

AGENDA
TOWN OF EDISTO BEACH
SEPTEMBER 14, 2017
REGULAR TOWN COUNCIL MEETING
6:00 P.M.

- I. **Call to Order**
- II. **Pledge of Allegiance and Invocation**
- III. **Approval of Minutes**
 - A. Regular Council Meeting Minutes, August 10, 2017
 - B. Special Council Meeting Minutes, August 29, 2017
- IV. **Proclamations and Presentations**
 - A. Starfish Awards
 - a. Ray Messer
 - b. Mike Kelly
 - c. Westbank Construction
- V. **Old Business**
 - A. Second Reading of Ordinance No. 2017-22 Providing for Mobile Vending and Regulations Governing Mobile Vending
 - B. Resolution No. 2017-R12 to Adopt the Local Comprehensive Beachfront Management Plan
 - C. Second Reading of Ordinance No. 2017-25 to Adjust the Rollback Millage Fiscal Year 2017-18
- VI. **New Business/Appearances**
 - A. Town Accomplishments Fiscal Year 2016-17
 - B. First Reading of Ordinance No. 2017-24 Division 2-Protection of Sea Turtles
 - C. Special Event Application – Town of Edisto Beach – Hurricane Matthew and Volunteer Appreciation Celebration, October 7, 2017
 - D. Emergency Purchase Order Lift Station A
 - E. Change Order No. 1 Terry Hoff Construction-\$1,036
 - F. First Reading of Ordinance No. 2017-26 to Enact Article III of Chapter 78 of the Code of Ordinances of the Town of Edisto Beach, Entitled “Golf Cart”
 - G. Special Event Application – Edisto Chamber of Commerce – 2017 Fall Festival
 - H. First Reading of Ordinance No. 2017-27 To Amend Sections 14-110(a), 14-114(d), 14-114(h) of the Town of Edisto beach Code of Ordinances, this Ordinance shall take effect December 21, 2017
 - I. Temporary Construction and Permanent Utility Easement Agreement
 - J. First Reading of Ordinance 2017-28 To Amend Sections 14-111 (a), 14-111 (b), 14-111 (c), 14-111 (d), 14-111 (e), 14-113, 14-221 (b)(1), 14-221 (j) of the Town of Edisto Beach Code of Ordinances.
- VII. **Committee Vacancies**
 - A. Zoning Board of Appeals – 1 vacancy
- VIII. **Departmental Reports and Committee Updates**
- IX. **Public Comment Period**
- X. **Executive Session**
 - A. Contractual – Negotiations related to 3708 Village Court [SC Code 30-4-70a (2)]
 - B. Contractual - Lot 7, block MMM 3002 Lee Street [SC Code 30-4-70a(2)]
- XI. **Adjournment**

TOWN OF EDISTO BEACH

AN ORDINANCE

PROVIDING FOR MOBILE VENDING AND REGULATIONS GOVERNING MOBILE VENDING

WHEREAS, the primary purpose of the public streets and sidewalks is the use by vehicular and pedestrian traffic, and

WHEREAS, vending in public areas can promote the public interest by contributing to an active and attractive pedestrian environment, and

WHEREAS, reasonable regulation of mobile vending is necessary to protect the public health, safety and welfare, and

WHEREAS, the regulations contained in this ordinance do not prohibit free speech but merely regulate activities which are commercial in nature, and

WHEREAS, the granting of business licenses for the use of public streets and the making of charges therefore are authorized by S.C. Code 1976, § 5-7-30, and are subject to such conditions as the council may impose to protect the public interest, welfare and convenience.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF EDISTO BEACH THAT section 18-53 is adopted to read as follows:

Sec. 18-53. - Mobile vending; regulations.

(a) Findings.

- (1) The primary purpose of the public streets and sidewalks is the use by vehicular and pedestrian traffic.
- (2) Vending in public areas promotes the public interest by contributing to an active and attractive pedestrian environment.
- (3) Reasonable regulation of mobile vending is necessary to protect the public health, safety and welfare.
- (4) The regulations contained in this division do not prohibit free speech but regulate activities which are commercial in nature.
- (5) The granting of business licenses for the use of public streets and the making of charges therefore are authorized by S.C. Code 1976, § 5-7-30, and are subject to such conditions as the council may impose to protect the public interest, welfare and convenience.

(b) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Mobile vendor means a person, corporation, or business entity of any kind, its employees and agents, who peddle, vend, sell and offer for sale food products and beverages as permitted herein by means of a motorized vehicle not more than eight feet in width and 20 feet in length capable of moving under its own power.

Mobile shall mean the state of being in active, but not necessarily continuous, movement.

Stationary location shall mean the position of the mobile vendor when not in motion and addressing the public for the purpose of sales.

Private property for purposes of this section shall mean real property that is owned by an individual, group of individuals, trust, or corporate entity which is not owned by a governmental entity, controlled by a governmental entity, or dedicated to public use on the authority of a governmental entity.

Vending district means the zone or area specifically designated for mobile vendors.

(c) *Permitted merchandise.* No merchandise shall be sold by a mobile vendor except the merchandise approved herein. Permitted merchandise shall be limited to edibles such as hot dogs, sausages, hamburgers, tacos, burritos, baked potatoes, pizza, bagels, pastries, candy, prepackaged sandwiches, chips, biscuits, popcorn, nuts, pretzels, ice products, ice cream, milk products, frozen yogurt, fruit, hot and cold beverages containing no alcohol, and items related to permitted merchandise.

(d) *Business licenses, mobile vending permits; transfer of business licenses and mobile vending permit.*

(1) It shall be unlawful to sell, or offer for sale, any food, beverage or merchandise within the town on public property and rights-of-way without first obtaining a business license and mobile vending permit.

(2) Mobile vending permit.

a. An annual permit fee of \$100.00 per vendor for the whole year or any part of the year shall be paid in advance.

b. No permits will be issued before the vendor's securing of a business license.

c. The number of permits per mobile vendor is limited to one, with the exception that a mobile vendor may apply for and receive a second permit if the number of applications submitted to the town is less than the maximum number of permits per ordinance, subject to the selection procedures set forth in subsection (f).

d. A copy of the permit must accompany the operator at all times.

e. A permit may not be transferred in any manner. Sale of a majority of stock in a company by stockholders listed on the permit application or sale of a majority interest in a partnership as listed on the application shall be deemed a transfer of the license, which is prohibited.

(3) The provisions of this division shall not apply to festivals, community projects or public events which occur on a periodic basis and which are specifically approved by the town council.

(e) *Application for mobile vending permit.* The application for a permit shall include the following information:

(1) The name, home and business address of the applicant, and the name and address of the owner/owners, if other than the applicant, of the vehicle to be used in the operation of the vending business.

(2) A description of the type of food, beverage or merchandise to be sold.

(3) A description and photograph or drawing of the vehicle proposed to be used.

(4) The names, addresses and percentage of stock owned by shareholders in a corporate applicant, and the percentage interest of each partner in a partnership applicant.

(5) Such other information as the applicant may choose or as may be requested by the town to demonstrate the applicant's financial ability, criminal record history, etc. By submitting an application the mobile vendor gives the town express permission to conduct a criminal history investigation on the mobile vendor, its employees and agents, at the expense of the applicant.

(f) *Issuance of mobile vending permits.*

(1) The permit shall be issued in accordance with other sections herein. Any permit issued pursuant to this section shall be subject to modification by ordinance at any time deemed necessary by the town council for protection of public interests. Any permit shall be granted as a privilege and not as a matter of right. Vending at any location may be temporarily suspended or relocated by the town upon reasonable notice when private or public construction or activities of the town make it unsafe or impractical to allow vending.

(2) In determining the acceptability of an application, the town may consider any factors presented in the application, at a public hearing, or in any staff report or investigation of matters related to the past record and ability of the applicant to perform conditions of this section and the permit agreement in a manner which serves the public interests.

(3) The maximum number of mobile vendors in the vending district shall be three. Permits are issued on a first-applied-first-served basis for open slots. If the number of applicants exceeds the maximum vendors allowed, a waiting list will be maintained by the town. If a slot opens the town shall give priority those on the waiting list in the order of application.

- (4) If a permit is denied pursuant to any section of this section, the applicant shall be provided with a statement of the reasons therefore entered in writing on the application.

(g) *Evidence of compliance with health and fire regulations; insurance.*

- (1) A certificate of inspection or compliance as required by applicable health regulations and evidence of compliance with the fire code shall be filed with the town before any sales are made by mobile vendors.
- (2) Proof of an insurance policy, issued by an insurance company licensed to do business in the state, protecting the owner and the town from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the owner, shall be filed with the town prior to vending operations and annually thereafter. Such policy shall be a general liability policy naming the vendor as insured and the Town of Edisto Beach as certificate holders and additional insureds in the amounts not less than \$1,000,000.00 per occurrence and \$1,000,000.00 aggregate combined single limit for bodily injury, personal injury and property damage. A valid certificate of insurance will be provided to the town for as long as a business license is held. Any changes, terminations or cancellations of the insurance will be provided to the town at least 30 days prior to such change, termination or cancellation.

(h) *Approved and prohibited locations.*

- (1) The designated vending district for mobile vendors is the R-1 Zoning District and the parking areas of Bay Creek Park, except during events, Burley Lyons Park, and Jungle Road Park, all subject to the prohibitions set forth below.
- (2) Mobile vending shall be prohibited in the following areas: all zoning districts not set forth in the preceding paragraph, with the exception of the town parks as set forth above, and Jungle Road.

(i) *Prohibited conduct.* No vendor shall:

- (1) Vend on any street or sidewalk where vending is otherwise prohibited.
- (2) Vend between official sunset as determined by the Astronomical Applications Department of the U.S. Naval Observatory and 10:00 a.m. of the following day.
- (3) Leave any vehicle unattended.
- (4) Store, park or leave any vehicle overnight on any street or sidewalk.
- (5) Sell food or beverages for immediate consumption unless there is a litter receptacle which is available for patrons' use.
- (6) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor.

- (7) Set up, maintain or permit the use of any table, crate, carton, rack or other device to increase the selling or display capacity of his vehicle.
- (8) Solicit or conduct business with persons in motor vehicles.
- (9) Sell anything other than that for which a license to vend have been issued.
- (10) Sound or permit the sounding of any device which produces a loud and raucous noise, or use or operate any loudspeaker, public address system, radio, sound amplifier or similar device to attract the attention of the public, provided that notwithstanding the above, a bell or musical recording may be sounded to announce the vehicle.
- (11) Vend without the insurance coverage specified herein.
- (12) Allow any item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property.
- (13) Conduct sales at a stationary location for a duration exceeding one (1) hour per location per day.
- (14) Locate its motorized vehicle on any private property for the purpose of conducting sales.
- (15) Provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches and stand-up counters.

(j) *Advertising.* Advertising shall be permitted on the vehicle only to identify the name of the product or the name of the vendor, and the posting of prices. No temporary signs are allowed.

(k) *Renewal of business license and mobile vending permit.*

- (1) All business license renewal are regulated by the town business license ordinance.
- (2) Permit renewal applications must be received no later than December 15 to be automatically considered for the new year. Failure to submit renewal application by December 15 may result in loss of position in the vending district in which case first-come-first-served and/or lottery drawing will apply.

(l) *Denial, suspension or revocation of business license and mobile vending permit.*

- (1) Business license denials, suspensions and revocations are regulated by the town business license ordinance.
- (2) Any permit granted under this section may be denied, suspended or revoked by the town for any of the following reasons:

- a. Fraud or misrepresentation contained in the permit application.
- b. Fraud or misrepresentation made in the course of carrying on the business of vending.
- c. Conduct of the vendor in such manner as to create a public nuisance or constitute a danger to the public health, safety, welfare or morals.
- d. Conduct which is contrary to the provisions of this section.
- e. Failure to use the license fully in accordance with its terms within 90 days after notice of the granting of the license, or within 15 days after notice of non-use, during the term of the license.
- f. Failure to qualify for a business license or determination that any condition in the herein sections exists.
- g. A determination that the applicant is not able or qualified, by reason of background, medical limitations, financial condition or conditions related to the vending business, to render acceptable service to the public pursuant to this section.

This ordinance shall take effect upon adoption.

Jane Darby, Mayor

First Reading: August 10, 2017

Second Reading: September 14, 2017

Deborah Hargis, Municipal Clerk

Approved as to Form: _____

Town of Edisto Beach

Resolution to Adopt a Local Comprehensive Beach Management Plan

WHEREAS, the Town of Edisto Beach is required to update a Local Comprehensive Beach Management Plan every 5-years;

WHEREAS, based on the Department of Health and Environmental Control-Ocean and Coastal Resource Management (DHEC-OCRM) cross divisional team review the Town's proposed plan satisfies the minimum required elements indicated in the Beachfront Management Act;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Edisto Beach, as duly assembled, adopts the Edisto Beach Local Comprehensive Beach Management Plan dated August 31, 2017, for submittal to the State for final review, comment and acceptance, a copy of which is attached hereto as Exhibit 'A'.

SIGNED, SEALED AND ADOPTED BY Town Council this 14th day of September, 2017.

Jane S. Darby, Mayor

Susan I. Hornsby, Mayor Pro Tempore

Jerome Kizer, Council Member

Crawford Moore, Council Member

Patti Smyer, Council Member

**TOWN OF EDISTO BEACH
AN ORDINANCE**

TO ADJUST THE "ROLLBACK MILLAGE" FOR THE FISCAL YEAR 2017-18

Whereas, according to SC Code 12-43-217, Colleton County has determined new real estate values to be used in calculating the 2017 property taxes by local governmental entities; and

Whereas, periodic review of property values referred to as the countywide equalization and reassessment program are intended to distribute the collection of taxes more fairly among the property owners by incorporating value changes that have occurred during the previous five years due to factors such as construction, demolition, renovation and market demand; and

Whereas, in the year in which a reassessment program is implemented, S.C. Code 12-7-251 requires all local governmental entities collecting property taxes to use a special millage rate, referred to as "rollback millage" instead of previous year's millage rate and the statute sets forth the formula for calculation of that "rollback millage"; and

Whereas, the purpose of the state law is to prevent local taxing entities from getting a windfall in tax revenue from an increase in the value of property since the formula adjusts the base millage rate downward, so that it produces approximately the same amount of revenue as the prior tax year; and

Whereas, likewise, if the tax base has declined in value since the previous assessment, the formula also adjusts the base millage upward to produce the same amount of revenue as the prior tax year; and

Whereas, according to Colleton County, property values on Edisto Beach declined; and

Whereas, in order to maintain the same tax base according to the "rollback millage" formula, the millage rate should be 23.44 instead of 20.71; and

Whereas, the level of services provided in the budget is based on the same tax base as the previous year; and

Whereas, if the millage rate is not modified, the tax rate used to establish the budget will be less than anticipated resulting a budget shortfall.

Therefore, according to S. C. Code 12-7-251 an adjustment needs to be made to the millage according for Year 2017/18 to 23.44.

BE IT ORDAINED by the governing body of the Town of Edisto Beach, in council duly assembled, and by the authority of the same:

1. The recitals set forth above are incorporated herein as if fully re-written.

2. The Town of Edisto Beach fiscal year 2017/18 property tax levy shall be adjusted to 23.44 mills.

3. The Town officials shall immediately and forthright notify the Colleton County Treasurer as its agent for collection of taxes and penalties of these matters so that the tax year 2017 tax bills will properly reflect this action.

4. All remaining provisions set forth in the Town of Edisto Beach FY 2017/18 Budget Ordinance and FY 2017/18 Budget Ordinance shall remain in full force and effect.

Jane S. Darby, Mayor

ATTEST:

Deborah Hargis
Municipal Clerk

First Reading: August 29, 2017

Final Reading: _____

Approved as to form: _____