

AGENDA
TOWN OF EDISTO BEACH
February 14, 2019
REGULAR TOWN COUNCIL MEETING
6:00 P.M.

- I. **Call to Order**
- II. **Pledge of Allegiance and Invocation**
- III. **Approval of Minutes**
 - A. Public Hearing Meeting Minutes, January 10, 2019
 - B. Regular Meeting Minutes, January 10, 2019
 - C. Annual Goal Setting Retreat, January 31, 2019
- IV. **Proclamations and Presentations**
 - A. Ten Year Service Award – Iris Hill
- V. **Old Business**
 - A. Edisto Art Guild Request
 - B. Personnel Manual Update
 - C. Beach Renourishment – Hurricane Irma
 - D. Award of RFP No. 2018-16 Edisto Beach Tennis Court Repair
- VI. **New Business**
 - A. FY 2019-2020 Budget Calendar
 - B. FY 2019-2020 Council Retreat Goals
 - C. Sponsorship – Edisto Art Guild – 2019 Arts in the Park
 - D. Recurring Special Event Application – Edisto Island Ducks Unlimited Banquet, March 16, 2019
 - E. Special Event Application – The Cystic Fibrosis Foundation, CF Cycle for Life
 - F. Edisto Beach Civic Center Facility Use Guideline Changes
 - G. Edisto Beach Civic Center Fitness/Wellness Class 2019 Facility Use Agreement & Application
 - H. Edisto Beach Civic Center Fitness Wellness Class Waiver
 - I. Edisto Beach Civic Center Rental Agreement Fee Schedule Changes
 - J. Change Order No. 1 RFP 2018-14-Groin Repairs
 - K. US Army Corps of Engineers Storm Reduction Project
 - L. First Reading of Ordinance 2019-02 Prohibiting the Use and Distribution of Single-Use Plastic Bags, Plastic Straws, Polystyrene Coolers, Polystyrene Food Containers or Polystyrene Cups by Any Business Establishment in the Town of Edisto Beach, Any property of the Town of Edisto Beach or on the Public Beach of the Town of Edisto Beach.
 - M. Building Code Effectiveness Grading
 - N. Extension of Master Services Agreement with American Engineering
- VII. **Planning Commission**
 - A. First Reading of Ordinance 2018-14 To Establish the Standards for the Placement of Small Wireless Facilities in Covered Areas in the Town of Edisto Beach, South Carolina; And for Other Purposes
- VIII. **Committee Vacancies**
 - A. Accommodations Tax Advisory Board – 1 vacancy
 - B. Water and Sewer Committee – 1 vacancy
- IX. **Accommodations Tax Advisory Board**
 - A. Town of Edisto Beach, Edisto Beach Cookin' on the Creek BBQ Festival, \$6,000
- X. **Departmental Reports and Committee Updates**
- XI. **Public Comment**
- XII. **Executive Session**
 - A. Discussions incidental to contractual negotiations or other matters covered by the attorney-client privilege. (Robert Doub, Utilities Director) S.C. Code §3-4-70(a)(2)

- B. Discussions incidental to contractual negotiations or other matters covered by the attorney-client privilege. (Fire Department) S.C. Code §3-4-70(a)(2)
- C. The 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 Worker's Compensation. (Judson Davis, III) S.C. Code §3-4-70(a)(2)
- D. Discussion regarding annual pay adjustments in positions in all departments S.C. Code §3-4-70(a)(1)

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

- XIII. **New Business continued**
 - A. FY 2018-2019 Budget Adjustments
- XIV. **Adjournment**

BUDGET PREPARATION CALENDAR FY 2019-2020

DATE	ACTIVITY
DECEMBER	Council review and approve Departmental Strategic Plans (Delayed)
JANUARY 31	Council Goal Setting Retreat
FEBRUARY	Submit Town budget requests to Colleton County for FY 2019-2020
FEBRUARY 4	Finance/Budget Analyst analyze past expenditures/revenues
FEBRUARY 14	Council approve goals and objectives for FY 2019-2020
FEBRUARY 25	Budget packets distributed to Department Heads
MARCH 14	Certified Tax Roll from Property Assessor's Office
MARCH 15	Department Heads budgets due/Committee Budget Request Due
MARCH 18-22	Town Administrator/Director Conferences
APRIL 9	Budget Workshop with Council at work session
MAY 9	1 st reading of budget ordinance at regularly scheduled Council meeting
MAY 10	Publish public notice for budget public hearing (must be 15 days in advance of public hearing)
JUNE 13	Public hearing and 2 nd reading of budget ordinance at regularly scheduled Council meeting
FEBRUARY 13	Six-month budget adjustment

2019-2020 COUNCIL GOALS

Drainage/Lagoons

Walkovers/Beach Access Golf Cart Parking

Proactive schedule for Public Works

Public Restrooms/Public Private Partnership

Funding for automatic meter readers

Turtle-safe lighting

VI 21

No. 2019-02

TOWN OF EDISTO BEACH, SOUTH CAROLINA

AN ORDINANCE PROHIBITING THE USE AND DISTRIBUTION OF SINGLE-USE PLASTIC BAGS, PLASTIC STRAWS, POLYSTYRENE COOLERS, POLYSTYRENE FOOD CONTAINERS OR POLYSTYRENE CUPS BY ANY BUSINESS ESTABLISHMENT IN THE TOWN OF EDISTO BEACH, ANY PROPERTY OF THE TOWN OF EDISTO BEACH OR ON THE PUBLIC BEACH OF THE TOWN OF EDISTO BEACH

Whereas, the Town of Edisto Beach has the authority to enact ordinances which promote the public health, safety, and general welfare of its residents, and,

Whereas, the Town enjoys a pristine beach environment which is enjoyed by residents and has become a popular vacation destination; and,

Whereas, the Town has an obligation to protect the unique coastal resources and environmentally sensitive habitat areas and reduce the amount of plastic and polystyrene waste generated in the community; and,

Whereas, the Town continues to confront littered plastic in its public areas;

NOW, THEREFORE, BE IT ORDAINED by the Town of Edisto Beach, in meeting assembled that Article IV of Chapter 38 be codified as follows:

ARTICLE IV. - USE AND DISTRIBUTION OF SINGLE-USE PLASTIC BAGS, PLASTIC STRAWS, POLYSTYRENE COOLERS, POLYSTYRENE FOOD CONTAINERS AND CUPS.

Sec. 38-130. – Purpose.

This Article is adopted to improve the environment of the Town of Edisto Beach by requiring the use of reusable checkout bags and recyclable paper carryout bags and food containers, banning the use of single-use plastic bags for retail checkout of purchased goods, use of polystyrene food containers, polystyrene cups, and plastic straws. Further, to improve and maintain the pristine beach and ocean environment of the Town of Edisto Beach, single-use plastic bags, plastic straws, polystyrene coolers, and polystyrene food containers and cups will be prohibited on the public beach.

Sec. 38-131. – Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning:

- (1) *Business Establishment.* Any commercial enterprise that provides carryout bags to its customers through its employees or independent contractors associated with the business. The term includes sole proprietorships, joint ventures, partnerships, corporations, or any other legal entity whether for profit or not for profit. This term is inclusive of any store or business which sells or offers goods or merchandise, located or operating within the Town, including those referenced as a food establishment or food provider.
- (2) *Carryout Bag.* A bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases.
- (3) *Customer.* A person who purchases merchandise from a business establishment.
- (4) *Disposable Food Service Ware.* Interchangeable with *To Go* packaging and *Food Packaging Material.* Includes but is not limited to: all containers, clamshells, bowls, plates, trays, cartons, cups, straws, stirrers, napkins, and other items designed for onetime use associated with prepared foods, including without limitation, service ware for takeout foods and/or leftovers from partially consumed meals prepared by food providers.
- (5) *Polystyrene/Plastic Foam.* Blown expanded and extruded polystyrene (sometimes called Styrofoam) or other plastic foams which are processed by any number of techniques including, but not limited to, fusion of monomer spheres (expanded bead plastic), injection molding, foam molding, and extrusion-blown molding (extruded foam plastic). Polystyrene and other plastic foam is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, egg cartons, coolers, ice chests, shipping boxes, packing peanuts, and beach or pool toys. The term *polystyrene* also includes clear or solid polystyrene which is known as *oriented polystyrene*.
- (6) *Public beach:* That area of land lying between the low water mark of the Atlantic Ocean and either the high water mark of the Atlantic Ocean, or the private property line, whichever point is of greater distance from the low water mark.

- (7) *Reusable Carryout Bag.* A carryout bag that is specifically designed and manufactured for multiple reuse, and meets the following criteria:
- a. Displays in a highly visible manner on the bag exterior language describing the bag's ability to be reused and recycled;
 - b. Has a handle, except that handles are not required for carryout bags constructed out of recyclable paper with a height of less than fourteen (14) inches and width of less than eight (8) inches; and,
 - c. Is constructed out of any of the following materials:
 - i. Cloth, other washable fabric, or other durable materials whether woven or non-woven;
 - ii. Recyclable plastic, with a minimum thickness of 2.25 mils; or
 - iii. Recyclable paper.
- (8) *Single-Use Plastic Carryout Bag.* A bag provided by a business establishment to a customer typically at the point of sale for the purpose of transporting purchases, which is made predominantly of plastic derived from either petroleum or a biologically-based source. "Single-use plastic carryout bag" includes compostable and biodegradable bags but does not include reusable carryout bags.
- (9) *Town of Edisto Beach Property (hereafter "Town").* Any building, structure, vehicle or property owned and operated or leased by the Town, its agents, agencies, departments, or lessee.

Sec. 38-132. – Regulations.

- (a) No business establishment may provide single-use plastic carryout bags or polystyrene products at any Town property, town-sponsored event, or any event held on Town property.
- (b) No business establishment within the Town may provide single-use carryout bags to its customers.
- (c) Business establishments within the Town shall not provide food in any disposable food service ware that contains polystyrene/plastic foam. All business establishments within the Town shall use recyclable or compostable products for disposable food service.
- (d) Business establishments within the Town shall not use plastic straws or provide plastic straws for use to its customers.

- (e) A business establishment within the Town limits may provide or sell reusable carryout bags to its customers or any person. Subject to hours of operation and applicable regulations regarding the use of public property, including those pertaining to solicitation and commercial activities on public property, a person may provide or sell reusable carryout bags at any Town facility, Town-sponsored event, or any event held on Town property.
- (f) All single-use carryout plastic bags, plastic straws, and polystyrene/plastic foam products such as but not limited to cups, bowls, plates, trays, clamshell containers, meat trays, egg cartons, coolers, ice chests, are expressly prohibited from use on the public beach in the Town of Edisto Beach or on any Town-owned properties.
- (g) No business establishment in the Town of Edisto Beach may sell, rent or otherwise provide an expanded polystyrene foam cooler (also known as "Styrofoam" cooler); or purchase, obtain, keep, distribute, sell, or give for home or personal use, or otherwise provide to customers any expanded polystyrene foam coolers in the Town of Edisto Beach.

Sec. 38-133. - Exemptions.

The following are exempt from the regulations of Sec. 38-132.

- (a) Products made from polystyrene/plastic foam which is wholly encapsulated or encased by a more durable material are exempt from the provisions of this section. Examples include surfboards, boats, life preservers, and craft supplies which are wholly encapsulated or encased by a more durable material, and durable coolers not principally composed of polystyrene/plastic foam.
- (b) Construction products made from polystyrene/plastic foam are exempted from this chapter if the products are used in compliance with Town code and used in a manner preventing polystyrene/plastic foam from being released into the environment.
- (c) In an emergency situation and for the immediate preservation of the public peace, health, or safety, town facilities business establishments, food vendors, contractors, and other vendors doing business with and in the Town shall be exempt from the provisions of this chapter.
- (d) Laundry dry cleaning bags, ice bags, door-hangar bags, newspaper bags, or packages of multiple bags intended for use as garbage, pet waste, or yard waste, although the Town encourages the use of recyclable or compostable products throughout.

- (e) Bags provided by physicians, dentists, pharmacists, veterinarians, or other health care providers to contain prescription drugs or other medical necessities.
- (f) Bags used by a customer inside a business establishment to:
 - (1) Contain or wrap frozen foods, meat, or fish, whether or not prepackaged.
 - (2) Contain or wrap flowers, potted plants or other items to prevent moisture damage to other purchases.
 - (3) Contain unwrapped prepared foods or bakery goods.
- (g) Bags used by a non-profit corporation or other hunger relief charity to distribute food, grocery products, clothing, or other household items.
- (h) Bags of any type that the customer brings to the store for their own use for carrying away from the store goods that are not placed in a bag provided by the store.
- (i) Plastic drink lids and cutlery.
- (j) Plastic drinking straws when needed by customers due to medical or physical conditions and for whom other straws are unsuitable are exempt from the provisions of this article.
- (k) Plastic straws when needed by customers of a business establishment due to medical or physical conditions and for whom other straws are unsuitable.

Sec. 38-134. - Enforcement and penalties.

- (a) Violation of any provision of this Article shall be deemed a misdemeanor. The penalty shall not exceed \$100.00 for a first violation; \$200.00 for a second violation within any 12-month period; and \$500.00 for each additional violation within any 12-month period. Each day that a violation continues will constitute a separate offense.
- (b) In addition to the penalties set forth in this Subsection, repeated violations of this Article by a person who owns, manages, operates, is a business agent of, or otherwise controls a business establishment may result in the suspension or revocation of the business license issued to the premises on which the violations occurred. No business license shall be issued or renewed until all fines outstanding against the applicant for violations of this section are paid in full.
- (c) Violation of this Article is 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 law, and the Town may take action to recover the costs of the nuisance abatement.

Sec. 38-135. - Requests for exemption.

(a) Town Council may exempt a business establishment from the requirements set forth in Section 39-133 for up to a one-year period upon the establishment showing, in writing, that this section would create an undue hardship or practical difficulty not generally applicable to other business establishments or persons in similar circumstances.

(b) Exemptions to allow for the provision of single-use carryout bags or disposable food service ware may be granted by Town Council if the business establishment can demonstrate in writing a public health and safety requirement, medical necessity or that the product will not damage the environment of the Town of Edisto Beach.

(c) Town Council may approve the exemption application in whole or in part, with or without conditions.

Sec. 38-136. - Effective Date.

All requirements set forth in this Article shall take effect upon adoption of the Ordinance.

Sec. 38-137. - Severability and inconsistency.

If any court of competent jurisdiction holds any section, subsection, provision, clause, phrase or application of this Article invalid or unconstitutional for any reason, the remaining provisions of this Article shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purpose of the Article.

Jane Darby, Mayor

First reading: _____

ATTEST:

Adopted: _____

Deborah Hargis, Municipal Clerk

Approved as to form: _____

TOWN OF EDISTO BEACH, SOUTH CAROLINA

AN ORDINANCE TO ESTABLISH THE STANDARDS FOR THE PLACEMENT OF SMALL WIRELESS FACILITIES IN COVERED AREAS IN THE TOWN OF EDISTO BEACH, SOUTH CAROLINA; AND FOR OTHER PURPOSES.

WHEREAS, the Town of Edisto Beach (“Town”) encourages wireless infrastructure investment and wishes to provide a fair and predictable process for the deployment of Small Wireless Facilities while managing Public Rights-of-Way in a manner that promotes the interests of the public health, safety and welfare; and,

WHEREAS, the Town recognizes that Small Wireless Facilities including facilities commonly referred to as small cell and distributed antenna systems are critical to delivering wireless access to advanced technology, broadband, and 9-1-1 services to residences, businesses, and schools within the Town; and,

WHEREAS, the Town recognizes that Small Wireless Facilities together with high capacity transport medium such as fiber optic cabling may be effectively deployed in Public Rights-of-Way; and,

WHEREAS, this Ordinance is intended to grant municipal consent to use of Rights-of-Way and establish a standard application process to streamline the issuance of necessary permits in a manner that is not a barrier to competition and does not unnecessarily delay the implementation and installation of Small Wireless Facilities.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF EDISTO BEACH, SOUTH CAROLINA, that Chapter 86 of the Town Code is hereby amended to add a new Article entitled “Standards for Placement of Small Wireless Facilities in Covered Areas,” to read as follows:

ARTICLE IX - Standards for Placement of Small Wireless Facilities in Covered Areas

Sec. 86-280. - *Definitions.*

“Antenna” means communication equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services.

“Applicable Codes” means uniform building, energy, electrical, plumbing, mechanical, gas, and fire codes in Title 6, Chapter 9 of the South Carolina Code of Laws, local amendments to those codes authorized by state law and local codes which impose requirements.

“Applicant” means any person who submits an Application to a Town and is a Wireless Services Provider or a Wireless Infrastructure Provider.

“Application” means a request submitted by an Applicant for a permit to (i) Collocate Small Wireless Facilities; or, (ii) construct, install, maintain, operate, replace or modify a Utility Pole or Wireless Support Structure.

“Cable, Communications, Fiber or Electric Easement” means an easement, granted to a cable or video service provider, a communications service provider (including without limitation a telephone utility), a fiber optics cable services provider, or an electric services provider created or authorized by state law to provide such services, that runs parallel to and abuts or within a Rights-of-Way and is occupied by existing Utility Poles or Wireless Support Structures carrying electric distribution lines, wires, cable, conduit, fiber optic cable for telecommunications, cable or electric service or supporting municipal street lights, or security lights. The term Cable, Communications, Fiber or Electric Easement excludes easements for service drops or lines connecting the customer’s premises to the cable, communications, fiber or electrical provider.

“Town-Owned Pole” means (i) a Utility Pole owned or operated by the Town in Covered Areas, including a Utility Pole that provides lighting or traffic control functions, or other law enforcement functions, including light poles, traffic signals, and structures for signage, and (ii) a pole or similar structure owned or operated by the Town in a Covered Area that supports only Wireless Facilities. The term does not include a Utility Pole owned or operated by and accounted for as an asset of a municipal electric utility.

“Collocate” means to install, mount, maintain, modify, operate, or replace one or more Wireless Facilities on, under, within, or adjacent to an existing Wireless Support Structure or Utility Pole located in Covered Areas within the jurisdiction of the Town. **“Collocation”** has a corresponding meaning.

“Covered Areas” means the surface of, and the space above and below, any public “Rights-of-Way,” “ROW,” “Town Rights-of-Way,” “Public Rights-of-Way,” and/or “Cable,

Communications, Fiber or Electric Easement” within the C-3 Zoning District only as those terms are defined herein.

“**Day**” means calendar day unless the last day for the Town or an Applicant to take action under this Ordinance ends on a weekend, holiday, or time when all but Town emergency services are closed due to weather or some unforeseen situation.

“**Decorative Pole**” means a Utility Pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or a temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal practices.

“**Fee**” means a one-time charge.

“**Micro Wireless Facility**” means a Small Wireless Facility that meets the following qualifications: (i) is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height; and, (ii) any exterior antenna is no longer than 11 inches.

“**Person**” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the Town.

“**Rate**” means a recurring charge.

“**Rights-of-Way**” or “**ROW**” or “**Town Rights-of-Way**” or “**Public Rights-of-Way**” means that area on, below, or above a public roadway, highway, street, sidewalk, alley dedicated to, managed or controlled by the Town, County or the State of South in the Town.

“**Small Wireless Facility**” means a Wireless Facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of not more than six (6) cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

“**Transmission Pole**” means a pole or similar structure that is used in whole or in part to carry electric transmission (as opposed to distribution) lines.

“Utility Pole” means a pole or similar structure that is used in whole or in part for the purpose of carrying electric distribution lines or cables or wires for telecommunications, cable or electric service, or for lighting, traffic control devices, traffic control or directional signage, or a similar function regardless of ownership, including Town-Owned Poles. Such term shall not include structures supporting only Wireless Facilities, nor shall it include Wireless Support Structures.

“Wireless Facility” means equipment at a fixed location that enables Wireless Services between user equipment and a communications network, including: (i) equipment associated with wireless communications; (ii) radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes Small Wireless Facilities. The term does not include the structure or improvements on, under, or within which the equipment is Collocated, wireline backhaul facilities, coaxial or fiber optic cable that is between Wireless Support Structures or Utility Poles or coaxial or fiber optic cable that is otherwise not immediately adjacent to, or directly associated with, an Antenna.

“Wireless Infrastructure Provider” means any Person including a Person authorized to provide telecommunications service in the State, that builds, installs or maintains Utility Poles, wireless communication transmission equipment, Wireless Facilities or Wireless Support Structures.

“Wireless Services” means any services provided using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, delivered to the public using Wireless Facilities.

“Wireless Services Provider” means a Person who provides Wireless Services.

“Wireless Support Structure” means a freestanding structure, such as a monopole or, other existing or proposed structure designed to support or capable of supporting Wireless Facilities. Such term shall not include a Utility Pole.

Sec. 86-281. - Purpose and Scope.

(a) The purpose of this Ordinance is to provide policies and procedures for the placement of Small Wireless Facilities in Covered Areas within the C 3 Zoning District of the Town.

(b) It is the intent of this Ordinance to establish uniform standards including, but not limited to:

- (i) Prevention of interference with the use of streets, sidewalks, alleys, parkways, traffic light poles or other light poles, and other public ways and places;
- (ii) Prevention of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (iii) Prevention of interference with other facilities and operations of facilities lawfully located in Covered Areas or public property;
- (iv) Preservation of the character of neighborhoods where facilities are installed;
- (v) Facilitation of the rapid deployment of Small Wireless Facilities to provide the citizens with the benefits of advanced Wireless Services.

Sec. 86-282. - *Permitted Use; Application Process and Fees.*

(a) **Permitted Use and Consent.** Collocation of a Small Wireless Facility on an existing Utility Pole or Wireless Support Structure, or a new or modified Utility Pole or Wireless Support Structure installed in a Covered Area shall be a permitted use, where such facilities are a conditional use within the C-3 Zoning District only. In accord with Article VIII, Section 15 of the State Constitution and related municipal code and ordinance provisions, the Town consents to the use of Public Rights-of-Way by permit holders acting in compliance with this Ordinance.

(b) **Permit Required.** No person shall place a Small Wireless Facility in a Covered Area without first filing a Small Wireless Facility Application and obtaining a permit, except as otherwise provided in this Ordinance.

(c) **Permit Applications.** All Small Wireless Facility Applications filed pursuant to this Ordinance shall be on a form, paper or electronic, as required by the Town. The Applicant may designate portions of its Application materials that it reasonably believes contain proprietary or confidential information as “proprietary” or “confidential” by clearly marking each page of such materials accordingly, and the Town shall endeavor to protect materials so designated from public disclosure to the fullest extent permitted by state law.

(d) **Application Requirements.** The Small Wireless Facility permit Application shall be made by the Applicant, or its duly authorized representative as noted in a notarized statement

from a Person with the Applicant with authority to make such an authorization, and shall contain the following:

- (i) The Applicant's name, address, telephone number and e-mail address;
- (ii) Facility owner's name, address, telephone number and email address, if different from Applicant;
- (iii) Intended facility use: owner-operated or owner leased capacity;
- (iv) The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the Applicant with respect to the filing of the Application;
- (v) A general description of the proposed scope of work for the Collocation of the Small Wireless Facility. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters, including but not limited to sub-surface utilities, likely to be affected or impacted by the work proposed;
- (vi) Identification of any consultant that is acting on behalf of the Applicant and that is authorized to speak with the Town, or a designee of the Town, on the area of consultation for the Applicant even if the Applicant cannot be available;
- (vii) Verification from an appropriate representative of the Applicant that the Small Wireless Facility shall comply with all Applicable Codes;
- (viii) Verification of payment of the annual municipal consent or administrative fee for telecommunications companies to use Public Rights-of-Ways pursuant to Section 58-9-2230;
- (ix) Verification of local business license, if applicable;
- (x) Evidence the Applicant is duly authorized to do business in South Carolina;
- (xi) Evidence the Applicant has received any necessary certificate of public convenience and necessity or other required authority from the South Carolina Public Service Commission or the Federal Communications Commission or evidence that it is not required;
- (xii) A copy of an approved South Carolina Department of Transportation encroachment permit and all documents required by SCDOT as part of the

encroachment permit application, if the proposed location is within a SCDOT Right-of-Way; and,

(xiii) If the proposed location is outside of a SCDOT Right-of-Way, a statement that the Applicant has a lease, attachment agreement or other authorization from the owner of the Utility Pole or structure proposed for Collocation.

(xiv) A copy of the Applicant's executed Franchise Agreement with the Town of Edisto Beach.

(xv) Written certification of mailing via regular first-class U.S. mail of either a copy of the application or documentation showing applicant contact information, location of the proposed site, description of the proposed work, and photo or rendering of the proposed facilities, to all persons or entities owning real property within 50 yards of the proposed location. The information shall be provided with a cover page to include the following language: "The enclosed application is being made to the Town of Edisto Beach. You may contact the Town of Edisto Beach with questions about the application process." The certificate of mailing shall show the names and addresses of persons to whom the information is mailed. Notification is not required to the owner of a public road owned by the State, County, or Town.

(e) **Routine Maintenance and Replacement.** A permit shall not be required for:

(i) Routine maintenance;

(ii) The replacement of a Small Wireless Facility with another Small Wireless Facility that is substantially similar or smaller in size, weight, and height; or

(iii) The installation, placement, maintenance, operation, or replacement of Micro Wireless Facilities that are strung on cables between existing Utility Poles and/or Wireless Support Structures in compliance with the National Electrical Safety Code by a Wireless Services Provider or a Wireless Infrastructure Provider that is authorized to occupy the Public Rights-of-Way and that is remitting a consent, franchise, or administrative Fee pursuant to S.C. Code Ann. § 58-9-2230.

(f) **Information Updates.** Any amendment to information contained in a permit Application shall be submitted in writing to the Town within ten (10) business days after the change necessitating the amendment.

(g) **Consolidated Application.** An Applicant seeking to Collocate multiple Small Wireless Facilities may, at the Applicant's discretion, file a consolidated Application and receive a single permit for up to twenty (20) Small Wireless Facilities. Provided, however, the Town's denial of any site or sites within a single Application shall not affect other sites submitted in the same Application. The Town shall grant a permit for any and all sites in a single Application that it does not deny subject to the requirements of this Section.

(h) **Application Fees.** Unless otherwise provided by law, and except as to telecommunication companies exempted pursuant to S.C. Code § 58-9-2230, all Applications for permits pursuant to this Ordinance shall be accompanied by a Fee of \$100.00 for each Small Wireless Facility, except that the Fee for Small Wireless Facilities addressed in a consolidated Application shall be \$100.00 each for the first five Small Wireless Facilities and \$50.00 for each additional Small Wireless Facility up to a maximum of twenty (20) Small Wireless Facilities. For clarity, any Applicant that pays either a franchise Fee, consent Fee, or administrative Fee pursuant to the requirements of S.C. Code § 58-9-2230 shall not be required to pay any building permit Fee, zoning permit Fee, encroachment Fee, degradation Fee, or any other Fee assessed on a telecommunications provider for its occupation of or work within the ROW.

(i) **Interference with Public Safety Equipment.** A Small Wireless Facility shall be operated and maintained in a manner that does not interfere with public safety (police, traffic control, fire and emergency services) equipment.

Sec. 86-283. - Action on Permit Application.

(a) **Review of Small Wireless Facility Applications.** The Town shall review the Application for a Small Wireless Facility permit for conformity with applicable requirements of this Ordinance, and shall issue a permit on nondiscriminatory terms and conditions subject to the following requirements:

(i) Within ten (10) days of receiving an Application, the Town must determine and notify the Applicant whether the Application is complete; or if an Application is incomplete, the Town must specifically identify the missing information.

(ii) Make its final decision to approve or deny the Application within sixty (60) days of submission of a completed Application. This deadline may be extended by the Town for good cause shown in writing.

(iii) Notify the Applicant in writing of its final decision, and if the Application is denied, specify the basis for a denial, including citations to federal, state or local code provisions and/or statutes on which the denial was based.

(iv) Notwithstanding an initial denial, the Applicant may cure the deficiencies identified by the Town and resubmit the Application within thirty (30) days of the denial, and the Town shall approve or deny the revised Application within thirty (30) days of receipt of it. The subsequent review by the Town shall be limited to the deficiencies cited in the original denial.

(b) **Review of Eligible Facilities Requests.** Notwithstanding any other provisions of this Ordinance, the Town shall approve and may not deny Applications that constitute eligible facilities requests for modification of an eligible support structure that does not substantially change the physical dimensions of such structure as provided in 47 CFR 1.40001, within sixty (60) days according to the procedures established under 47 CFR 1.40001(c).

(c) **Compensation.** Subject to the limitations set forth in Section 3(h) herein, every permit shall include as a condition the Applicant's agreement to pay such lawful franchise Fees, business license taxes, administrative Fees and consent Fees as are permitted under applicable South Carolina and federal law. The Applicant shall also pay all applicable ad valorem taxes, service Fees, sales taxes, or other taxes and Fees as may now or hereafter be lawfully imposed on other businesses within the Town.

Sec. 86-284. - Requirements for Small Wireless Facilities in Covered Areas.

(a) **Administrative Review.** The Town shall perform an administrative review of permit Applications including the location or installation of new, modified, or replacement Utility Poles and/or Wireless Support Structures and the attachment of Wireless Facilities and equipment on Utility Poles or Wireless Support Structures. Review factors, in addition to location, shall include the size, shape, color, texture, and materials of the structures and attachments.

(i) The Town may require a proposed Wireless Facility be designed to not be significantly more readily apparent or plainly visible (to a reasonable person of ordinary sensibilities) from Covered Areas in the C 3 Zoning District than existing utility structures, poles and equipment located within five hundred (500)

linear feet on the same Covered Area in the C 3 Zoning District as the subject Utility Pole or Wireless Support Structure.

(ii) Where Small Wireless Facilities are determined to be appropriate, the use of reasonable stealth and concealment treatments, low profile equipment and control boxes, and screening may be required to avoid significant negative impacts on the character and visual aesthetics of the area. However, such requirements may be waived by the Town upon a showing that the particular location of a Small Wireless Facility does not warrant stealth or concealment treatments or imposes an excessive expense. The waiver shall be granted or denied within forty-five (45) days after the date of the request.

(b) **Maximum Size of Permitted Use.**

(i) The height of an Antenna of a Collocated Small Wireless Facility shall be limited to the greater of ten (10) feet above (a) the height of an existing or modified Utility Pole or Wireless Support Structure; or (b) the height of a new Utility Pole or Wireless Support Structure as provided in (ii) below.

(ii) The height of a new or modified Utility Pole, or Wireless Support Structure is limited to the greater of (a) the tallest Utility Pole, excluding Transmission Poles, or Wireless Support Structure located in the same Covered Area, measured from grade, in place within five hundred (500) linear feet on the same Covered Area as the subject Utility Pole or Wireless Support Structure as of the effective date of this Ordinance; or (b) in the absence of any such Utility Pole or Wireless Support Structure, either (i) forty (40) feet in any area zoned exclusively for single family residential use, unless a waiver is granted for good cause shown, or (ii) fifty (50) feet in any other area.

(iii) Collocation is not allowed on a Decorative Pole less than twenty (20) feet in height.

(c) **Appeals and Variance Requests.** Appeals of administrative decisions and requests for special exceptions and variances from the provisions of this Ordinance, when strict application would result in an unnecessary hardship or in the inability to deploy needed Small Wireless Facilities, shall be heard and decided by the Board of Zoning Appeals.

(d) **Repair of Damage.** A Wireless Services Provider or a Wireless Infrastructure Provider shall repair all damage to a Town Right-of-Way directly caused by the activities of the Wireless Services Provider or the Wireless Infrastructure Provider, while occupying, installing, repairing, or maintaining Wireless Facilities, Wireless Support Structures, Town Utility Poles, or Utility Poles and to return the Right-of-Way to its functional equivalence before the damage. If the Wireless Services Provider or the Wireless Infrastructure Provider fails to make the repairs required by the Town within forty-five (45) days after written notice, unless the Town and the Wireless Services Provider or the Wireless Infrastructure Provider agree in writing to a longer time period, the Town may undertake those repairs and charge the applicable party the reasonable and documented cost of the repairs. The Town may maintain an action to recover the costs of the repairs. The Town may also, in its sole discretion, terminate and cancel the permit for failure to make repairs.

Sec. 86-285. - *Effect of Permit.*

(a) **Authority Granted: No Property Right or Other Interest Created.** A permit from the Town authorizes an Applicant to undertake only certain activities in accordance with the Ordinance and does not create a property right or grant any authority whatsoever to the Applicant to impinge upon the rights of others who may already have an interest in the Covered Area.

(b) **Duration.** Unless construction has actually begun and is diligently pursued to completion at that point, no permit for construction issued under this Ordinance shall be valid for a period longer than twelve (12) months unless both Town and Applicant agree to a reasonable extension and all required Fees are paid for the term regardless of construction. The inability of the Applicant to obtain electrical power or backhaul transport services to serve the Wireless Facility such that it is operational within the twelve (12) months due to the action or inaction of third-party utility providers shall not result in the invalidity of the permit.

Sec. 86-286. - *Removal, Relocation or Modification of a Small Wireless Facility in the ROW.*

(a) **Notice.** Within ninety (90) days following written notice from the Town, a Wireless Services Provider or a Wireless Infrastructure Provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any Wireless Facilities or Wireless Support Structures within the Rights-of-Way

whenever the Town, in its reasonable discretion, has determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Town improvement in or upon, or the operations of the Town in or upon, the Rights-of-Way.

(b) **Emergency Removal or Relocation of Facilities.** The Town retains the right to cut or move any Wireless Facility or Wireless Support Structure located within its Rights-of-Way as the Town, in its reasonable discretion, may determine to be necessary, appropriate, or useful in response to any public health or safety emergency. If circumstances permit, the Town shall notify the Wireless Services Provider or the Wireless Infrastructure Provider and provide opportunity to move its own Wireless Facilities or Wireless Support Structure prior to the Town cutting or removing a Wireless Facility or Wireless Support Structure and the Town shall notify the Wireless Services Provider or the Wireless Infrastructure Provider after cutting or removing a Wireless Facility.

(c) **Abandonment of Facilities.** Upon abandonment of a Wireless Facility or Wireless Support Structure within the Town Rights-of-Way, the Wireless Services Provider or the Wireless Infrastructure Provider shall notify the Town within ninety (90) days of such abandonment. Following receipt of such notice the Town may direct the Wireless Services Provider or the Wireless Infrastructure Provider to remove all or any portion of the Wireless Facility or Wireless Support Structure if the Town, in its sole discretion, determines that such removal will be in the best interests of the public health, safety, and welfare.

(d) **Abandonment by Inaction.** At any point when a Wireless Services Provider or a Wireless Infrastructure Provider fails to pay any required Fee, or annual payment to the Town, and fails to respond within sixty (60) days to a written inquiry from the Town as to whether the Wireless Services Provider or the Wireless Infrastructure Provider intends to continue to operate a Wireless Facility or Wireless Support Structure, for whatever reason, the Wireless Facility shall be deemed abandoned and the Town may, at its sole option, remove all or any portion of the Wireless Facility or Wireless Support Structure, or take other action as authorized by law, including recovery of actual costs incurred in removing the Wireless Facility or Wireless Support Structure.

Sec. 86-287. - Attachment to Town-Owned Utility Poles in the Covered Areas.

(a) **Annual Rate.** The rate to place a Small Wireless Facility on a Town-Owned Pole in Covered Areas shall be fifty (\$50.00) dollars per year per wooden pole or two hundred (\$200.00) dollars per year for all other Town-Owned Poles. This rate is in addition to reimbursement to the Town for any expenses for make-ready work. The Town reserves the right to require a pole attachment agreement to further define the terms and conditions of attachments to Town-Owned Poles. The rates specified in this section shall not apply to poles owned, or operated and accounted for as an asset of, a municipal electric utility. The rates shall be subject to increase by resolution of Town Council on an annual basis.

(b) **Cease Payment.** A Wireless Services Provider or a Wireless Infrastructure Provider is authorized to remove its facilities at any time from a Town-Owned Pole in Covered Areas and cease paying the annual rate to the Town as of the next due date for payment following the removal.

(c) **Make-Ready.** For Town-owned Utility Poles in Covered Areas, the Applicant shall reimburse the Town for expenses for any reasonable make-ready work. The Town shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested Small Wireless Facility, including pole replacement if necessary, within sixty (60) days after receipt of a completed request. Make-ready work including any pole replacement shall be completed within sixty (60) days of written acceptance of the good faith estimate by the Wireless Services Provider or the Wireless Infrastructure Provider.

(d) **Local Electric Utilities Excluded.** Nothing in this section shall be construed to affect the authority of a local electric utility to deny, limit, restrict, or determine the rates, Fees, terms, and conditions for the use of or attachment to a Utility Pole owned, or operated and accounted for as an asset of, a municipal electric utility.

Sec. 86-288. - Severability.

In the event any title, subtitle, section, subsection, subdivision, paragraph, subparagraph, item, sentence, clause, phrase, or work of this Ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or adjudication shall not affect the remaining portions of the Ordinance which shall remain in full force and effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of this Ordinance.

Sec. 86-289. - Effective Date.

This Ordinance shall take immediately after adoption.

Jane Darby, Mayor

First reading: _____

Public Hearing: _____

Adopted: _____

ATTEST:

Deborah Hargis, Municipal Clerk

Approved as to form: _____