

## Regular Meeting of the City Council

Tuesday, July 12, 2022 – 7:00 PM

Village of Surfside Beach

1304 Monument Drive

Surfside Beach, TX 77541

An agenda information packet is available for public inspection on the website at [www.surfsidetx.org](http://www.surfsidetx.org)

**NOTICE IS HEREBY GIVEN** that the City Council of the Village of Surfside Beach will conduct its Regular Meeting scheduled for **7:00 p.m. on Tuesday June 14, 2022**. To view the meeting electronically please use the following website:

<https://us02web.zoom.us/j/82804862016?pwd=M3Bma1hBTGFsOWdvUFJZaGN0MTZ6QT09>

Meeting ID: 828 0486 2016 Passcode: 1304

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.

### COUNCIL MEETING:

- 1) CALL TO ORDER, QUORUM IN ATTENDANCE
- 2) INVOCATION, PLEDGE OF ALLEGIANCE
- 3) Mayor/council/committee/departement head/organization reports
- 4) Business of visitors not on the agenda.
- 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 Council meeting on June 14, 2022.
- B. Consider approval of the June 2022 financials.
- 6) Discuss and update on the water and sewer temporary injunction. *M. Wilson*
- 7) Discuss and take possible action on discuss and take possible action to remove (delete) "Article IV. Police Advisory Board" from the Surfside Beach, Code of Ordinances, Chapter 22 – Law Enforcement. *Robertson*
- 8) Discuss and update on the deficiencies in 3 of 4 funds. Why? *M. Wilson*
- 9) Discuss an update on the modification to the Swordfish Well and the expected start up. *M. Wilson*
- 10) Discuss and take possible action on allowing water test wells no greater than 25 ft deep on private property within The Village for bacteria, nutrient and salinity level testing. *Gerber*
- 11) Discuss and take possible action to amend Chapter 12 - BUILDINGS AND BUILDING REGULATIONS of the Surfside Beach Code of Ordinances ARTICLE II. - RESIDENTIAL

CODE to provide, clarity, definitions and standards regulating lighting on new construction of residential property. *Gerber*

- 12) Discuss and take possible action amending Chapter 28 - PARKS AND RECREATION ARTICLE II. - PARK RULES AND REGULATIONS Sec. 28-23. - Recreational activities 6) games of Parks and Recreational Regulations striking prohibitions against playing ball, (specifically baseball and football) , model airplanes, roller skating, and skateboarding or to immediately begin creation of a designated area for such pass times. *Gerber*
- 13) Discuss and take possible action to approve police reserves pursuant to: the Surfside Code of Ordinances Chapter 22 - LAW ENFORCEMENT, ARTICLE III. - POLICE RESERVE FORCE, Sec. 22-62. - Appointment, removal, and approval of members. *Gerber*
- 14) Discuss and take possible action to change the water bill due dates to the 20<sup>th</sup> of each month. *Bisso*
- 15) Discuss and take possible action to change the water service cut-off delinquent time period to 30 days after the due date. *Bisso*
- 16) Discuss and take possible action to have the Planning and Zoning Committee research and build a suggested approach to drafting a new city plan. *Robertson*
- 17) Discuss and take possible action to approve Ordinance 2022-07-12 that amends Chapter 21 of the Code of Ordinances of the Village regarding Texas Food Establishments Rules.
- 18) **Executive Session:**  
The City Council may convene into closed executive session pursuant to Texas Government Code, Sec. 551.074 PERSONNEL MATTERS, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee unless the officer or employee who is the subject of the deliberation or hearing requests a public hearing namely: Councilman Jon Gerber
- 19) Action, if any, out of executive session.

#### 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 bulletin board of the City Hall of the Village of Surfside Beach, Texas. Said notice was posted Thursday July 7 at or before 6:00 PM and remained so posted continuously for at least 72 hours before the scheduled time and date of the meeting.

  
Amanda Davenport, City Secretary

**Minutes of Regular Meeting of the City Council**

Tuesday June 14, 2022 – 7:00 PM

Village of Surfside Beach

1304 Monument Drive

Surfside Beach, TX 77541

**COUNCIL MEETING:**

- 1) **CALL TO ORDER, QUORUM IN ATTENDANCE**  
Mayor Bisso called the meeting to order and declared a quorum to be in attendance, Jalifi and Petty via zoom.
- 2) **INVOCATION, PLEDGE OF ALLEGIANCE**  
Robertson gave the invocation.
- 3) **Mayor/council/committee/department head/organization reports**  
**Chief Wood** gave the monthly PD activity report and commendation to Officer Bosco for two beach rescues;  
**Robert King** gave the EMS monthly activity report;  
**Michelle Booth** introduced the new website for tourism, new city app and landscaping through TXDot along Hwy. 332;  
**Francis Conway** reported that the draft proposal for the Beach and Dune Plan amendment has been submitted to the GLO;  
**Dortha Pekar** reported on the Battle of Velasco information;  
**Jon Gerber** thanked Jeannie Green-Prats for the work she did while on the council and stated the he is looking forward to the new term;  
**Sean Robertson** reported on his conversation with Thomas Dumin regarding the groin project;  
**Toni Capretta** SOBA meeting at Stahlman Park on Saturday at 5:30;  
**Oscar Jalifi** stated they are working on a plan with TXDot for the landscaping;  
**Gregg Bisso** – the boring under the canal is complete for the water line; HGAC grant is waiting approval through GLO; Splashpad has been repaired; soft sand conditions on the beach have worsened and we finally received the new zoning map and will have it mounted to the wall and put on the website.
- 4) **Business of visitors not on the agenda.**  
Clare Dunne has concerns about the walkover at Gulfway Court.  
Richard Sublett concerns on road repairs on Coral Court and Gulfway Court, replace the street sign and place “dead end” sign.
- 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 Council meeting on May 12, 2022.**
- B. **Consider approval of the May 2022 financials.**
- C. **Consider approval of Cannon Fire the June 25 Historical Committee event**

Motion was made by Gerber to approve the consent agenda with changes to the minutes to reflect that he did not vote on item number 19 on the May agenda. Motion was seconded by Capretta and passed unanimously.

- 6) **Discuss and take possible action to appoint a Mayor ProTem.**

Motion was made by Jalifi to nominate Toni Capretta for Mayor Pro Tem. Motion was seconded by Robertson and passed unanimously.

- 7) **Discuss and take possible action on appointing members to the “Surfside Beach Police Department Advisory Board” as provided for in Chapter 22 – LAW ENFORCEMENT ARTICLE IV. – POLICE ADVISORY BOARD Sec. 22-86.- Appointment, etc...**

Motion was made by Gerber to appoint members to the Beach Advisory Board. Motion died for lack of second.

- 8) **Discuss and take possible action on Ordinance Sec. 46-171 – “Designated areas and times for golf cart operation” (Ordinance No. 2016-02-09B, § 2, 2-9-2016; Ord. No. 2021-12-14, § 2, 12-14-2021).  
Action: to delete item “(d)” that restricts operations to 7:00 a.m. to 9:00p.m.**

Motion was made by Robertson to delete item “(d)” that restricts operations to 7:00 a.m. to 9:00p.m. Motion was seconded by Capretta and passed 3 for; 1 against (Jalifi). Bob Petty abstained due to conflict of interest.

Jalifi left the meeting at 8:20 p.m.

- 9) **Discuss and take possible action designating Surfside Beach as a Dark Sky Community.**

Motion was made by Gerber to adopt and begin the process to be a Dark Sky Community. Motion was seconded by Robertson and with the resulting vote being a tie, the deciding vote to pass the motion was decided by Mayor Bisso.

- 10) **Discuss and take possible action changing section 22-60 of the Surfside Beach code of ordinances regarding the number of reserve officers in the police department.**

Motion was made by Capretta to change the ordinance to read "at the Police Chief's discretion". Motion was seconded by Petty and passed 3 for; 1 against (Gerber)

**11) Discuss and take possible action awarding the bid for the Hurricane Debris Management and Debris Monitoring.**

Motion was made by Robertson to award the bid for Debris Management to Ceres Environmental and Debris Monitoring to DebrisTech. Motion was seconded by Capretta and passed unanimously.

**12) Discuss and take possible action on Council and Committee Liaison assignments.**

Mayor Bisso appointed Robertson and Gerber to the P&Z; Oscar Jalifi to the tourism committee and Toni Capretta to the Beach Advisory Committee

**13) Discuss the Police's newer focus area of Marine patrol so City Council members may understand the problem being solved, the budget, external entities being coordinated with to obtain resources, city related jurisdiction, time commitments by leadership and officers, and pros and cons of this overall effort.**

Discussion ensued between Chief and Council, no action was taken at this time.

**14) Discuss and take possible action requiring attendance at monthly council meetings of the Public Works Director to provide updates on progress towards compliance with the Temporary Injunction Court Order # B-1-GN-19-003191 Case # 51455 Village of Surfside Beach (Regarding sewer & water violations).**

Mayor Bisso will handle this item with staff.

**15) Discuss and take possible action on Proposal from Green Services regarding repair of damages done to Bluewater Highway by a Developer and roadway damages incurred by Hurricane Nicholas.**

Motion was made by Robertson to accept the proposal from Green Services. Motion was seconded by Capretta and passed unanimously.

**16) Discuss and take possible action on allowing water test wells no greater than 25 ft deep on private property within The Village for bacteria, nutrient and salinity level testing.**

Motion was made by Capretta to table this item. Motion was seconded by Robertson and passed unanimously.

**17) Discuss and take possible action awarding the bid for the replacement of the Stahlman Park roof.**

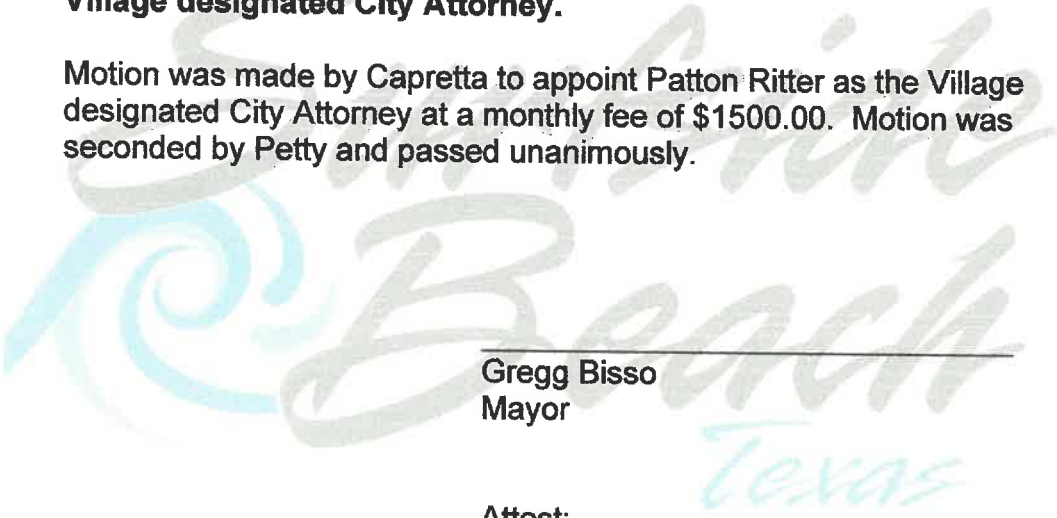
Motion was made by Petty to accept the bid by Brazosport Roofing. Motion was seconded by Capretta and passed unanimously.

**18) Discuss and take possible action setting a Battle of Velasco monument at the end of Monument Drive.**

Motion was made by Capretta to proceed with placement at the end of Monument Drive. Motion was seconded by Robertson and passed unanimously.

**19) Discuss and take possible action to appoint Patton Ritter as the Village designated City Attorney.**

Motion was made by Capretta to appoint Patton Ritter as the Village designated City Attorney at a monthly fee of \$1500.00. Motion was seconded by Petty and passed unanimously.

  
\_\_\_\_\_  
Gregg Bisso  
Mayor

Attest:  
  
\_\_\_\_\_

**Amanda Davenport**

---

**From:** Sean Robertson  
**Sent:** Friday, July 1, 2022 11:05 AM  
**To:** Amanda Davenport  
**Cc:** Gregg Bisso  
**Subject:** Agenda item for July, 2022 - Sean Robertson

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Hi Amanda,

Please add to the July agenda this agenda item. Thank you.

Agenda item: discuss and take possible action to remove (delete) "Article IV. Police Advisory Board" from the Surfside Beach, Code of Ordinances, Chapter 22 – Law Enforcement.

Context: The Police Advisory Board, or also known as the "Surfside Beach Police Department Advisory Board," was created in the 1990's when the Village was very different, and the Police Department was lacking funds, leadership, staff, and processes. The Village leadership was seeking assistance from external sources and sought to enact this board via formal ordinance to give merit to those efforts. Thirty years later, this board is not needed. We have a Police Chief who is responsible for establishing processes and running the Department. We have an increased budget from over the years, grants, and additional citizen raised/donated funds. Even more so, in the last three years, City Council has worked to dramatically improve the Police Department with additional officers, vehicles, funding overall, and new leadership. Therefore, the Department is fully established. Lastly, if there is any higher policy and/or Department oversight needed, that is a function of both the Mayor and the City Council. Our City Government does not delegate to committees the Council's responsibility for oversight of staff leadership and oversight of Department and/or policy strategic direction. In plain language, if things are not going as they should (safeguard the city and its citizens and visitors while preserving our culture), Council will ask the right questions to keep a thumb on the pulse, and if needed adjust the Police Department accordingly. As an example, I provided a policy and Police Department oversight agenda item in the month of June, 2022, where we as a Council discussed a concern with a specific and newer strategic direction being enacted by the Chief. That is a fundamental responsibility of City Council, to promote and fund the police while also governing strategic direction in budget, leadership, policy, and culture. In conclusion, given all the reasons to have the Board are now proven negated, there is no justification for keeping the Police Advisory Board.

Best Regards,

Sean Robertson  
City Council (Alderman)  
Village of Surfside Beach, TX  
[srobertson@surfsidetx.org](mailto:srobertson@surfsidetx.org)



**Amanda Davenport**

---

**From:** Jonathan Gerber <jonguber@yahoo.com>  
**Sent:** Friday, July 1, 2022 1:36 PM  
**To:** Amanda Davenport  
**Subject:** July Agenda

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Discuss and take possible action to amend

## **Chapter 12 - BUILDINGS AND BUILDING REGULATIONS**

- **ARTICLE II. - RESIDENTIAL CODE**

**To provide clarity definitions and standards regulating lighting on new construction of residential property.**

### **Purpose.**

Standards for controlling lighting and glare are set forth to reduce the annoyance and inconvenience to property owners and traffic hazards to motorist. These standards are intended to allow reasonable enjoyment of adjacent and nearby property by their owners and occupants while requiring adequate levels of lighting of parking areas.

### **Glare.**

Any use shall be operated so as not to produce obnoxious and intense glare or direct illumination across the bounding property line from a visible source of illumination of such intensity as to create a nuisance or detract from the use or enjoyment of adjacent property. All outside lights shall be made up of a light source and reflector so selected that acting together the light beam is controlled and not directed across any bounding property line above a height of three feet. The allowable maximum intensity measured at the property line of a residential use in a residential district shall be 0.25 foot candles.

Sent from my iPhone



**Amanda Davenport**

---

**From:** Jonathan Gerber <jonguber@yahoo.com>  
**Sent:** Friday, July 1, 2022 1:03 PM  
**To:** Amanda Davenport  
**Subject:** July Agenda

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Discuss and take possible action amending  
6) games of Parks and Recreational Regulations  
striking prohibitions against playing ball, (specifically baseball and football) , model airplanes, roller skating, and skateboarding or to immediately begin creation of a designated area for such pass times.

## **Chapter 28 - PARKS AND RECREATION**

### **ARTICLE II. - PARK RULES AND REGULATIONS**

#### **Sec. 28-23. - Recreational activities**

6)

*Games.* Take part in or abet the playing of games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins, or model airplanes except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is regulated to preserve the safety and welfare of the public, except on the fields and courts or areas provided therefor. Rollerskating or skate boarding shall be confined to those areas specifically designated for such pastime.

---

Sent from my iPhone

**Amanda Davenport**

---

**From:** Jonathan Gerber <jonguber@yahoo.com>  
**Sent:** Friday, July 1, 2022 12:35 PM  
**To:** Amanda Davenport  
**Subject:** July Agenda

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Discuss and take possible action to approve police reserves pursuant to :

**Chapter 22 - LAW ENFORCEMENT**

**ARTICLE III. - POLICE RESERVE FORCE**

**Sec. 22-62. - Appointment, removal, and approval of members.**

(a)

*Appointment.* Members of the police reserve force of the village shall be appointed at the discretion of the chief of police of the village but no person appointed to the police reserve force may carry a weapon or otherwise act as a peace officer until he has been approved by the affirmative vote of a majority of the members of the city council present and voting at a regular or special meeting thereof.

---

Sent from my iPhone

<b>City</b>	<b>Reconnection Fee</b>	<b>Disconnect day</b>	<b>Late Fee</b>	<b>Deposit</b>
Freeport	\$40.00	16 days after due date	\$10.00	\$130.00
Clute	\$25.00	8 days after due date	10%	\$80 deposit with \$25 admin fee \$105 total
Lake Jackson	\$20.00	15 days after due date	10%	\$100.00 but \$35.00 seniors
Angleton	\$25.00	15 days after due date	\$10.00 or 10% Whichever is greater	\$75.00
Richwood	\$25.00	12 days after due date	10%	\$100.00
Surfside	\$200.00	60 days after due date	\$5.00	\$130.00 for all renters \$0.00 unless disconnected \$75.00 for reconnection deposit



**Council:**

Ordinance 2022-07-12 is bringing our ordinances into line with Brazoria County so that the County will enter into another Interlocal Agreement with the Village so that we can take advantage of the County doing the health and food inspections again.

## Ordinance 2022-07-12

**AN ORDINANCE AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES OF THE VILLAGE OF SURFSIDE BEACH, TEXAS, ADOPTING THE TEXAS FOOD ESTABLISHMENT RULES; MODIFYING THE REGULATORY PROVISIONS OF CHAPTER 21; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City Council of the Village of Surfside Beach, Texas, has determined that adoption of this Ordinance is necessary to the health, safety, and general welfare of the inhabitants of said City and the members of the general public; and

**WHEREAS**, the City Council finds that this Ordinance was adopted at a meeting which was open to the public and preceded by proper notice, as required by Chapter 551 of the Texas Local Government Code (the Open Meetings Act).

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

**FIRST**, the findings and recitations set out in the Preamble to this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made part hereof for all purposes.

**SECOND**, That Chapter 21 of the Code of Ordinances of the Village of Surfside Beach, Texas, is hereby adopted to read as follows:

~~Sec. 21-1. — Reserved.~~

~~Sec. 21-2. — Area of jurisdiction.~~

~~(a) These regulations shall apply to all commercial establishments within the Village of Surfside Beach, except for areas regulated by federal and state agencies.~~

~~(b) Non-profit organizations are not required to obtain a permit under these regulations.~~

~~Sec. 21-3. — Severability.~~

~~It is the intention of these regulations that the sections, paragraphs, sentences, clauses and phrases of these regulations are severable; and if any section, paragraph, sentence, clause, or phrase of these regulations shall be declared void, ineffective, or unconstitutional by a valid judgment or final decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases hereof, since the same would have been enacted by this council without the incorporation herein of any such unconstitutional section, paragraph, sentence, clause or phrase.~~

~~Sec. 21-4. — Incorporation by reference.~~

~~———— The Rules of Food Service Sanitation and Rules on Retail Food Store Sanitation found in Texas Health and Safety Code, Chapter 437, and Title 25, Texas Administrative Code, Section 229.161 et seq. (Subchapter K Texas Food Establishments) and Title 25, Texas Administrative Code, Section 229.370 et seq. (Permitting Retail Food Establishments) or the latest edition or revision of said rules are incorporated herein by reference.~~

~~Sec. 21-5. Effective date.~~

~~———— This chapter shall be in full force and effect from and after the date of passage and publication of the ordinance from which it is derived as provided by law.~~

~~Sec. 21-6. Definitions.~~

~~Unless specifically defined below, words or phrases used in these regulations shall be interpreted to give them the meaning they have in Title 25, Texas Administrative Code, Section 229.162, and Title 25, Texas Administrative Code, Section 229.371, Texas Health and Safety Code, Section 437.001 and Chapter 438, and common usage and to give these regulations its most reasonable application.~~

~~*Bed and breakfast establishment* means an establishment that provides food service other than to its overnight guests; the establishment must meet the rules and regulations applicable to retail food establishments; and for the purposes of these Regulations, such facilities are classified as food establishments.~~

~~*Bed and breakfast extended* means an establishment with more than seven rooms for rent; or that provides food service other than breakfast to overnight guests; and for the purpose of these Regulations, such facilities are classified as food establishments.~~

~~*Benefit* means a fundraising effort at a defined time and for a limited time not to exceed 24 hours, to provide assistance for an individual or organization for a specific purpose. *Individual* means a person who manifests a demonstrable particular need. *Organization* means a school-related activity, athletic youth groups, churches, and civic groups.~~

~~*Certified food manager* means a person who has demonstrated that they have the knowledge, skills and abilities required to protect the public from foodborne illness by means of successfully completing a food safety examination.~~

~~*Child care center* means any facility licensed by the regulatory authority to receive 13 or more children for child care, which prepares food for on-site consumption. A child care center is classified as a food establishment.~~

~~*Department* means the Texas Department of State Health Services.~~

~~*Food* means a raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.~~

~~*Food establishment* means an operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a food service establishment; retail food store; satellite or catered feeding location; catering operation if the operation provides food directly to a consumer or to a conveyance used to transport people; market; remote catered operations; conveyance used to transport people, institution; or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers; a restaurant; a grocery store; an operation that is conducted in a mobile, roadside, stationary, temporary, or permanent facility or location; group residence; outfitter operations; bed and breakfast extended and bed and breakfast food establishments; where consumption is on or off the premises; and regardless of whether there is a charge for the food and as further defined under Title 25, Texas Administrative Code, Section 229.371(6).~~

~~*Food service establishment.* See definition of "food establishment" above.~~

~~*For-profit school food establishment* means a school food establishment operated on a for-profit basis by a private contractor. Such facilities are classified as a food establishment.~~

~~*Group residence* means a private or public housing corporation or institutional facility that provides living quarters and meals. The term includes a domicile for unrelated persons such as a retirement home, correctional facility, or a long-term health care facility. Such facilities are classified as a food establishment.~~

~~*Mobile food unit* means a vehicle-mounted mobile food establishment designed to be readily moveable.~~

~~*Non-profit organization* means a civic or fraternal organization, charity, lodge, association, proprietorship or corporation possessing a 501(C) exemption under the Internal Revenue Code; or religious organizations meeting the definition of "church" under the Internal Revenue Code, § 170(b)(1)(A)(i).~~

~~*Outfitter operation* means any operations such as trail rides or river raft trips where food is offered to patrons and which operates out of a central preparation location or food establishment. An outfitter operation is classified as a food establishment.~~

~~*Permit holder* means the person that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and who possesses a valid permit to operate a food establishment.~~

~~*Person* means an association, corporation, individual, partnership, other legal entity, government, or governmental subdivision, or agency.~~

~~*Potentially hazardous food* means a food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting the rapid and progressive growth of infectious or toxigenic microorganisms; the growth and toxin production of *Clostridium botulinum*; or in raw shell eggs, the growth of *Salmonella enteritidis*.~~

~~*Pushcart* means a non-self-propelled mobile food unit limited to serving non-potentially hazardous food or potentially hazardous foods requiring a limited amount of preparation as authorized by the regulatory authority. A pushcart is classified as a mobile food unit.~~

~~*Retail food store* means a food establishment or section of an establishment where food and food products are offered to the consumer and intended for off-premise consumption. The term includes delicatessens that offer prepared food in bulk quantities only.~~

~~*Regulatory authority* means the Village of Surfside Beach, the local enforcement body, or authorized representative having jurisdiction over the food establishment.~~

~~*Roadside food vendors* means a person who operates a mobile retail food store from a temporary location adjacent to a public roadway or highway. Potentially hazardous foods shall not be prepared or processed by roadside food vendors. A roadside food vendor is classified as a food establishment.~~

~~*School food establishment* means a food service establishment where food is prepared and intended for service primarily to students in institutions of learning including, but not limited to, public and private schools, including kindergarten, preschool and elementary schools, junior high schools, high schools, colleges, and universities. A school food establishment is classified as a food establishment.~~

~~*Sticker* means the inspection sticker applied to mobile units.~~

~~*Temporary food establishment* means a food establishment that operates for a period of no more than 14 consecutive days in conjunction with a single event or celebration that occurs no more than twice a year.~~

~~Secs. 21-7 – 21-30. — Reserved.~~

~~Sec. 21-31. — Promulgation of rules.~~

~~—————The mayor shall have the power, with the approval of council, to prescribe and promulgate such rules and regulations consistent with any law of the State of Texas, as may be deemed necessary to protect the health and safety of the public, and to effectively perform the duties herein.~~

~~Sec. 21-32. — Duties and powers.~~

~~—————The Village of Surfside Beach, Texas, is designated by the city council to be the permitting and regulatory authority for these regulations and thus has the duty, and necessary~~



powers, to administer and enforce these regulations. The health inspector is designated by the Village of Surfside Beach, Texas as the permitting and regulatory authority, and shall have the following duties and necessary concomitant powers:

- (a) To enforce these regulations and to make appropriate recommendations to proper village authorities when instances of noncompliance with these regulations have been determined;
- (b) To make inspections of all food service establishments as needed to meet the requirements of these regulations;
- (c) To collect all fees set by the council or provided by law;
- (d) To make annual reports to the council; and
- (e) To perform all other duties necessary to meet the requirements of these regulations.

~~Sec. 21-33. — Interpretation.~~

~~———— In the interpretation and application of these regulations, all provisions shall be:~~

- ~~(a) Considered as minimum requirements;~~
- ~~(b) Liberally construed in favor of the government body; and~~
- ~~(c) Deemed neither to limit nor repeal any other powers granted under state statutes.~~

~~Sec. 21-34. — General provisions.~~

~~———— All food establishments shall be operated in accordance with the requirements specified in Title 25, Texas Administrative Code, Sections 229.161 — 229.171 and 229.173 — 229.175.~~

~~Sec. 21-35. — Permitting.~~

~~———— A person who operates a food establishment as defined in these regulations shall obtain a permit annually from the regulatory authority and pay a permit fee for each establishment unless specifically exempted.~~

~~Any person desiring to operate a food establishment, or desiring to renew a permit or to reapply for a permit which has expired or which has been revoked shall make written application for a permit on forms provided by the regulatory authority.~~

~~The regulatory authority shall issue a permit to the applicant if an inspection reveals that the proposed food establishment complies with the requirements of these regulations. Each permit issued under the provisions of these regulations shall be valid for the period of time stated, up to a maximum period of 12 months.~~

~~A copy of the permitting requirements may be obtained at [www.surfsidetx.org](http://www.surfsidetx.org).~~

~~Sec. 21-36. — Review of plans.~~

~~(a) Submission of plans. Any person applying for a permit to operate a food establishment must submit plans to the regulatory authority providing a rendering of the food preparation, storage, and sales areas in order to determine compliance with state laws and rules governing the applicant. Plans must include a description of the on-site sewage facility and water facility including permits, schematics and any other documentation identifying the type of facility, and specifications.~~

~~The village may deny the permit after initial inspection only if the applicant is not in compliance with the plans approved by the village.~~

~~(b) Initial inspection. The regulatory authority shall inspect the food establishment prior to its beginning operations to determine compliance with the approved plans and specifications.~~

~~If the regulatory authority finds on inspection that an applicant is not in compliance with state law and rules adopted under state law, the regulatory authority may re-inspect the applicant at a later date to determine if the applicant is in compliance.~~

~~Sec. 21-37. — Permit fees.~~

~~(a) [Fees.] Before any permits shall be issued under the provisions of these regulations, the applicant shall pay to the regulatory authority a fee for each establishment as scheduled herein. Permit fees are nonrefundable. All transactions are final.~~

~~Annual food establishment permit  
0—1,000 square feet .....\$200.00  
Over 1,000 square feet .....\$300.00  
Roadside/mobile vendor .....\$200.00~~

~~School food service—Based on square footage of kitchen/food operation as set out above~~

~~Day care facility .....\$150.00~~

~~Temporary food establishment (permit not to exceed 14 days; and valid for one event) .....\$ 40.00~~

~~Late fee (if not received prior to opening of event) (in addition to permit fee),  
.....\$ 40.00~~

~~Late fees (if permit not renewed prior to expiration date) .....\$ 50.00~~

~~Reinstatement fee of suspended permit .....\$ 75.00~~

~~Re-inspection fee .....\$150.00~~

~~(b) Exemptions from permit fees.~~ Food establishments permitted and inspected by the regulatory authority under the Texas Health and Safety Code, Chapter 437, provided the inspections are based on the requirements of Title 25, Texas Administrative Code, Section 229.373 relating to the Minimum Standards for Permitting and Operation, are exempted from obtaining a permit and from paying a fee.

**Exemptions:**

- ~~(1) A kitchen in a private home if only food that is not potentially hazardous is prepared for sale or service at a function, such as a religious or charitable organization's bake sale;~~
- ~~(2) A private home;~~
- ~~(3) Food establishments permitted and inspected under authority granted to Home-Rule or Type A General Law Municipalities;~~
- ~~(4) Federally inspected food establishments on federal property;~~
- ~~(5) Correction facilities under the inspection of the Texas Department of Criminal Justice;~~
- ~~(6) Nursing homes under the inspection of the Health Facility Licensure Division in the regulatory authority and which do not serve food to the general public;~~
- ~~(7) Food establishments on state campuses inspected by state college or university personnel in accordance with the requirements of Title 25 of the Texas Administrative Code Section 229.373 (relating to Minimum Standards for Permitting and Operation);~~
- ~~(8) Food establishments licensed under the Health and Safety Code, Chapter 431, as manufacturers of food, provided the fee for licensure exceeds the permit fee required under Title 25, Texas Administrative Code Section 229.372 (relating to Permitting Fees and Procedures);~~
- ~~(9) Food establishments under the inspection of the Texas Department of Mental Health and Mental Retardation;~~
- ~~(10) Non-profit organizations as defined in these regulations. Non-profit organizations which meet the definition of "manufacturers of food" under Health and Safety Code, Chapter 432, are not exempt from licensure in those categories; and~~
- ~~(11) Food and beverage vending machines.~~

**Sec. 21-38. — Duration of permit.**

~~Permits, except temporary food establishments, shall be valid for one year from the date of issue, which becomes the anniversary date.~~

~~Permits expire immediately upon change in ownership.~~

~~Temporary permits shall be valid for 14 days from the effective date as indicated on the permit.~~

**Sec. 21-39. — Permit procedures.**

~~If the license or permit category changes during the permit period, the permit shall be renewed in the proper category at the time of the renewal.~~

~~If ownership changes during duration of permit, the new owner must obtain a permit prior to opening under new management.~~

~~An establishment required to be licensed as a food manufacturer under the Health and Safety Code, Chapter 431, and also required to be permitted under Health and Safety Code, Chapter 437, will be issued only one license or permit. The license or permit fee to be paid will be the higher fee of the two applicable fees.~~

~~If a person owns two or more establishments, each establishment shall be permitted separately by listing the name and address of each establishment on separate application forms.~~

~~A copy of the permitting requirements may be obtained at [www.surfsidetx.org](http://www.surfsidetx.org).~~

~~(1) *Preliminary inspection.* Upon receipt of a permit application, the regulatory authority will set an initial/preliminary inspection date with the applicant. In the event the food establishment does not comply with all state and local laws and rules, a re-inspection will be required. Said re-inspection will cost the applicant additional funds.~~

~~Requirements for food establishments can be obtained from either the regulatory authority and/or its website at [www.surfsidetx.org](http://www.surfsidetx.org).~~

~~Once the food establishment complies and passes the preliminary inspection, a final inspection will be conducted by the regulatory authority after the establishment is allowed to open for business.~~

~~(2) *Mobile food units.* Mobile food units shall be inspected for compliance with Title 25, Texas Administrative Code, Section 229.169 prior to issuance of a permit.~~

~~Permits for mobile food units, including pushcarts and roadside vendors, shall be displayed on the units at all times.~~

~~Mobile food units cannot be connected to septic systems, public sewage systems, water wells, permanent electrical connects (plug-in only) or have any other permanent-type connections other than at mobile units commissary (i.e., location where mobile unit is re-supplied with water, food supplies and general restocking of unit, and location where waste is disposed.~~

~~A mobile food unit shall not be altered to the extent that said unit cannot be readily moved. Each mobile food establishment shall come, on an annual basis, to City Hall at 1304 Monument Drive, Surfside TX 77541, as proof that the mobile food establishment is readily moveable. Any mobile food establishment that violates this section will be required to have a re-inspection at the above-referenced location.~~

~~(3) Temporary food vendors. The permit shall be valid for the duration of a single event not to exceed 14 consecutive days from the initial effective date specified in the permit application.~~

~~An organizer of an event at which a temporary food establishment is operated shall ensure a permit from the regulatory authority is obtained for each temporary food establishment. The application for a temporary food establishment must be submitted to the regulatory authority at least 30 days prior to the event.~~

~~A permit application shall specify the name and physical location of the event for which the permit is requested, the permanent address of the applicant, the initial effective date of the permit, and the foods to be prepared.~~

~~(4) Non-profit organizations. Non-profit organizations shall submit documentation from the IRS to qualify the establishment for the exemption from the permit fee.~~

~~Churches need only supply documentation upon request by the regulatory authority.~~

~~Non-profit organizations shall comply with the requirements of Title 25, Texas Administrative Code, Section 229.373. Any non-profit organization not meeting the definition of "non-profit organization" must obtain a permit, pay the required fee, and comply with these regulations.~~

~~(5) Certain bed and breakfast establishments. An owner or manager of a bed and breakfast establishment covered by this subsection shall successfully complete a food manager's certification course accredited by the regulatory authority.~~

~~A bed and breakfast establishment that has more than seven rooms for rent, or that provides food service other than breakfast to its overnight guests, is a food establishment for purposes of this chapter, but may not be required to meet all criteria applicable to a larger food establishment such as a restaurant.~~

~~A bed and breakfast establishment that provides food service other than to overnight guests is a food establishment for purposes of this chapter and is subject to all rules and regulations applicable to a food establishment.~~

~~Sec. 21-40. — Posting of permit.~~

~~———— The permit and sticker shall be posted in a location in the food establishment that is conspicuous to consumers (i.e. window, entranceway, checkout counter).~~

~~Permits for mobile food units, shall be displayed on the units at all times.~~

~~Sec. 21-41. — Permit renewal.~~

~~\_\_\_\_\_ The permit holder shall submit the annual permit fee for renewal prior to the expiration date of the current permit.~~

~~A person who files a renewal application after the expiration date shall pay an additional \$50.00 as a delinquency fee.~~

~~Failure to submit the renewal fee annually may subject the permit holder to the offense provisions under the Health and Safety Code, Chapter 437 and Title 25, Texas Administrative Code, Section 229.374.~~

~~Sec. 21-42. — Change in ownership.~~

~~In the event the food establishment changes ownership and/or control of the food establishment operation, a new food establishment permit must be obtained, regardless of the time remaining on the current permit.~~

~~In the event a new owner and/or new operator conduct business without a permit identifying the new ownership and/or management, said operator will be subject to violations and penalties set forth under [Health and Safety Code,] [Article 9](#) of these regulations.~~

~~Sec. 21-43. — Permit amendment.~~

~~(a) *Fee.* A permit that is amended, including a change of name, ownership, or a notification of a change in location of a permitted food establishment required under Health and Safety Code, Section 437.0125, will require submission of fees as outlined in Article 4, Section D of these regulations.~~

~~(b) *Change in location.* A permit is not transferable upon change of location with the exception of a permit issued to an operator of a mobile food unit.~~

~~Sec. 21-44. — Inspections.~~

~~\_\_\_\_\_ Authorized agents or employees of the regulatory authority may enter the premises of a food establishment under the regulatory authority's jurisdiction during normal operating hours to conduct inspections to determine compliance with state law, rules adopted under state law, and orders adopted by the village.~~

~~(1) *Preliminary inspection.* Upon receipt of a permit application, the regulatory authority will set an initial/preliminary inspection date with the applicant. In the event the food establishment does not comply with all state and local laws and rules, a re-inspection will be required. Said re-inspection will cost the applicant additional funds.~~

~~Requirements for food establishments can be obtained from either the regulatory authority and/or its website at [www.surfsidetx.org](http://www.surfsidetx.org).~~

~~Once the food establishment complies and passes the preliminary inspection, a final inspection will be conducted by the regulatory authority after the establishment is allowed to open for business.~~

~~(2) Inspections. The regulatory authority will conduct random, non-scheduled inspections to ensure compliance with all state laws.~~

~~Sec. 21-45. — Detention.~~

~~The authorized agent may detain an article of food that is located on the premises of a food establishment and is adulterated or misbranded under [Health and Safety Code,] Chapter 431.~~

~~Sec. 21-46. — Denial, suspension, or revocation of permits.~~

~~————The regulatory authority may deny, suspend or revoke a permit to operate a food establishment if the regulatory authority finds that the food establishment is not in compliance with state law, rules adopted under state law, or orders adopted by the village.~~

~~A permit shall be denied, suspended, or revoked by delivery of a notice to the applicant or holder of the permit. The notice shall give the applicant or holder of the permit the reasons for denial, suspension, or revocation. A delivery of the notice may be accomplished by personally delivering it to the applicant or permit holder; by mailing a copy of the notice to the applicant or holder at the address indicated on the permit application; or by leaving a copy of the notice with a responsible person working at the food establishment.~~

~~The applicant or holder of the permit may request a hearing on the permit denial, suspension, or revocation by filing a request for hearing with the regulatory authority in writing within ten days following the receipt of the notice of denial, suspension or revocation. If no request for hearing is received by the regulatory authority within the allotted time, the denial, suspension, or revocation is sustained.~~

~~If a timely request for hearing is received by the regulatory authority, a hearing will be conducted during which the applicant or holder may present evidence to show why the permit should not be denied, suspended, or revoked. Based upon the evidence of such hearing, the regulatory authority shall make a final decision, and shall uphold, suspend, modify, or rescind any notice or order considered in the hearing. A written report on the hearing decision shall be furnished to the applicant or the holder of the permit by the hearing officer.~~

~~In a case where a permit is suspended, the suspension will be lifted only when the permit holder abates all the defects which originally gave rise to the suspension. Failure to correct the defects within the time period given by the regulatory authority within ten days of the receipt of suspension notice shall be sufficient cause for the suspension to become a final revocation of the permit.~~

~~Whenever a denial or revocation of a permit has become final, the applicant or holder of the revoked permit may make written application for a new permit. The applicant or holder of the revoked permit must meet all rules and requirements in compliance with state law, rules adopted under state law, or orders adopted by the village.~~

~~Sec. 21-47. — Emergency suspension or closing order.~~

~~— The regulatory authority shall suspend the license of a food establishment or order the immediate closing of the food establishment if:~~

- ~~(1) The regulatory authority finds the food establishment is operating in violation of the standards prescribed by Texas Health and Safety Code, Chapter 437 and/or Title 25, Texas Administrative Code, Section 229.161 et seq.; and~~
- ~~(2) The violation creates an immediate threat to the health and safety of the public.~~

~~An order suspending a license or closing a food establishment under this section is immediately effective on the date on which the license holder receives written notice or a later date specified in the order.~~

~~An order suspending a license or ordering an immediate closing of a food establishment is valid for ten days after the effective date of the order.~~

~~Sec. 21-48. — Reporting responsibility of the regulatory agency.~~

~~The regulatory authority shall keep a permanent record of all permit fees and other monies collected. Fees collected shall be deposited to the credit of a special fund, in accordance with Health and Safety Code, Section 437.012(c). Fees deposited in this fund may only be expended for the issuance of permits and inspections required by these regulations.~~

~~The Village of Surfside Beach shall file an audited statement detailing the receipts of funds collected under the provisions of these regulations and all expenditures of funds and fund balances with the Texas Department of State Health Services on or before the 15th day of January each year.~~

~~Failure to submit the audited statement to the Texas Department of State Health Services by the required date suspends the regulatory authority from requiring the payment of fees for the issuance or renewal of a permit until the statement is filed.~~

~~Secs. 21-49 — 21-70. — Reserved.~~

~~Sec. 21-71. — Requirements.~~

~~Each food establishment in which food is prepared on-site, for sale to the public that holds a permit issued by the village shall have a certified food manager on duty at all times during operating hours.~~

~~Sec. 21-72. — Responsibilities.~~



~~Responsibilities of a certified food manager include:~~

- ~~(a) Identifying hazards in the day-to-day operation of a food establishment that provides food for human consumption;~~
- ~~(b) Developing or implementing specific policies, procedures or standards aimed at preventing foodborne illness;~~
- ~~(c) Coordinating training, supervising or directing food preparation activities, and taking corrective action as needed to protect the health of the consumer;~~
- ~~(d) Training the food establishment employees on the principals of food safety; and~~
- ~~(e) Conducting in-house self-inspections of daily operations on a periodic basis to ensure that policies and procedures concerning food safety are being followed.~~

~~Sec. 21-73. — Certification by training and food safety examination.~~

~~———— To be certified, a food manager must complete an accredited certification or recertification program and pass an examination that has been administered through a department accredited food management course.~~

~~Sec. 21-74. — Posting certificate.~~

~~———— *Certificate availability.* The original food manager certificate shall be conspicuously posted at each food establishment.~~

~~Sec. 21-75. — Exemptions.~~

~~———— A food establishment that handles only prepackaged food and does not prepare or package food is not required to have a certified food manager.~~

~~A child care facility as identified in Section 42.002 of the Texas Human Resources Code is not required to have a certified food manager.~~

~~Secs. 21-76 — 21-100. — Reserved.~~

~~Sec. 21-101. — Injunction.~~

~~———— The district attorney may sue in district court to enjoin a food establishment from operating without a permit if a permit is required.~~

~~Sec. 21-102. — Criminal penalties.~~

~~———— A person commits an offense if the person operates a food establishment without a permit required by the village in which the entity is operating. An offense under these regulations is a Class C misdemeanor. Each day on which a violation occurs constitutes a separate offense.~~

~~Sec. 21-103. — Penalties.~~

~~\_\_\_\_\_ If ownership changes during duration of a permit and the new owner does not obtain a new permit, then the new owner is subject to a late fee and the permit fee. In the event the new owner does not obtain a new permit within 24 hours, the establishment will be closed until said permit is obtained.~~

*Sec. 21-01. Adoption of County Ordinances.* The Village of Surfside Beach hereby adopts the August 2021 Texas Food Establishment Rules and the Brazoria County Food Service Ordinance 2021 which are both available at <https://www.brazoriacountytx.gov/departments/environmental-health/regulations>.

**THIRD**, This Ordinance shall be and is hereby declared to be cumulative of all other Ordinances of the Village of Surfside Beach and this Ordinance shall not operate to repeal or affect any of such other Ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Ordinance, in which event such conflicting provisions, if any, in such other Ordinance or Ordinances are hereby repealed.

**FOURTH**, If any section, subsection, sentence, clause, or phrase, of this Ordinances is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Ordinance.

**FIFTH**, All of the regulations provided in this Ordinance are hereby declared to be governmental and for the health, safety, and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this Ordinance, acting for the Village of Surfside Beach in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

**SIXTH**, Any violation of this Ordinance can be enjoined by a suit filed in the name of the Village of Surfside Beach in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance or in the Code of the Village of Surfside Beach.

**SEVENTH**, This Ordinance shall take effect and be in force immediately upon its passage and publication of its descriptive caption twice in the Brazosport Facts.

**READ, PASSED, AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_.**

\_\_\_\_\_  
**GREGG BISSO, MAYOR**  
**VILLAGE OF SURFSIDE BEACH, TEXAS**

**ATTEST:** \_\_\_\_\_  
**AMANDA DAVENPORT**  
**CITY SECRETARY**