

AGENDA
TOWN OF EDISTO BEACH
December 10, 2020
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, November 12, 2020
- IV. **Presentations and Proclamations**
 - A. Fifteen Year Service Award, Jim Mellersten
 - B. Beautification Award-Robert Redfearn
- V. **Old Business**
- VI. **New Business**
 - A. Government Wide Financial Statements and Other Financial Information for the Year Ended June 30, 2020
 - B. First Reading of Ordinance 2021-02 to Amend Section 38-101 of the Code of Ordinances of the Town of Edisto Beach to include the definitions of "electronic smoking device" and "e-liquid" and "vapor" product and amend the definition of "smoking".
 - C. Amendment to the Solid Waste Collection and Transportation Agreement between the Town of Edisto Beach and Republic Services of South Carolina
 - D. Award RFP # 2020-08-Fence convenience station and water plant
 - E. Emergency Ordinance 2020-27 requiring that face coverings be worn in certain circumstances in the Town of Edisto Beach during the COVID-19 Public Health Emergency
 - F. 2007 General Obligation Bond Refunding
 - G. Commercial Sublease between the Town of Edisto Beach and the Edisto Art Guild
 - H. First Reading of Ordinance 2021-03 to Amend Section 2-201, Section 2-215(J) and Section 2-218 (A) of the Town's Code of Ordinances to Provide the Purchasing Agent with Authority to Award Small Purchases and Clarify Purchases in the Amount of \$25,000 or more Require Town Council Approval For Award.
- VII. **Committee Vacancies**
 - A. Water and Sewer Committee – 1 vacancy
 - B. Beachfront Management Committee – 1 vacancy
- VIII. **Public Comment:** <https://www.townofedistobeach.com/public-comment-form>
- IX. **Executive Session**
 - A. Receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege related to the Sea Island Elevator, LLC v. Patrick Brown and Town of Edisto Beach lawsuit, S.C. Code §30-4-70 (a)(2).
 - B. Discussion of negotiations incident to proposed contractual arrangements related to Family Dinner, LLC and Over the Bridge, LLC Hospitality Taxes, SC Code §30-4-70 (a)(2).
 - C. Discussion of negotiations incident to proposed contractual arrangements related to 1209 Thistle Street Utility Fees. SC Code §30-4-70 (a)(2).
 - D. Discussion of negotiations incident to proposed contractual arrangements related to 426 Highway 174 Utility Fees. SC Code §30-4-70 (a)(2).

**Upon Returning to Open Session, Action May Be Taken By the Council on Items
Discussed During the Executive Session**

X. Adjournment

The December 10th Town Council meeting can be viewed on the town's YouTube Channel which can be accessed through the Town's website www.townofedistobeach.com

No. 2021- 02

TOWN OF EDISTO BEACH**AN ORDINANCE**

To Amend Section 38-101 of the Code of Ordinances of the Town of Edisto Beach to include the definitions of “electronic smoking device” and “e-liquid” and “vapor product” and amend the definition of “smoking”

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Edisto Beach, South Carolina, in council duly assembled, that Sec. 38-101 is amended to include the definitions of “electronic smoking device” and “e-liquid” and “vapor product” and amend the definition of “smoking” as follows:

Sec. 38-101. - Definitions.

Electronic smoking device means any device that may be used to deliver any aerosolized or vaporized substance, including e-liquid, to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, vapor product, or e-hookah. "Electronic smoking device" includes any component, part or accessory of the device, and also includes any substance intended to be aerosolized or vaporized during the use of the device, whether or not the substance includes nicotine.

E-liquid means a substance that:

- (a) may or may not contain nicotine;
- (b) is intended to be vaporized and inhaled using a vapor product; and
- (c) is a legal substance under the laws of this State and the laws of the United States;

E-liquid does not include cannabis or CBD as defined under the laws of this State and the laws of the United States.

Smoking means inhaling, exhaling, burning, lighting, or carrying any lighted or heated cigar, cigarette, pipe, or any other lighted or heated tobacco product or plant product, or liquid, gel or substance in any form, intended for inhalation, including but not limited to nicotine and/or marijuana products or derivatives, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device which creates an aerosol or vapor in any manner or in any form or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this article.

Vapor product means a powered vaporizer that converts e-liquid to a vapor intended for inhalation.

This ordinance shall take effect upon adoption.

Jane Darby, Mayor

First Reading: _____

Deborah Hargis, Municipal Clerk

Second Reading: _____

Approved as to form: _____

V I E

TOWN OF EDISTO BEACH
EMERGENCY ORDINANCE 2020-27

**Emergency Ordinance Requiring that Face Coverings Be Worn in Certain Circumstances
in the Town of Edisto Beach During the COVID-19 Public Health Emergency**

WHEREAS, it is well recognized that SARS-CoV-2, the virus that causes the disease COVID-19, presents a public health concern that requires extraordinary protective measures and vigilance; and

WHEREAS, on March 11, 2020, the World Health Organization declared a world-wide pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency for the United States and its territories to reduce the spread of the virus; and

WHEREAS, on March 13, 2020, the Governor of the State of South Carolina Henry McMaster declared a state of emergency for the State of South Carolina which he has renewed and is currently in effect; and

WHEREAS, S.C. Code Ann. §5-7-250 empowers Council to enact emergency ordinances affecting life, health, safety, or property; and

WHEREAS, on June 24, 2020 South Carolina Attorney General Alan Wilson issued a public written statement wherein he gave the opinion that municipalities in South Carolina may lawfully enact emergency ordinances requiring the wearing of masks as a measure to protect against the spread of COVID-19 and that generally these ordinances do not violate constitutional rights. A copy of this statement is attached to this ordinance as Exhibit A for reference; and

WHEREAS, on August 2, 2020 Governor Henry McMaster issued an Emergency Order reaffirming the state of emergency and urged counties and municipalities of this State to enact or implement appropriate and narrowly tailored emergency ordinances, orders, or other measures requiring individuals to wear a face covering in public settings where they are, will be, or reasonably could be located in close proximity to others who are not members of the same household and where it is not feasible to maintain six (6) feet of separation from such individuals or to otherwise practice effective "social distancing" in accordance with CDC and DHEC guidance; and

WHEREAS, COVID-19 has spread across the state with the South Carolina Department of Health and Environmental Control ("SCDHEC") confirming the localized person-to-person spread of COVID-19 in South Carolina, which indicates a significantly high risk of exposure and infection creating an extreme public health risk; and

WHEREAS, at the time of enactment of Emergency Ordinance 2020-22 on August 13, 2020, there were 103,051 confirmed cases throughout the State of South Carolina, 12,598 cases in Charleston County and 833 cases in Colleton County, and 2089 deaths statewide, 196 deaths in Charleston County and 33 deaths in Colleton County; and

WHEREAS, since then the State has seen significant increase in the spread of the virus with DHEC reporting as of December 1, 2020, there were 205,004 confirmed cases throughout the State of South Carolina, 17,918 cases in Charleston County and 1,344 cases in Colleton County, and 4,091 deaths statewide, 294 deaths in Charleston County and 49 deaths in Colleton County; and

WHEREAS, at the City of Columbia Council meeting on June 23, 2020, which has been broadcast via YouTube, Dr. Linda Bell, State Epidemiologist, stated “We are now a state on the national picture among a handful of other states considered to be hot spots” and that 42% of all reported positive cases since the start of reporting to SCDHEC in March have been reported in the last two weeks, noting that this is a very troubling trend telling us that not enough people are taking this pandemic seriously enough or adopting the measures that have been recommended such as mask wearing. Dr. Bell stated that masks have an important role in stopping the spread; and

WHEREAS, testing reports from SCDHEC between August 10 and 12 indicate that percent positive graphs, which show trends in the percent of cases of COVID-19 relative to the number of tests performed, demonstrate a continuation of the elevated levels, measuring over the past week between 20% and 15.7% compared to 7% to 9% at the end of May; and

WHEREAS, the number of cases is growing rapidly and if COVID-19 continues to spread in the Lowcountry, the number of persons relying on medical, pharmaceutical, and general cleaning supplies will increase, the private and public sector work force will be negatively impacted by absenteeism, and the demand for medical facilities may exceed locally available resources; and

WHEREAS, it is vitally important that we all work together to decrease the widespread proliferation of COVID19 among us all now rather than suffer the unfortunate and devastating consequences later; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) and SCDHEC advise the use of cloth face coverings to slow the spread of COVID-19; and

WHEREAS, taking measures to control outbreaks minimizes the risk to the public, maintains the health and safety of the Town’s residents, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, in order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the community, the Town is taking steps to try to protect the citizens and employees of the Town and visitors to the Town from increased risk of exposure; and

WHEREAS, restaurants, retail stores, salons, barber shops, grocery stores, convenience stores, gas stations, and pharmacies are determined by the Council to be places where the public may patronize indoors in larger numbers, particularly due to the relatively few number of these businesses in town versus the tourist season population, and where social distancing practices may not be practical; and

WHEREAS, in light of the foregoing, Town Council finds a state of emergency exists which will carry beyond the term of Emergency Ordinance 2020-22 and deems it proper and necessary to adopt this Emergency Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Edisto Beach, South Carolina this 10th day of December, 2020 that face coverings shall be required in public places within the Town to slow the spread of the novel coronavirus disease, known as COVID-19, as follows:

1. For the purposes of this Ordinance and as used herein, “face covering” means a uniform piece of cloth, fabric, or other material that securely covers the entire area of a person’s nose and mouth and remains affixed in place without the use of one’s hands. Face coverings include, but are not limited to, bandanas, medical masks, cloth masks, scarves, and gaiters, provided that they are worn such that they securely cover the person’s nose and mouth.

2. All persons entering a restaurant, retail store, salon, barber shop, grocery store, convenience store, gas station, and pharmacy in the Town shall wear a face covering at all times while inside the business establishment.

3. All restaurants, retail stores, salons, barber shops, grocery stores, convenience stores, gas stations, and pharmacies in the Town shall require their employees to wear a face covering at all times while having face to face interaction with the public.

4. Any person who is unable to safely wear a face covering due to age, an underlying health condition, or is unable to remove the face covering without the assistance of others is exempt from this Ordinance.

5. Face coverings are not required in the following circumstances:

- a. While drinking, eating, or smoking;
- b. When wearing a face covering would prevent the receipt of personal services;
- c. For people whose religious beliefs prevent them from wearing a face covering;
- d. When a person is 10 years of age or younger.

6. A person who fails to wear a face mask in compliance with Paragraph 2 violates this Ordinance and shall be guilty of a civil infraction, punishable by a fine of not more than \$25.00.

7. A person who fails to comply with Paragraph 3 violates this Ordinance and shall be guilty of a civil infraction, punishable by a fine of not more than \$100.00. Each day of a continuing violation of Paragraph 3 of this Ordinance shall be considered a separate and distinct offense. In addition to the fines established by this paragraph, repeated violations of this Ordinance by a person as defined in this Paragraph 7 may, subject to all procedural protections set forth in the Town Code, result in the suspension or revocation of any occupancy permit or business license issued to a business where the repeated violations occurred. Repeated violations of this Ordinance are additionally hereby declared to be a public nuisance, which may be abated by the Town by restraining order, preliminary and permanent injunction, or other means provided for by the laws of this State. For the purposes of enforcement of Paragraph 3 of this Ordinance, “person” shall be defined in this Paragraph 7 as any individual associated with the business establishment subject to Paragraph 3 of this Ordinance who has the control or authority and ability to enforce the requirements of this Ordinance within the business establishment, such as an owner, manager, or supervisor. “Person” also includes an employee or other designee who is present at the business

but does not have the title of manager, supervisor, etc., but has the authority and ability to ensure the requirements of this Ordinance are met while the business establishment is open to the public.

8. Should any provision, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

9. This Ordinance is effective immediately. This Ordinance shall be terminated by the issuance of another ordinance or shall automatically expire on the 61st day after enactment of this Ordinance, whichever date is earlier.

Enacted this day of 10th day of December 2020, by the Town Council of the Town of Edisto Beach, South Carolina:

Jane Darby, Mayor

Attest:

Iris Hill, Town Administrator

Approved as to form: _____

V 1 H

No. 2021- 03

TOWN OF EDISTO BEACH

AN ORDINANCE

TO AMEND SECTION 2-201, SECTION 2-215(J), AND SECTION 2-218(A) OF THE TOWN'S CODE OF ORDINANCES TO PROVIDE THE PURCHASING AGENT WITH AUTHORITY TO AWARD SMALL PURCHASES AND CLARIFY PURCHASES IN THE AMOUNT OF \$25,000.00 OR MORE REQUIRE TOWN COUNCIL APPROVAL FOR AWARD

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Edisto Beach, South Carolina, in council duly assembled that Sections 2-201, 2-215(J), and 2-218(A) of the Town's Code of Ordinances are amended to read as follows:

Sec. 2-201. - Purchasing agent, specified duties.

The administrator or an officer of the town designated by the administrator shall be the purchasing agent for the town. She/he shall be responsible for:

- (1) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the town government made in compliance with the provisions of this Division;
- (2) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the town government;
- (3) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the town government. Such specifications shall be definite and certain and shall permit competition;
- (4) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses;
- (5) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested that their names be added to a bidders list. The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the town, or who have failed to meet established specifications or delivery dates;
- (6) Obtaining as full and open competition as possible on all purchases, contracts and sales through compliance with the provisions of this Division; and
- (7) The decision to award small purchases as provided in Section 2-218, either directly or by an officer of the town designated by the administrator.

2-215. - Competitive sealed bidding.

J. *Award.* Unless there is a compelling reason to reject bids as determined by the **Town Council**, notice of an intended award of a contract to the lowest responsive and responsible bidders whose bid meets the requirements set forth in the invitation for bids shall be issued **by written award letter after approval by the Town Council**. Prior to the award letter, the **Town** may negotiate with the lowest responsive and responsible bidder to lower **its** bid within the scope of the invitation for bids.

2-218. - Small purchases.

A. *Authority.* The following small purchases rules may be utilized in conducting procurements that are less than \$25,000.00 in actual potential value; provided however, that the procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. **The purchasing agent or an officer of the town designated by the administrator shall have authority to make awards for small purchases without submission to Town council for approval.**

This ordinance shall take effect upon final reading.

Jane S. Darby, Mayor

First Reading: _____

ATTEST:

Final Reading: _____

Deborah Hargis, Municipal Clerk

Approved as to form: _____