

# **Notice of Public Hearing and Regular Meeting of the City Council**

Tuesday, June 13, 2017 – 7:00 PM

Village of Surfside Beach  
1304 Monument Drive  
Surfside Beach, TX 77541

## **AGENDA FOR REGULAR COUNCIL MEETING**

An agenda information packet is available for public inspection at City Hall

### **PUBLIC HEARING:**

1. Open public hearing regarding renewal of Village of Surfside Beach curfew ordinance.
2. Close public hearing.

### **COUNCIL MEETING:**

The City Council reserves the right to meet in closed session on any agenda item, should the need arise and if applicable, pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

- 1) CALL TO ORDER, QUORUM IN ATTENDANCE
- 2) MOMENT OF SILENCE, PLEDGE OF ALLEGIANCE
- 3) BUSINESS OF VISITORS NOT ON THE AGENDA - presentation from Brazosport Chamber of Commerce - Edith Fischer
- 4) Mayor/council/committee/departments head/organization reports.
- 5) *ALL ITEMS UNDER THE CONSENT AGENDA ARE CONSIDERED TO BE SELF-EXPLANATORY, AND THE COUNCIL WILL ENACT THEM WITH ONE MOTION. UNLESS A COUNCIL MEMBER SO REQUESTS, NO SEPARATE DISCUSSION OF THESE ITEMS WILL OCCUR.*

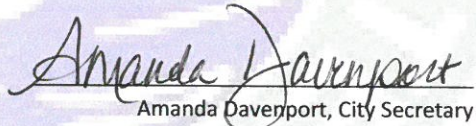
#### CONSENT AGENDA:

- A. Consider approval of minutes from the May 16, 2017 Council meeting.
- B. Consider approval of the May 2017 financials.

- 6.) Discuss and take possible action on Ordinance 2017.06.13A regarding hotel motel short term rental registration.
- 7.) Discuss and take possible action on Ordinance 2017.06.13B regarding juvenile curfew.
- 8.) Discuss drainage issues on Swan Court.
- 9.) Discuss and take possible action regarding the resignation of Jennie Green-Prats from the Planning Commission.
- 10.) Discuss and take possible action to appoint Julie Harris to the Planning Commission and add a new alternate member to the Planning Commission.
- 11.) ADJOURN

#### CERTIFICATION

I hereby certify that a true and correct copy of the above and foregoing "Notice of Meeting" by the City Council was posted on the front door of the City Hall of the Village of Surfside Beach, Texas, a place convenient and readily accessible to the general public at all times, and said notice was posted Friday, June 9, 2017, at or before 5:00 PM, and remained so posted continuously for at least 72 hours before the scheduled time and date of the above mentioned meeting.

  
Amanda Davenport, City Secretary

If you plan to attend this public meeting, and you have a disability that requires special arrangements at this assembly, please contact Amanda Davenport, City Secretary, at (979) 233-1531, Extension 103, within 48 hours of the scheduled meeting date and time. We shall make reasonable accommodations to assist you with your needs.

This public notice was removed from the official posting place at the Village of Surfside Beach City Hall on the following date and time: \_\_\_\_\_ at \_\_\_\_\_ PM.



**ORDINANCE NO. 2017.06.13B**

**AN ORDINANCE ADOPTING CURFEW HOURS FOR MINORS; DEFINING TERMS; CREATING OFFENSES FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS PROVIDING FOR ENFORCEMENT BY THE POLICE DEPARTMENT; PROVIDING FOR WAIVER BY THE MUNICIPAL COURT OF JURISDICTION OVER A MINOR WHEN REQUIRED UNDER THE TEXAS FAMILY CODE; PROVIDING A PENALTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

**WHEREAS**, on March 11, 2008, the City Council adopted Ordinance No. 2008-3 adopting curfew hours for minors due to the increase in juvenile violence, juvenile gang activity, and crime by and against persons under the age of 17 in the Village of Surfside Beach;

**WHEREAS**, persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participation in unlawful and gang-related activities or are likely to be victims of crime committed by adults or other youths;

**WHEREAS**, the ordinance will expire on June 13, 2020;

**Whereas**, Section 370.002, "Review of Juvenile Curfew Order or Ordinance," of the Texas Local Government Code, requires:

(a) before the third anniversary of the date of adoption of a juvenile curfew ordinance by a general-law municipality or a home-rule municipality or an order of a county commissioners court, and every third year thereafter, the governing body of the general-law municipality or home-rule municipality or the commissioners court of the county shall:

(1) review the ordinance or order's effects on the community and on problems the ordinance or order has intended to remedy;

(2) conduct public hearings on the need to continue the ordinance or order; and

(3) abolish, continue, or modify the ordinance or order.

(b) Failure to act in accordance with Subsections (a)(1)-(3) shall cause the ordinance or order to expire;

**WHEREAS**, the Staff recommends readopting the curfew for minors;

**WHEREAS**, the Village of Surfside Beach desires to continue to provide for the protection of minors from each other and from other persons, to promote parental control over and responsibility for children, in order to protect the general public, and reduce the incidence of juvenile criminal activities; and

**WHEREAS**, a curfew for those under the age of 17 is in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the Village of Surfside Beach.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE VILLAGE OF SURFSIDE BEACH, TEXAS, THAT:**

**Part 1:** The City Council of the Village of Surfside Beach, Texas, finds that it is in the interest of the public health, safety, and general welfare of the general public, to readopt the curfew hours for minors in an effort to continue to provide for the protection of minors from each other and from other persons, to promote parental control over and responsibility for children, in order to protect the general public, and to reduce the incident of juvenile criminal activities.

**Part 2:** The following curfew requirements for minors are hereby adopted:

**CURFEW HOURS FOR MINORS**

(a) Definitions. In this ordinance, the words and phrases listed below have the meanings provided herein:

(1) CURFEW HOURS means:

- (A) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and
- (B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.

(2) EMERGENCY means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(3) ESTABLISHMENT means any privately owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

(4) GUARDIAN means:

- (A) a person who, under court order, is the guardian of the person of a minor; or
- (B) a public or private agency with whom a minor has been placed by court.

(5) MINOR means any person under 17 years of age.

(6) OPERATOR means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of, an association or partnership and the officers of a corporation.

(7) PARENT means a person who is:

- (A) a natural parent, adoptive parent, or step-parent of another person; or
- (B) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

(8) PUBLIC PLACE means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(9) REMAIN means to:

- (A) linger or stay; or
- (B) fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

(10) SERIOUS BODILY INJURY means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

b. Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of the establishment during curfew hours.
- (3) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

c. Defenses.

- (1) It is a defense to prosecution under Subsection (b) that the minor was:
  - (A) accompanied by the minor's parent or guardian;
  - (B) on an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - (C) in a motor vehicle involved in interstate or intrastate travel;
  - (D) engaged in an employment activity, or going to or returning home from an employment activity, without detour or stop;
  - (E) involved in an emergency;
  - (F) on the sidewalk abutting the minor's residence or abutting the residence of next door neighbor if the neighbor did not complain to the police department about the minor's presence;
  - (G) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Village of Surfside Beach, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the Village of Surfside Beach, a civic organization, or another similar entity that takes responsibility for the minor;
  - (H) exercising first amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right to assembly; or

- (1) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- (2) It is a defense to prosecution under Subsection (b)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during the curfew hours and refused to leave.

d. Enforcement.

Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that based, on any response and other circumstances, no defenses in Subsection (c) is present. In assessing punishment for either a minor or a parent, the Municipal Court Judge may consider a community service or teen court program.

e. Penalties.

(1) A person who violates a provision of this ordinance is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.

(2) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Subsection (b)(1) of this section and shall refer the minor to juvenile court.

**Part 3:** The declarations, determinations, and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Part 4:** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Part 5:** This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the Village of Surfside Beach, Texas, and it is accordingly so ordained.

**Part 6:** This ordinance will expire on June 13, 2020.

**Part 7:** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on this the 13th day of June 2017.

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Larry Davison, Mayor

Attest:

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Amanda Davenport, City Secretary