted on the Town's website.
- (7) Notice to Adjacent Landowners. Once an **application is placed on its public notice period by** applicant ~~receives notice from~~ the Planning Manager ~~Department shall place a~~ that all materials have been received and its on a Planning Commission agenda, the applicant must retrieve a sign from the Town of Awendaw **on the subject property** for the purpose of ~~posting of the property~~ **public notice** at least seven **fifteen (15)** days prior to the meeting. ~~unless otherwise instructed by the Planning Manager.~~ Property posting shall be visible from all street frontages, and in the case of corner lots, multiple signs may be needed for sufficient notice. **The Planning Department must** give written notice thereof, by certified mail (return receipt requested) ~~or hand-delivered~~, to all **directly** adjacent landowners. This notice must include a copy of the completed Wetland Impact Application or shall state where copies may be examined or obtained by the public.
- (8) Amendment or Withdrawal. An applicant may amend or withdraw a Wetlands Impact Application at any time before a final determination is made.
- (9) Final Determination. **The final determination on application are made by the Planning Commission. After approval from the Commission, the** Planning Manager **shall** issue a written final determination on any Wetlands Impact Application stating the reason(s) why the application was approved, conditionally approved, or denied, no later than ~~fourteen~~ **fifteen (15)** calendar days **after the decision by the Planning Commission.** ~~Failure to do so without due cause constitutes approval.~~
- (10) Scope of Approval. The Wetlands Impact Application shall be deemed a part of the underlying application for development approval and a condition of any permit or land use decision.

- (11) Recording Procedures. The Wetlands Impact Application shall be recorded with the underlying application for development approval.

SECTION 153.234 STANDARDS AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF WETLAND IMPACT APPLICATION

- (A) In addition to consideration of the materials submitted by the applicant, the Planning ~~Manager~~ **Commission** must consider other relevant factors, and shall require the applicant to demonstrate evidence of such, including, but not limited to, the following:
- (1) The functions and values of the wetlands in question;
 - (2) The proximity of the wetland to other waterbodies;
 - (3) The environmental impact of the proposed disturbance;
 - (4) Alternatives to the proposed disturbance and suitability of the area;
 - (5) Threats to other properties from increases in flooding, erosion, and/or pollution;
 - (6) The loss of wetland habitat and the loss of flora/fauna;
 - (7) The cumulative impact of the above factors in relation to all known previous, pending, and reasonably anticipated future wetland disturbances;
 - (8) Whether the purpose of the completed proposed project serves an overriding public interest, as defined herein;
 - (9) Input from members of the public, if applicable; and
 - (10) Input from federal, state, or local agencies, if applicable.
- (B) Conditional Approval. The Planning ~~Manager~~ **Commission** shall have the authority to require certain prerequisites, plan modifications, wetland management plans, and/or compensatory mitigation plans as a condition to application approval if it deems such conditions are necessary to further the purposes of this Ordinance, and shall have the authority to fix a reasonable time within which any conditions must be completed. These conditions can include, but are not limited to:
- (1) Design modifications to reduce project impacts to wetlands and adjacent areas;
 - (2) Flood and erosion loss reduction measures to prevent hazard losses;
 - (3) Compensatory mitigation measures to offset losses to wetland area acreage, functions, and values;
 - (4) Increasing wetland buffer widths to protect sensitive areas;
 - (5) Requiring structures to be elevated on piles, flood-proofed, or otherwise protected from hazards including flood heights, velocities, and erosion potential;
 - (6) Modification of waste disposal and water supply facilities to reflect flooding, high ground water, and erosion hazards;

- (7) Inclusion in the deed for the property a warning that the property contains a wetland area and that any activities in the wetland area are subject to special regulatory requirements;
 - (8) Deed restrictions, covenants, or conservation easements regarding future use of lands, including but not limited to preservation of undeveloped areas; and/or
 - (9) Erection of permanent wetland area markers or signs.
- (C) The Planning Manager or Planning Commission shall not approve any application, conditional or otherwise, unless it finds that the proposed disturbance:
- (1) Does not have any feasible alternatives available that would reduce adverse impacts wetland;
 - (2) Aligns with an overriding public interest and serves a legitimate public need;
 - (3) Does not permanently alter the aquatic ecosystem such that the wetland function and values are eliminated or impaired; and
 - (4) Does not violate other applicable federal, state, and local laws.
 - ~~(1) will not cause a net loss of wetland area functions, values;~~
 - ~~(2) will avoid wetland areas to the maximum extent practicable;~~
 - ~~(3) will not increase flood, erosion, subsidence, or pollution;~~
 - ~~(4) will not adversely modify wildlife habitat or otherwise jeopardize plant, animal, or other wildlife species;~~
 - ~~(5) will preserve natural drainage features to the maximum extent possible and minimize the need to construct, repair, maintain, or replace structural water management systems;~~
 - ~~(6) will not permanently alter the aquatic ecosystem in the vicinity of the project~~
 - ~~(7) will not threaten public health or safety;~~
 - ~~(8) will not harm the public interest;~~
 - ~~(9) will not negatively impact recreational opportunities for the public, where applicable;~~
 - ~~(10) will not impair public rights in public waters;~~
 - ~~(11) will not create a nuisance to neighboring property owners or the community at large; and~~
 - ~~(12) will not violate other applicable federal, state, or local laws.~~

SECTION 153.235 ACTIVITIES ~~PROHIBITED~~ RESTRICTED/EXEMPTED

- (A) ~~Prohibited~~ **Restricted** Activities. Unless exempted below, any wetland disturbance shall be ~~prohibited~~ **Restricted** ~~unless~~ **until** the proper authorization has been given to an Applicant by the Planning ~~Manager~~ **Commission or Planning Manager**.
- (B) **Exempted Activities**. The following activities are exempted from the purview of this Ordinance and may be undertaken without a Wetlands Impact **or Wetland Notification** Application, where otherwise allowable by law.
- ~~(1) Installation of nature trails or pervious pedestrian access paths no greater than four (4) feet in width;~~
 - (1) Pruning or trimming of grasses, shrubs, and other smaller vegetation;
 - (2) Planting native species of plants **to the location**;
 - (3) Removal of invasive species of plants **with hand tools only**;
 - (4) Any outdoor recreation activities not otherwise proscribed by the property owner or another applicable law or regulation, to include hiking, swimming, kayaking, canoeing, boating, horseback riding, hunting, fishing, shell fishing, ~~and camping,~~ **and playgrounds**;
 - (5) Research of soil, vegetation, water, fish, or wildlife for educational, scientific, or conservation purposes;
 - (6) Maintenance or repair of existing **or as permitted by SCDES-BCM** water-control devices or structures, ~~provided the device or structure is not “degraded” as defined herein, and the maintenance or repair does not involve enlarging, expanding, constructing, or relocating such water-control structures or devices; or~~
 - (7) **Minor** maintenance and repair of existing utilities and roadways, provided the activity does not involve enlarging, expanding, constructing, or relocating such utilities and roadways.
- (C) Prior nonconforming use, activity, or structure.
- (1) Prior nonconforming uses, activities, or structures, as defined herein, shall not be enlarged or expanded to further encroach onto or otherwise disturb wetlands, wetland waterbodies, or wetland watercourses.
 - (2) No nonconforming use, activity, or structure which has been discontinued for two (2) years or more shall be resumed without a ~~permit.~~ **proper approval as indicated in this ordinance.**
 - (3) ~~Degraded structures, as defined herein, shall not be rebuilt without a permit.~~ **A nonconforming structure in existence on the effective date of this ordinance that is damaged by more than 50% of its total physical replacement cost as determined by Charleston County tax records may be rebuilt within its preexisting footprint.**

SECTION 153.236 OTHER REQUIREMENTS.

- (A) Notification of Start of Project. The holder of a permit issued pursuant to this Ordinance must notify the Planning Manager in writing at least five (5) business days prior to the start of a project that the stated project is going to begin.
- (B) Temporary Survey Stakes. Temporary survey stakes or flags delineating boundaries between wetlands, buffer areas, setbacks, and adjacent property must be placed at all project sites by an engineer or surveyor. The markers shall follow the contour of the wetlands, buffer areas, and setbacks and shall be placed not more than fifty (50) feet apart.
- (C) Inspections. Every certification issued pursuant to this Ordinance shall grant the Planning Manager, or his/her designee, the right to inspect a project to determine compliance with conditions and provisions of this Ordinance or to perform any duty imposed upon him/her by this Ordinance.
- (D) Duration of Wetland Certifications. Wetland Certifications shall be valid concurrent with the underlying permit approval(s).

SECTION 153.237 APPEALS

Any affected person may appeal a decision of the Planning Manager Commission pursuant to this Ordinance and in accordance with S.C. Code 6-29-1150(D) to the Circuit Court Town of Awendaw Board of Zoning Appeals pursuant to all applicable provisions to do so.

SECTION 153.238 MONITORING, REPORTING, AND ENFORCEMENT

- (A) Criminal Penalties. Any person who violates any provision of this Ordinance or who fails to comply with any of the requirements thereof shall be guilty of a misdemeanor, according to applicable town and state code provisions, punishable in accordance to law. In the case of a continuing violation, each day's violation shall constitute a separate and distinct offense.
- (B) Stop Work Orders; Permit Revocation or Suspension. The Planning Manager may, through cooperation with zoning officials, building officials, code enforcement, and the planning department if necessary, issue a Stop Work Order if he/she finds that the holder of a Wetland Certification is in violation of provisions or conditions of their approval, or if the permittee is in violation of other applicable laws and/or regulations. Such notice shall be in writing and shall be given to the owner of the property or to his/her agent, or to the person doing the work, or posted in a conspicuous place at the job site.
- (C) Restoration. The Planning Manager shall have the power to order restoration of a wetland area in the event of a violation. If the responsible person or agent does not complete such restoration within a reasonable time frame determined by the Planning Manager, the Town Council shall have the authority to restore the affected wetlands to their prior condition, and the person or agent responsible for the violation shall be held liable to the Town for the costs of such restoration.
- (D) Reporting Violations. Whenever a violation of this Ordinance is alleged, any person may file a complaint with the Planning Manager. All such complaints must be in

writing, accompanied by photos and supporting evidence, if possible. The Planning Manager shall record such complaints, immediately investigate, and determine the appropriate course of action pursuant to the provisions of this Ordinance.

- (E) Citizen Enforcement Provision. Causes of action resulting from the violation of this Ordinance inure to any such person or persons damaged as a result of any such violation.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Introduced:

Planning Commission Recommendation:

Final Reading: _____

Chris Crolley
Mayor, Town of Awendaw

Attest: _____

Donna Steed
Clerk of Council

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, GENERAL PROVISIONS OF THE CODE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, BY AMENDING SECTION 153.009 DEFINITIONS, ADOPTING A NEW SECTION 153.051 VESTED RIGHTS, ALONG WITH NEW SECTIONS 152.052 THROUGH 153.060 THERETO, PROVIDING FOR VESTED RIGHTS ORDINANCE AND PROCEDURE.

WHEREAS, the Planning Commission made a recommendation to adopt a Vested Rights Ordinance on December 15, 2025;

WHEREAS, by Act No. 287 of 2004, known as the Vested Rights Act and codified at S.C. Code 6-29-1510 to -1560, the South Carolina General Assembly established vested rights;

WHEREAS, the Town of Awendaw seeks to adopt a vested rights ordinance pursuant to S.C. Code 6-29-1530 implementing limitations to the total annual extensions allowed with prospective application to site-specific development plans that are approved by the Town following adoption and effective date of this ordinance;

WHEREAS, the Town of Awendaw wishes to promote sustainable development and current best practices within the Town's municipal limits;

WHEREAS, consistent with the goals and objectives of the current Comprehensive Plan adopted on August 7, 2025 and in recognition of the Town's commitment to sustainable growth and development, it is essential to ensure that future planned or phased developments are strategically aligned with the community's evolving needs. This alignment is crucial not only for addressing immediate requirements but also for fostering long-term benefits that enhance the Town's infrastructure, economic vitality, and environmental sustainability. By prioritizing developments that serve the best interests of public health, safety, and welfare, the Town aims to create a harmonious balance between growth and quality of life, thereby securing a prosperous future for all residents;

WHEREAS, Town Council is authorized to adopt ordinances and amend the Town of Awendaw Code of Ordinances from time to time;

WHEREAS, Town Council now believes it is in the best interest of its citizens to now act as provided herein; and,

NOW THEREFORE, be it ordered and ordained by the Council of the Town of Awendaw, SC and it is ordained by the authority of said Council that the Town of Awendaw Code of Ordinances shall be and hereby is amended as stated herein above and as provided herein below:

VESTED RIGHTS

SECTION 153.051 TITLE & EFFECTIVE DATE

- (A) Title. This Ordinance is hereby officially known and cited as the Vested Rights Ordinance of the Town of Awendaw, South Carolina. References herein to “the Ordinance” or “this Ordinance” shall be interpreted as references to this Vested Rights Ordinance.

- (B) Effective Date. This Ordinance shall take effect and be in force from and after the date of its adoption by the Town Council of the Town of Awendaw, adopted this [REDACTED] day of [REDACTED], 2026. This Ordinance shall apply prospectively to any site-specific development plans approved by the Town after the adoption and effective date of this Ordinance.

SECTION 153.052 AUTHORITY; CONFLICT; ABROGATION; SEVERANCE

- (A) Authority. This Ordinance is enacted pursuant to the authority conferred upon the Town of Awendaw by the South Carolina General Assembly to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- (B) Conflict of Law. This Ordinance shall be constructed so as to not conflict with any provision of state or federal law. However, the provisions of this Ordinance shall control if more restrictive than other local, state, or federal laws or regulations
- (C) Abrogation. This Ordinance is not intended to repeal, abrogate, annul, impair, or interfere with any existing vested rights established pursuant to law.
- (D) Severance. If any portion of this Ordinance is legally invalid by a court of competent jurisdiction, all remaining provisions shall continue to be of full force and effect.

SECTION 153.053 PURPOSE

The Town of Awendaw hereby finds and declares that the public interest and general welfare of the residents of the Town of Awendaw will be served through the creation of clear and fair procedures for the determination of vested rights of real property for future land development activities. These procedures will follow the Town of Awendaw's goals and objectives to encourage sustainable development for the betterment of the community. These regulations seek to require planned and phased development to be reassessed in more frequent intervals to ensure sound and reasonable planning for future development.

AMENDMENT TO SECTION 153.009 DEFINITIONS (TO BE ADDED TO EXISTING)

"**APPROVED**" or "**APPROVAL**" means a final action by the local governing body or an exhaustion of all administrative remedies that results in the authorization of a site-specific development plan or a phased development plan.

"**BUILDING PERMIT**" means a written warrant or license issued by a local building official that authorizes the construction or renovation of a building or structure at a specified location.

"**CONDITIONALLY APPROVED**" or "**CONDITIONAL APPROVAL**" means an interim action taken by a local governing body that provides authorization for a site-specific development plan or a phased development plan but is subject to approval.

"**LANDOWNER**" means an owner of a legal or equitable interest in real property including the heirs, devisees, successors, assigns, and personal representatives of the owner. "Landowner" may include a person holding a valid option to purchase real property pursuant to a contract with the owner to act as his agent or representative for purposes of submitting a proposed site-specific development plan or a phased development plan pursuant to this article.

"LOCAL GOVERNING BODY" means: (a) the Town Council of the Town of Awendaw, (b) a county or municipal body authorized by statute or by the Town of Awendaw to make land-use decisions.

"PERSON" means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any legal entity as defined by South Carolina laws.

"PHASED DEVELOPMENT PLAN" means a development plan submitted to a local governing body by a landowner that shows the types and density or intensity of uses for a specific property or properties to be developed in phases, but which do not satisfy the requirements for a site-specific development plan.

"REAL PROPERTY" or **"PROPERTY"** means all real property that is subject to the land use and development ordinances or regulations of the Town of Awendaw, and includes the earth, water, and air, above, below, or on the surface, and includes improvements or structures customarily regarded as a part of real property.

"SITE-SPECIFIC DEVELOPMENT PLAN" means a development plan submitted to a local governing body by a landowner describing with reasonable certainty the types and density or intensity of uses for a specific property or properties. The plan may be in the form of the following plans or approvals: planned unit development; subdivision plat; preliminary or general development plan; variance; conditional use or special use permit plan; conditional or special use district zoning plan; or other land-use approval designations as are used the Town of Awendaw.

"VESTED RIGHT" means the right to undertake and complete the development of property under the terms and conditions of a site-specific development plan or a phased development plan as provided in this ordinance and in the zoning ordinances and local land development ordinances and regulations adopted by the Town of Awendaw. A landowner's rights are only considered vested in the types of land use and density or intensity of uses defined in the site-specific development plan.

SECTION 153.054 ADMINISTRATION

- (A) The provisions of this Ordinance shall be administered and enforced by the Town of Awendaw Planning Director, the Board of Zoning Appeals, or the Planning Commission, or by such other officials, officer, or department as may be designated by the Town Council.
- (B) The Planning Director shall institute, or cause to be instituted, such actions necessary to ensure compliance with these provisions, and/or the conditions placed upon any permit or other approval.
- (C) The Town Council, Board of Zoning Appeals, Planning Commission and the Planning Director shall have the authority to cause whatever actions are necessary at a site or location where a violation of this Ordinance has occurred to ensure that it is returned to its original quality and function, and the same cause of action shall be at no cost to the Town of Awendaw and shall be assessed to the violator.

SECTION 153.055 ESTABLISHMENT OF VESTED RIGHTS

- (A) A vested right is established for two years upon the final approval or conditional approval of a site-specific development plan by the local governing body or the Planning Director.

- (B) A minimum of two years is granted notwithstanding any other timeline requirements currently in effect for identified site-specific development plans.
- (C) Phased development plans remain subject to review and approval of all phases prior to any portion of the project being vested.
- (D) A site-specific development plan or phased development plan for which a variance, regulation, or special exception is necessary does not confer a vested right until the variance, regulation, or special exception is obtained.
- (E) Vested rights cannot be waived as a condition of approval or conditional approval.

SECTION 153.056 OVERVIEW OF REVIEW, APPROVAL, AND APPEAL PROCESS

- (A) A site-specific development plan must be deemed administratively complete by the Planning Director before approval may be granted in any form.
 - (1) When determining administrative completeness, the Planning Director may use the regulations set forth in Title XV of the Awendaw Code of Ordinances to determine if an application meets Town standards.
- (B) Unless otherwise specified, the application, review, and approval process for currently identified site-specific development plans shall be followed according to the processes set forth in Title XV of the Awendaw Code of Ordinances.
- (C) Where a procedure is not currently in effect, or until Title XV of the Awendaw Code of Ordinances is later amended to include procedures, the following process is to be followed:
 - (1) Applications are to be submitted with the following items:
 - (a) A complete application form for the request; and
 - (b) A plat of survey of the subject property, if available, or a tax map that identifies the subject property; and
 - (c) A concept plan that includes the following information:
 - 1. The proposed means of access to a public road;
 - 2. Surrounding land uses;
 - 3. All adjacent roads;
 - 4. A preliminary map and analysis of natural resources present on the subject property and surrounding property; and
 - 5. A conceptual layout of the proposed land use, which shall be overlaid on the preliminary natural resources map, and which shall show streets, lots, parks and other facilities located to protect natural resource areas.
 - (2) Review, Approval and Appel Process
 - (a) Once an application has been deemed administratively complete by the Planning Director, and fees have been received, the Planning Director shall compile a staff report (which may include the comments and recommendations of the Water Department and other affected agencies, if applicable) that reviews the application in light of all applicable requirements of Title XV of the Awendaw Code of Ordinances. This report shall be forwarded to the Planning Commission.

- (b) Within the 60 days of the Planning Commission's receipt of a complete application and staff report, the Planning Commission shall review the proposed land use and act to approve, approve with conditions or deny the land use, based on whether it complies with all applicable requirements of Title XV of the Awendaw Code of Ordinances.
- (c) Any person with a substantial interest in the proposed land use decision of the Planning Commission or any officer or agent of the Town may appeal the Planning Commission decision to the Circuit Court in Charleston County. Appellants shall file with the Court of Clerk a written petition plainly and fully setting forth how such decision is contrary to law. Such appeal shall be filed within 30 days of appellant's actual notice of the Planning Commission's decision.
- (D) Once final or conditional approval is granted for the site-specific development plan, by either the local governing body or the Planning Director, and its approval is not overturned in a Circuit Court, vested rights are established for two (2) years from the date of final approval.

SECTION 153.057 EXTENSIONS AND APPLICATION REQUIREMENTS

- (A) As more specifically set forth in subsection B of this Section, a landowner of real property with a vested right may apply for a one-year annual extension of the vested right so long as a complete application is received by the Planning Director prior to the expiration of the vesting period. The applicant may apply for a total of two (2) one-year annual extensions of the vested rights.
- (B) A request for an extension of a person's vested rights must be submitted in writing to the Planning Director 60 days prior to the expiration of the vesting period by the owner of the real property or their designate agent. If the property in question has been subsequently subdivided or sold, the requestor must individually apply to receive an extension of their vested rights for each parcel.
- (C) The vesting extension request shall be accompanied by all the following items:
 - (1) Application
 - (a) A completed extension request form;
 - (b) A copy of a Town specific formal approval for the site-specific development granted by the local governing body or designated officer;
 - (c) A written explanation of the justification for the extension; and
 - (d) An administrative processing fee.
 - (2) Administrative Processing Fee
 - (a) An administrative processing fee is required to be paid with all vesting extension requests as follows:
 - 1. For the first annual extension request, the administrative processing fee is \$200.
 - 2. For the second annual extension request, the administrative processing fee is \$100.
- (D) Approval of the first or second annual extensions will follow the same requirements set forth in Section 153.056 (C)(2) of this Chapter.

- (E) Failure to timely submit a complete application and an administrative processing fee for the annual extension will result in forfeiture of one’s vested site-specific development plan.

SECTION 153.058 TERMINATION, REVOCATION, AND ANNEXATION

- (A) A vested right established under a conditionally approved site-specific development plan or conditionally approved phased development plan may be terminated by the Planning Commission upon its determination, following public notice and public hearing, that the landowner has failed to meet the terms of the conditional approval.
- (B) A vested right to a site-specific development plan or phased development plan is subject to revocation by Town Council upon its determination, after notice and public hearing, that there was a material misrepresentation by the landowner or substantial noncompliance with the terms and conditions of the original or amended approval.
- (C) If real property having a vested site-specific development plan or vested phased development plan is annexed, Town Council after a recommendation from the Planning Commission must determine, after notice and public hearing in which the landowner is allowed to present evidence, if the vested right is effective after annexation.

SECTIONS 153.059 PRECLUSIONS

- (A) A validly issued building permit does not expire or is not revoked upon expiration of a vested right, except for public safety reasons or as prescribed by the applicable building code.
- (B) A vested site-specific development plan or vested phased development plan is subject to later enacted federal, state, or local laws adopted to protect public health, safety, and welfare including, but not limited to, building, fire, plumbing, electrical, and mechanical codes and nonconforming structure and use regulations which do not provide for the grandfathering of the vested right. The issuance of a building permit vests the specific construction project authorized by the building permit to the building, fire, plumbing, electrical, and mechanical codes in force at the time of the issuance of the building permit.
- (C) A vested site-specific development plan or vested phased development plan is subject to later overlay zoning that imposes site plan-related requirements but does not affect allowable types, height as it affects density or intensity of uses, or density or intensity of uses.
- (D) A change in the zoning district designation or land-use regulations made subsequent to vesting that affect real property does not operate to affect, prevent, or delay development of the real property under a vested site-specific development plan or vested phased development plan without consent of the landowner.

THIS ORDINANCE SHALL BE EFFECTIVE IMMEDIATELY UPON FINAL READING

Introduced:

Public Hearing: _____

Planning Commission Recommendation:

Chris Crolley

Final Reading: _____

Mayor, Town of Awendaw

Attest: _____

Donna Steed

Clerk of Council

AN ORDINANCE OF THE TOWN OF AWENDAW, SOUTH CAROLINA, TO AMEND TITLE XV: LAND USAGE, CHAPTER 153: ZONING CODE, SECTION 153.009 DEFINITIONS TO INCLUDE A DEFINITION OF "STRUCTURE."

WHEREAS, pursuant to Section 6-29-340 of the South Carolina Code of Laws and Section 153.004 of the Town of Awendaw's Zoning Code, the Planning Commission of the Town of Awendaw is authorized to recommend revisions to the Town's zoning code;

WHEREAS, the Town of Awendaw seeks to include a definition of the term "structure," which definition is commonly understood and encompasses the word's plain and ordinary meaning, to ensure public health, safety, and welfare, and to prevent any misinterpretation of the term that would defy commonsense and the intent of the Town;

WHEREAS, Town of Awendaw finds that the proposed definition of "Structure" fully encompasses the term's plain and ordinary meaning and the purpose and intent of how the term has been previously used by the Town and its planners in the zoning code and other site-specific development plan approvals; and

NOW, THEREFORE, be it ordered and ordained by the Council of the Town of Awendaw, S.C., and it is ordained by the authority of said Council that the Town of Awendaw Code of Ordinances shall be amended as stated hereinabove and as provided hereinbelow:

SECTION 153.009 DEFINITIONS

Structure. An object that contains any horizontal or vertical elements located below grade (i.e. septic tanks, pools, etc.) and/or above grade (homes, fences, etc.) and is constructed, installed, placed, or erected on a lot.

Introduced:

Planning Commission Recommendation:

Public Hearing:

Final Reading: _____

Chris Crolley

Mayor, Town of Awendaw

Attest: _____

Donna Steed
Clerk of Council