

**ORDINANCE NO. 2016-02 REV A
CITY OF CANEY CITY**

**AN ORDINANCE OF THE CITY OF CANEY CITY
ESTABLISHING ZONING DISTRICTS, DEFINITIONS,
GENERAL REGULATIONS, PERMITTED USES,
REQUIREMENTS FOR MANUFACTURED AND MOBILE
HOMES AND INDUSTRIALIZED HOUSING/MODULAR
HOMES, EXISTING NONCONFORMING STRUCTURES AND
USES, SUBDIVISION OF PROPERTY,
COMMERCIAL/BUSINESS REGULATIONS, SIGNAGE, ZONING
DISTRICT CHANGES; PROVIDING A PENALTY FOR
VIOLATIONS; REPEALING ALL PREVIOUS ZONING
ORDINANCES, PROVIDING FOR SEVERABILITY, AND
SETTING AN EFFECTIVE DATE**

WHEREAS, it is the purpose and intent of the City Council in enacting this ordinance that the zoning regulations and districts as herein established have been made for the purpose of promoting health, safety and the general welfare of the City. They have also been made with reasonable consideration for the character of the district and its suitability for the particular uses specified; and with the long range goal of conserving the value of real property, and encouraging and attracting growth that results in the most appropriate use of land throughout the City.

NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANEY CITY, TEXAS:

01.01 AUTHORIZATION

The Mayor of the City of Caney City, Texas or his designee is hereby authorized to implement the provisions of this ordinance, 2016-02, known as the Zoning Ordinance for Caney City, Henderson County, Texas.

01.02 APPLICATION

All of the incorporated area within the city shall be known as the "Caney City Zoning Area" and the following regulations, restrictions and provisions shall apply thereto.

01.03 ZONING DISTRICTS

- A. R-1 Residential
- B. R-2 Residential
- C. R-3 Residential
- D. R-4 Residential
- E. R-5 Residential
- F. C-1 Commercial District
- G. C-2 Commercial District
- H. Special Use Districts
- I. Planned Development Districts
- J. Uses Not Listed

01.04 ZONING MAP

The zoning districts defined herein are shown on the "Zoning District Map of the City of Caney City" which map, when available, will be made a part of this ordinance.

01.05 ZONING BOUNDARIES

When uncertainty exists with respect to the boundaries of the various districts, the following rule applies: The district boundaries are streets unless otherwise shown. Boundaries indicated as following streets shall be construed to follow the centerline of the street; boundaries indicated as following platted lot lines or city limit boundaries shall be construed as following the actual platted lot line or city limit.

01.06 DEFINITIONS

Accessory Structures Commercial - Buildings designed for off-street parking, garages for employees and visitors, storage buildings, etc. which are customarily used in connection with the use of the main building located upon the same lot or parcel of land.

Accessory Structures Residential - Garages, storage buildings, buildings such as stables, hay storage structures, barns, equipment sheds which are not portable, well houses, fences originally constructed of new materials including stone, wood, metal and masonry, pet or play structures and non-commercial greenhouses which are customarily incidental to the principal structure and used in connection with the use of the main building located upon the same lot or parcel of land. Excludes

freight containers used for storage or guest quarters, and manufactured homes. May include guest structures as defined in this zoning ordinance.

Bed and Breakfast- Homestay – A private, owner-occupied residence where the frequency and volume of bed and breakfast visitors are incidental to the primary use of the building as a private residence and serving meals as a part of the cost of the room. This is considered to be a commercial operation.

Billboard – A sign erected in the outdoor environment that advertises a business, person, activity, goods, products or services located or not located on the premises where the sign is installed and maintained, or that directs persons to a location other than the premises where the sign is installed and maintained. Billboards include any of its supports, frame or other appurtenances. Classic billboards consist of large pieces of printed paper attached to a durable backing on a structure. Certain types may permit light to be turned on or off intermittently including a light emitting diode or digital sign.

Boarding House – A building, other than an inn, hotel, or motel where lodging and meals, for three or more persons, not members of the same household, are served for compensation. This is considered to be a commercial operation.

Building – Any structure for the support, shelter, or enclosure of persons, animals, chattels or property of any kind which has enclosing walls around at least 50% of its perimeter.

Camping Trailer – A folding structure mounted on wheels and designed to be used as a temporary dwelling for travel, recreational and vacation uses.

Commercial/Business Operation – Any activity on a parcel of property within the City which generates income for the property owner, or any other person or entity, as a result of providing materials, services, and/or labor performed on the property, whether or not there is a product for resale. Examples include but are not limited to food preparation, metal/wood fabrication, repair and/or maintenance services for appliances, television, air conditioning, boat, motor, motor vehicle, motorcycle, or lawn mower.

Grandfathered – Term used to describe a provision in which an old rule continues to apply to some legally existing situations while a new rule will apply to all future cases; the exemption may be lost under certain circumstances.

Condominium – A building designed for a single-family residential dwelling made up of two or more adjoining structures typically with ownership of common areas such as a swimming pool, park, green space, etc.

Guest Structures - Site built structures and/or non-portable structures not licensed to operate on a highway, with a minimum of 400 square feet of air conditioned floor space which are designed for temporary occupancy. May also include motor homes, travel trailers and camping trailers intended to be towed behind a vehicle or self-propelled, as long as it is not used as permanent dwelling on the property; the duration of occupancy is temporary, less than thirty days, the unit is not hooked up to a sewer system and is not permanently attached to water or electric. Manufactured homes may not be used as a guest structure. A guest structure, as defined by this zoning ordinance, is only allowed when it is used in connection with a main residential dwelling meeting the requirements of this zoning ordinance and the guest structure is located on the same lot or parcel of land as the main residential dwelling.

Industrialized Housing - (as defined in Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, Sec. 1202.002) A residential structure that is: 1) designed for the occupancy of one or more families; 2) constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and 3) designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system. It includes the structure's plumbing, heating, air conditioning, and electrical systems. It does not include 1) a residential structure that exceeds four stories or 60 feet in height; 2) housing constructed of a sectional or panelized system that does not use a modular component; or 3) a ready-built home constructed in a manner in which the entire living area is contained in a single unit or section at a temporary location for the purpose of selling and moving the home to another location.

Inn, Hotel, Motel - A commercial business, offering overnight accommodations and having ten or more guest rooms.

Manufactured Home or Manufactured Housing - A HUD-code manufactured home or a mobile home (as defined in the Texas Occupations Code, Chapter 1201, Manufactured Housing, Sec 1201.003)

HUD-code Manufactured home - (as defined in the Texas Occupations Code, Chapter 1201, Manufactured Housing, Sec. 1201.003)

(A) A structure:

- 1) constructed *on or after* June 15, 1976, according to the rules of the United States Department of Housing and Urban Development;
- 2) built on a permanent chassis;
- 3) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;
- 4) transportable in one or more sections; and
- 5) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet.

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home; and

(C) does not include a recreational vehicle as defined by 24 C.F.R. Section 3282.8(g).

Mobile Home – (as defined in the Texas Occupations Code, Chapter 1201, Manufactured Housing, Sec 1201.003)

(A) a structure:

(1) constructed *before* June 15, 1976;

(2) built on a permanent chassis;

(3) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities;

(4) transportable in one or more sections; and

(5) in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet; and

(B) includes the plumbing, heating, air conditioning, and electrical systems of the home.

Modular Component – (as defined in the Texas Occupations Code, Chapter 1202, Industrialized Housing and Buildings, Section 1202.001) A structural part of housing or a building constructed at a location other than the building site in a manner that prevents the construction from being adequately inspected for code compliance at the building site without: a) damage; or b) removal and reconstruction of a part of the housing or building

Motor Home – A vehicular, portable dwelling used for travel, recreational and vacation uses, constructed as an integral part of a self-propelled vehicle; licensed by the state entity.

Multiple Family Residential Dwelling – Any building or portion thereof, which is designed, built, rented, leased or let to be occupied as more than one dwelling unit.

Nonconforming Structure or Building - A structure or building, the size, dimensions or location of which, was lawful prior to the adoption, revision or amendment of the zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning ordinance.

New HUD-Code Manufactured Home – A manufactured home meeting the definition of HUD-Code Manufactured Home that is not a used manufactured home, regardless of its age. (Texas Occupations Code, Chapter 1201.003)

Nonconforming Use – Any building, structure or parcel of land lawfully occupied for a use existing at the time of passage of this zoning ordinance or amendments thereto, which does not, by reason of design or use, conform after the passage of this zoning ordinance or amendments thereto.

Pickup Coach – A structure designed to be mounted on a chassis for use as a temporary dwelling for travel, recreational and vacation uses.

Single Family Residential Dwelling – A structure designed for and occupied by a single-family and constructed on-site as a permanent improvement to a legal lot or parcel.

Site-Built Structure – The traditional approach to building a structure where it is assembled on site out of pieces of lumber that are cut and nailed together into walls, roof trusses, linked together and sheathed with plywood on the exterior and drywall on the interior then finished with shingles, clapboard, siding, adobe or some kind of brick or brick veneer.

Structure – Any building or anything constructed or erected on the ground or which is attached to something located on the ground. Structures include buildings, telecommunication towers, sheds, parking lots that are the primary use of a parcel and permanent signs. Sidewalks and paving shall not be considered structures unless located within a public utility or drainage easement.

Temporary Occupancy or Residence – Occupancy of a guest structure for not greater than 30 days. Any occupancy greater than 30 days requires a permit.

Trailer – a term often used interchangeably with “trailer home”, “double wide”, “mobile home” and “manufactured home” to describe the type of structure. However, the federal and state regulatory schemes governing these types of housing make critical distinctions between these categories. Federal and state laws recognize three specific types of structures: mobile homes, HUD-Code manufactured homes, and industrial (modular) homes.

Travel Trailers – A portable structure built chassis towed behind a road vehicle to provide a place to sleep for travel, recreational and vacation uses and which are licensed by the state entity.

Two-Family or Duplex Residential Dwelling– A building designed for or occupied by more than one family.

01.07 GENERAL REGULATIONS

- A. No structure shall be erected and no existing structure shall be moved, altered, added to or enlarged, nor shall any land, structure or premises be used, designated or intended to be used for any purpose or in any manner other than that which is included among the uses hereinafter listed as permitted in the district in which the structure, land or premises is located.

- B. Any and all single family residential dwellings, industrialized/modular housing, or HUD-code manufactured homes erected/moved on to parcels of property after the effective date of this zoning ordinance shall be subject to a minimum structure requirement of 1600 square feet of air conditioned living space with the exception of requirements set forth in Section 01.08 and Section 01.09 of this ordinance.
- C. In interpreting and applying the provisions of this ordinance, property owners shall be held to the minimum requirements as set forth by this Ordinance.
 - a. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants or other agreements between parties. However, where this ordinance imposes a greater restriction upon the use, location, size, or other requirements related to lots or parcels, buildings, structures, accessory structures, signs, etc. than are required by agreements between parties, the provisions of this ordinance shall govern.
- D. Illegal use and/or activity in violation of Federal, State, County, or Caney City Ordinances or Regulations is strictly prohibited on any and all property in Caney City.
- E. Mobile homes (constructed before June 15, 1976 and as defined in this ordinance), are prohibited in Caney City. Existing structures on the effective date of this ordinance shall be grandfathered in, subject to Sections 01.09 and 01.11 of this zoning ordinance.
- F. A bus, tent, shack, freight container, garage, barn or other building, camping trailer, motor home, pickup coach, and/or travel trailer shall not be used on any lot at any time as a permanent residence.
- G. Permits approved by the City Council are required, prior to the performance of work of any kind, for the construction or placement of single family residential dwellings, structures, guest structures, buildings, manufactured homes and/or temporary residences as defined in this ordinance. See City Ordinance pertaining to Permits for additional information.
- H. Commercial/Business operations are not allowed in residential districts.
- I. No semi-trucks/trailers or commercial fleet vehicles may be parked overnight in commercial/business or residential districts.

01.08

PERMITTED USES

The following describes permitted uses in the established zoning districts.

A. R-1 Residential- In the R-1 Residential District, no structure or land shall be used and no structure shall be hereafter erected, converted, or structurally altered, unless otherwise provided herein, except for the following uses:

- a. Single Family Residential Dwellings of at least 1600 square feet of air conditioned floor space
- b. Accessory Structures-Residential

1. The following drives, streets, roads, and lanes are included in R-1 Residential:

- Barron Road
- Hubbard Road
- Brookins Lane
- Boatman
- Richardson
- Langley
- Blair
- Wingham
- Point LaVista
- McCalister
- Benjamin
- Thomas

B. R-2 Residential- In the R-2 Residential District, no structure or land shall be used and no structure shall be hereafter erected, converted, or structurally altered, unless otherwise provided herein, except for the following uses:

- a. Single Family Residential Dwellings built on lots not less than the size indicated on the subdivision plat
- b. Accessory Structures - Residential

1. The Deep Water Bay addition, consisting of the following streets, is included in the R-2 Residential District

- St Paul
- James
- Claiborne

C. R-3 Residential- In the R-3 Residential District, no structure or land shall be used and no structure shall be hereafter erected, converted, or

structurally altered, unless otherwise provided herein, except for the following uses:

- a. Single Family Residential Dwellings of not less than 2000 square feet of air conditioned floor space and located on lots not less than one acre.
- b. Accessory Structures – Residential

1. The Presidio Bay Addition, consisting of the following street is included in the R-3 Residential District.

- Presidio

D. **R-4 Residential** – In the R-4 Residential District, no structure or land shall be used and no structure shall be hereafter erected, converted, or structurally altered, unless otherwise provided herein, except for the following uses:

- a. Single Family Residential Dwelling of not less than 1600 square feet of air conditioned floor space and located on lots not less than the size indicated on the subdivision plat.
- b. Accessory Structures – Residential

- A. The Dorchester on the Creek Addition, consisting of the following streets, is included in the R-4 Residential District.

- Tiny Circle
- Blackburn Dr.

- B. Palm Springs Estates Addition, consisting of the following streets, is included in the R-4 Residential District.

- Palm Drive
- Coconut Lane

E. **R-5 Residential** – In the R-5 Residential District, no structure or land shall be used and no structure shall be hereafter erected, converted, or structurally altered, unless otherwise provided herein, except for the following uses:

- a. Single Family Residential Dwelling of not less than 1600 square feet of air conditioned floor space
- b. Manufactured Homes, subject to the requirements of Section 01.09 and 01.11 of this zoning ordinance – Leroy Kirby and Smothers Road only
- c. Accessory Structures – Residential
- d. Multi-family dwelling, condominium, and/or Two-family or Duplex Residential Dwellings are prohibited.

- e. Commercial/Business Operations are prohibited.
- f. Only one manufactured home per lot/parcel is permitted.

1. The Bridgeview Addition, consisting of the following streets, is included in the R-5 Residential District.

- Leroy Kirby
- Smothers Road
- Cappy Drive

F. **C-1- Commercial** – In the C-1 Commercial District, no structure or land shall be used and no structure shall be hereafter erected, converted, or structurally altered, unless otherwise provided herein, except for the following uses:

- a. Automotive repair facilities
- b. Appliance Stores
- c. Boat and Recreational Vehicle storage – secured
- d. Car Washes
- e. Child or adult day care facilities
- f. Convenience Stores
- g. Drug stores or pharmacies
- h. Dry Goods Stores
- i. Eating establishments
- j. Establishments licensed for on premise consumption of alcohol and food whose verifiable alcohol sales consist of less than or equal to 49% of their gross sales
- k. Electronic Fabrication & Sales
- l. Financial Institutions
- m. Funeral homes and mortuaries
- n. Furniture stores
- o. Gasoline Stations
- p. Governmental buildings and facilities
- q. Grocery/supermarket stores
- r. Hospital/medical clinics
- s. Inn, Hotel, Motels
- t. Laundromats and Dry Cleaners
- u. Liquor Stores
- v. Personal service establishments such as barber and beauty shops
- w. Professional services such as accounting, law offices, medical offices
- x. Storage rental units (minimum of 10 rental units)
- y. Utilities, (public and private) excluding sanitary landfills, incinerators, refuse and trash dumps
- z. Vehicle and equipment sales and services

G. C-2 Heavy Commercial - The C-2 Heavy Commercial District, *does not exist at this time*. No structure or land shall be used and no structure shall be hereafter erected, converted, or structurally altered, for the following purposes unless approved by a majority vote of the City Council at a regular meeting:

- a. Asphalt, concrete products, or central mixing and proportioning plants
- b. Feed, grain and flower packaging, blending, storage
- c. General science laboratories
- d. Industrial research laboratories
- e. Landfills, dumps, and trash refuse facilities
- f. Manufacturers of fertilizer, organic or non-organic
- g. Medical research laboratories
- h. Petroleum storage
- i. Pipeline and petroleum transporting enterprises

H. Special Use - The following are classified as Special Use Districts.

The Special Use designation shall remain applicable to the property as long as no substantive change occurs in the use, location or structure of the property from what existed on the date of original approval of this ordinance, October 13, 2016.

A building permit as well as a business permit where applicable, approved by the City Council, are required for the erection, conversion, modification, or structural alteration of a structure or land use related to the non-city owned Special Use Districts listed below. See City Ordinance pertaining to Permits for additional information.

In the event the building, premises, or land use designated below as Special Use is voluntarily vacated for a period in excess of 180 days, a new and separate specific use permit must be approved by City Council. Requirements in Section 01.08, (I.), of this ordinance, pertaining to Planned Development District, may also apply.

- a. Shiloh on the Lake which includes the following streets
 - Walnut
 - Blackjack
 - Oak
 - Hickory
 - Dogwood
 - Guy
 - Cabin Row
 - Betty Blvd

- Travis Parkway
1. Permanent structures, mobile homes, modular components, including pre-manufactured buildings, travel trailers and motor homes are allowed.
 2. Permanent residential, and short and long term rental of facility spaces is allowed.
 3. The keeping of resort equipment, including watercraft, maintenance equipment and the operation and rental of a club house/event center are allowed.
- b. City owned property and facilities located at 15241 Barron Road, Caney City, Texas
 - c. Churches and other houses of worship
 - d. Macedonia Baptist Church, AB 697 M M Sanchez Sur, Tr 2D
 - e. The reserved area of Bridgeview Addition, AB 697 M M Sanchez Sur., Bridgeview Addn (Reserved Area, Leroy Kirby Drive, Geo: 2210.0000.00A0.67).

I. Planned Development District

- a. The City Council may authorize, by amendments to this zoning ordinance, the creation of special districts of a type not conforming to the districts previously addressed herein, after public hearing, proper notice to affected parties, and upon recommendation of the Planning and Zoning Committee. Such special districts shall be known as "Planned Development Districts" and may include:
 - Commercial shopping centers
 - Housing developments
 - Office parks
- b. To establish a planned Development District under this section, the City Council must require the submittal of a comprehensive site plan of the development. The site plan must include provisions for site access, all streets or drives, right-of-way, utilities, drainage, parking spaces, lot coverage, open spaces, and such other development requirements as may be requested by the City Council. A plat/fully recorded plat, filed with the Henderson County Clerk, may be requested.

- c. In approving a Planned Development District, the City Council may impose conditions relative to the standard of development, and such conditions must be complied with.
- d. All costs associated with establishment of a Planned Development District under this section, including but not limited to, surveys, plot plans, drainage assessments, registration and filings, reports, studies, whether or not they are required by, or provided to, the City of Caney City are the responsibility of the person or entity requesting the Planned Development District.

J. Uses Not Listed –

- a. Any and all property located in the City which is not specifically addressed elsewhere in this ordinance is zoned Single Family Residential Dwelling.
- b. Uses not specifically identified herein may be authorized in a district by special permit, provided said uses are compatible with existing and permitted uses, and do not cause or create environmental pollutants. Such requests are subject to requirements set forth in Section 01.08, (I), Planned Development District, of this ordinance.

01.09

MANUFACTURED AND MOBILE HOMES

- A. A manufactured home lawfully existing within the city on the effective date of this zoning ordinance that does not meet the requirements of this zoning ordinance, shall be grandfathered in, subject to Section 01.09 (C-D) and Section 01.11 of this zoning ordinance.
- B. The following streets are zoned for the location of manufactured homes:
 - Leroy Kirby
 - Smothers Road
- C. Manufactured Homes *Located in Areas Zoned for Manufactured Homes*, as specified in this ordinance, are subject to the following:
 - a. A manufactured home lawfully located within the city on the effective date of this zoning ordinance may be replaced, by the owner of record on the effective date of this ordinance, with a manufactured home on the same property, provided the replacement manufactured home is a HUD-Code Manufactured Home and is at least as large in air conditioned living space as the prior one.

- i. If the manufactured home is replaced, by the owner of record on the effective date of this ordinance, with a site built structure, a minimum of 1200 square feet of air conditioned floor space applies.
 - b. If the owner of record on the effective date of this zoning ordinance sells the lot and manufactured home, the new owner can move into the existing manufactured home.
 - i. If the new owner moves the manufactured home off of the lot, they may replace it with a site built structure or a new HUD-code Manufactured Home, provided the lot upon which the replacement manufactured housing is being placed has not been vacant.
 - ii. A minimum of 1600 square feet of air conditioned floor space applies.
 - c. Manufactured homes are not allowed to be moved on to vacant lots/parcels that, on the effective date of this ordinance, do not have an existing manufactured home.
 - d. Upon the sale of a lot/parcel and/or manufactured home as a result of or to satisfy a tax lien, the taxing authority is considered to be the same as the original owner.
 - e. A permit approved by the City Council is required prior to the replacement of any manufactured home.
- D. **Manufactured Homes *Located in Areas Not Zoned for Manufactured Homes***, as specified in this zoning ordinance, are subject to the following:
 - a. A manufactured home may be replaced with a manufactured home on the same property subject to the following:
 - The replacement manufactured home is a HUD-Code Manufactured Home and is at least as large in air conditioned living space as the prior one.
 - The lot upon which the replacement manufactured home will be placed has not been vacant.
 - The replacement authorized by this section is limited to a single replacement, unless the manufactured home is being

replaced due to its destruction by non-arson fire or other natural disaster.

- b. If the owner of record on the effective date of this zoning ordinance sells the lot together with the manufactured home, the new owner can move into the existing manufactured home.
 - i. If the new owner moves the manufactured home for any distance or off of the lot, they cannot move another manufactured home in to replace it.
- c. If the owner of record on the effective date of this zoning ordinance sells the lot and the manufactured home is sold separately or moved any distance, the new owner of the lot/parcel cannot move another manufactured home on to the lot.
- d. Upon the sale of a lot/parcel and/or manufactured home as a result of or to satisfy a tax lien, the taxing authority is considered to be the same as the original owner.
- e. A permit approved by the City Council is required prior to the replacement of any manufactured home.

01.10

INDUSTRIALIZED HOUSING/MODULAR HOMES

- A. Industrialized or modular homes may be placed in all areas zoned for single-family residential dwelling.
- B. Industrialized /modular homes must have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of where the industrialized or modular housing is proposed to be located and have exterior siding, roofing, roof pitch, foundation, fascia, and fenestration that is compatible with single-family homes located within 500 feet of the lot. (Texas Occ. Code 1202.253).
- C. All requirements applicable to single-family dwellings, including minimum square footage requirements, apply to industrialized/modular housing.
- D. Industrialized and modular homes must be securely fixed to a concrete slab or pier and beam foundation.
- E. A permit approved by the City Council is required prior to the placement/replacement of all industrialized and modular homes.

01.11

EXISTING NONCONFORMING STRUCTURES AND USES

- A. **Nonconforming Structures** – Where a lawful structure, or manufactured home exists on the effective date of the adoption or amendment of this zoning ordinance, and it does not meet the terms of this zoning ordinance by reason of restrictions on permitted use, size, location, or other requirements, the structure or manufactured home is grandfathered, as long as it remains otherwise lawful, subject to the requirements in Section 01.09 (C-D) of this zoning ordinance and the following provisions:
- a. No such nonconforming structure, or manufactured home may be enlarged, reconstructed, or altered in a way which increases its structural nonconformity, but any structure or portion thereof may be reconstructed or altered to decrease its structural nonconformity.
 - b. Should such nonconforming structure, or manufactured home or nonconforming portions thereof be damaged by any means, except non-arson fire or other natural disaster, to an extent of more than 50% of its replacement cost at the time of destruction, it must be reconstructed in conformity with this zoning ordinance.
 - c. Should such structure, or manufactured home be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.
- B. **Nonconforming Uses** - A nonconforming use may be continued as long as it remains otherwise lawful, subject to the following provisions:
- a. No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, or reconstructed.
 - b. The use of the structure shall only be changed to a use permitted in the district in which it is located.
 - c. Removal or destruction of a structure containing a nonconforming use shall eliminate the nonconforming use status. Destruction is herein defined as damage equal to more than 50% of the replacement cost of the structure.

- d. A nonconforming use shall terminate upon any sale or conveyance of the property or upon the loss or termination of any other permits required for operation.

01.12 SUBDIVISION OF PROPERTY

- A. No parcels of land within the City limits may be subdivided into smaller parcels than those which existed and are recorded in the Henderson County deed records prior to July 14, 2016, without the approval of the City Council at a posted City Council meeting. This applies to all transactions regarding subdivision of property including, but not limited to, sales or gifts of real property.
- B. Any subdivision of property into separate parcels must have the new parcels identified by a registered deed and survey and filed and recorded with the Henderson County Clerk.
- C. The subdivided property shall maintain the same zoning classification as the original parcel.
- D. Parcels of residential land may not be subdivided into lots less than one acre.
- E. All subdivided lots must have direct access to a public street or roadway.
- F. All costs associated with the subdivision of property process, including but not limited to, surveys, plot plans, drainage assessments, registration and filings, reports, studies, whether or not they are required by, or provided to, the City of Caney City, are the responsibility of the person or entity requesting the subdivision.
- G. Section 01.08 (I), Planned Development District, may apply to any subdivision of property, depending on the extent of the project.

01.13 COMMERCIAL/BUSINESS REGULATIONS

- A. Commercial/Business operations are not allowed in residential districts.
- B. All Commercial/Business operations must have a business permit approved by the City Council prior to the commencement of the business operation.

- C. Commercial/Business operations not addressed as an acceptable use in the C-1 and C-2 Zoning Districts in Section 01.08, require review and recommendation to the City Council by the Planning and Zoning Committee. Final approval by a majority vote of the City Council, at the time of request for a Business Permit is required.
- D. Commercial/Business operations may not have, keep or locate the following on their property for the purpose of providing living accommodations or storage: portable storage, camping trailers, motor homes, pickup coach, travel trailers, manufactured homes, trailers or vehicles.
- E. No semi-trucks/trailers or commercial fleet vehicles may be parked overnight in commercial or residential districts.
- F. Commercial/Business operations may not use commercial property for non-commercial purposes such as rental for residential living.
- G. Commercial/Business operations may not store or keep overnight, any material, fixtures, or inventory of any kind outside of a commercial building unless it is concealed from public view behind an approved structure.
- H. All Commercial/Business operations must be collecting and remitting sales tax in accordance with the requirements of the State of Texas Comptroller Office.

01.14 SIGNAGE

- A. Billboard signs of any kind are considered to be a business and are not permitted in any Caney City zoning district regardless of whether it is a residential or commercial/business district.
- B. Signs of any kind which advertise businesses not located in Caney City are not allowed.
- C. The single existing billboard located on the property adjacent to the public boat ramp on Highway 198, is considered to be a non-conforming use at this time and is subject to Section 01.11 of this ordinance. Should ownership of the billboard and/or property on which it is located change, it is no longer considered non-conforming use and therefore, is not permitted in any Caney City zoning district.

01.15

ZONING DISTRICT CHANGES

- A. Any person or corporation having a proprietary interest in any real property in Caney City may petition the City Council for a change or amendment to the provisions of this zoning ordinance.

- B. The City Council, may amend, supplement or change by ordinance the boundaries of the districts or the regulations herein established as provided by the statutes of the state.
 - a. Before taking action on any proposed amendment, supplement or change, the City Council shall submit the same to the Planning and Zoning Committee for its recommendation and report.

 - b. The Planning and Zoning Committee shall hold a public hearing on any application for any amendment or change prior to making its recommendation and report to the City Council. Written notice of all public hearings before the Planning and Zoning Committee on a proposed amendment or change shall be sent, at a minimum, to all owners of real property lying within 200 feet of the property on which the change is requested. Such notice shall be given not less than eleven days before the date set for hearing by sending the notice properly addressed and postage-paid to each taxpayer within the 200-foot radius, as the ownership appears on the last approved city tax roll.

 - c. A public hearing shall be held by the City Council before adopting any proposed amendment, supplement or change. Notice of the hearing shall be given by publication in the official publication of the city and at Caney City Hall, stating the date, time and place of the hearing, which shall not be earlier than 16 days from the date of publication.

 - d. Approval of amendments, supplements, or changes require a majority vote of the City Council at a regular City Council meeting.

- C. If at any time and for any reason a functioning Planning and Zoning Committee does not exist, the City Council shall assume the duties and responsibilities assigned to the Planning and Zoning Committee by this ordinance.

01.16

PENALTY

- A. The governing body of a municipality may enforce ordinances and prescribe fines for violations.
- B. A person commits an offense if the person violates this ordinance. An offense is a misdemeanor, punishable by fine. Civil penalties may also apply. (Local Government Code, 211.012)
- C. Under state law, the maximum penalty for violating an ordinance dealing with zoning is currently \$2,000 per day for each day the ordinance is violated. (LGC, 54.001)
- D. The City may bring an action for the enforcement of this ordinance including the recovery of costs to the City or to compel the repair or demolition of a structure or to obtain approval to remove the structure and recover removal costs. The City may also bring a claim for civil penalties and an action against the structure that may result in a judgment against the structure as well as a judgment against the defendant. (LGC, 54.018)
- E. If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this ordinance, the City of Caney City, in addition to other remedies, may institute appropriate action to:
1. prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
 2. restrain, correct, or abate the violation;
 3. prevent the occupancy of the building, structure, or land; or
 4. prevent any illegal act, conduct, business, or use on or about the premises. (LGC, 211.012)
- F. Enforcement of the City zoning ordinance is the responsibility of the Caney City Police Department or Zoning Compliance Officer as designated by the Mayor of Caney City.
- G. Upon identification of violations of this ordinance by the Caney City Police Department or the Zoning Compliance officer, a written notice stating the violation will be issued to the property owner.
- a. The property owner has fifteen (15) days to correct the violation without imposition of a fine.

- b. The property owner may request additional time to come into compliance. However, no such request shall be granted beyond thirty (30) days of the original fifteen (15) days without majority approval of the City Council during a regular or special meeting.
 - c. Any request for additional time to come into compliance must include a detailed plan and time schedule for achieving compliance. Regular updates on progress may be required.
- H. If the violation is not corrected within the fifteen (15) day time period, or within the time period established in Section 01.16 G. (b), an official citation will be issued to the property owner. Such citation shall impose a fine of not less than \$250 per day for the first offense; subsequent offences shall be not less than \$500 per day or not more than \$2,000 per day for each day the violation of this zoning ordinance is continued beyond the time period established in 01.16 G. (b). The citation may be hand delivered or sent via registered mail.
- I. The property owner has up to ten (10) days to appear before the Municipal Court of Caney City.
- J. The City may bring a civil action for the enforcement of this ordinance. Jurisdiction and venue of such an action is in the district court or the county court at law of Henderson County. (LGC, 54.017)
 - a. A civil penalty may be imposed, if, after the defendant received notice of the ordinance provisions, the defendant committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance.
- K. A person is not subject to imprisonment for the failure to pay an assessed civil penalty imposed for zoning violations. However, court power to imprison a person for contempt of valid court orders and the availability of remedies or procedures for the collection of a judgment assessing civil penalties are provided by state statute.
- L. By the passage of this Ordinance, no illegal use at the time of passage of this Ordinance shall be deemed to have been legalized; such uses shall remain an illegal use.
 - a. No offence committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time the existing zoning ordinance was repealed and this Zoning Ordinance

adopted, shall be discharged or affected by such repeal. Prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted or causes presently pending shall proceed in all respects as if such prior ordinance had not been repealed.

01.17 REPEAL

This zoning ordinance repeals all prior zoning ordinances of the City of Caney City.


01.18 SEVERABILITY

If any section or part of any section or paragraph of this ordinance is declared invalid or unconstitutional for any reason, it shall not be held to invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this zoning ordinance.

01.19 EFFECTIVE DATE


This zoning ordinance shall be effective as of the date of approval by the City Council Of the City of Caney City, Texas.

PASSED AND APPROVED this 8 day of March, 2018.



Ronald Welch, Mayor

ATTEST:



Cynthia Dosier, City Secretary