

ARTICLE XVIII. - DOWNTOWN DISTRICT OVERLAY

Sec. 111-500. - Purpose.

The downtown district overlay is hereby established to help achieve specific goals as laid out in several city plans including the comprehensive plan, and the downtown improvement service plan adopted by city commission and as called out below:

- (1) Enhance safety in the district;
 - (2) Recognize the importance of a vital economy especially in a downtown district;
 - (3) Support the creation of jobs;
 - (4) Minimize the subjectivity of project selection;
 - (5) Prevent encroachment of incompatible uses that would disturb the achievements intended to be accomplished;
 - (6) Enhance and preserve buildings of local historic significance and heritage;
 - (7) Establish a unifying theme that respects the downtown's unique qualities, enhances its historical and cultural character, and promotes aesthetic and functional design;
 - (8) Enhance landscaping for public and private open spaces to provide shade, comfort, and aesthetic quality;
 - (9) Encourage pedestrian movement and connections;
 - (10) Develop a venue for cultural arts and entertainment.
- (Code 1997, § 159170; Ord. No. 99-42, 6-16-1999; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008)

Sec. 111-502. - Definitions.

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

Alcohol establishments mean any business serving alcohol as its primary product (meaning that more than 50 percent of its sales are derived from alcohol).

Block means an area enclosed by street and occupied by or intended for buildings, or if used as a term of measurement, it shall mean the distance along the side of a street between the nearest two streets which intersect said street on the same side.

Harlingen's Downtown Board (HDB) means a 12-member board consisting of owners or representatives of owners of real property within the district. The mayor and each city commissioner shall each appoint two members from the downtown improvement district geographic area (described as east of the railroad tracks), as established in Ordinance No. 05-16, Section HI.

Historical significance and heritage means any structure which contains unique architectural features which are attributable to the specific time period and cultural environment during which the district was formed.

Obsolete sign means a sign that advertises a business no longer in existence, or one that is illegible, or in disrepair.

Overlay district or zone means an additional level of zoning requirements that is superimposed over the existing zoning in the area.

Site plan means a drawing showing the locations, dimensions, and arrangement of a parcel of land, including type and size of buildings, landscaped areas, parking and other elements necessary to issue a building permit or re-occupancy permit.

(Code 1997, § 159.172; Ord. No. 99-42, 6-16-1999; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010)

Sec. 111-503. - Standards.

a) No building shall be constructed, reconstructed, altered, or razed without prior approval by the HDB. This includes any exterior construction or renovation such as, but not limited to, painting, signage, windows, and awnings. Any alteration and/or renovation of specific items (windows, awnings, facade, and the like) shall require compliance with the regulations described in this section for such individual items.

(b) As applicable, no building or demolition permits will be issued by the city without approval of such permits by the HDB.

(c) An application for a city building permit shall be submitted to the building inspections division or, if no building permit is required for the project proposed, an application and all supporting documents shall be submitted directly to the HDB. Complete applications will be reviewed and either approved or denied by the HDB within ten working days or will be deemed automatically approved.

(d) Projects subject to subsection (a) or (b) of this section that are denied by the HDB for noncompliance with this article may be appealed by the applicant to the city commission within ten days of such denial. The city commission shall, by majority vote, approve or deny such projects based on compliance with this article.

(Code 1997, § 159.173; Ord. No. 99-42, 6-16-1999; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010)

Sec. 111-504. - Variance procedures.

Variance procedures are defined in article XVI of this chapter.

(Code 1997, § 159.174; Ord. No. 99-42, 6-16-1999; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010)

Sec. 111-505. - Special use permits.

(a) No special use permit application for this district shall be heard by the city commission until it has received a recommendation from the downtown board and the planning and zoning commission.

(b) No special use permit application for any adult business or sexually oriented business in this district will be considered, with the exception of renewals of existing special use permits for bars/lounges in accordance with sections [111-506](#) and [111-507](#).

(c) With the above conditions excepted, special use permits are obtained as specified in this chapter.

(Code 1997, § 159.175; Ord. No. 99-42, 6-16-1999; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010)

Sec. 111-506. - Alcohol regulations.

It is unlawful for any person to consume any alcoholic beverage in any public place within the district at any time except during an event, which shall have permit for the sales of liquor. An event is defined as an event for which a written request is made of downtown board. (Said event must be approved by the appropriate

city departments and downtown board.) In the case of an event, liquor consumption shall be limited to the area designated for the event.

(Code 1997, § 159.176(A); Ord. No. 99-42, 6-16-1999; Ord. No. 02-41, 5-1-2002; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010; Ord. No. 10-35, 8-4-2010)

Sec. 111-507. - Texas Alcohol Beverage Commission (TABC) liaison.

(a) The director of planning and development or his designee shall have authority to process and approve alcoholic beverage applications on behalf of the city and to base such approval on the following:

(1) An establishment meeting or exceeding one or more of the criteria set forth below will not be eligible for a city liquor permit renewal and will be subject to permit revocation at any time during the permit period if violations established below are met or exceeded. (All violations refer to those that take place within the establishment.)

- a. Five unreported fights or disturbances;
- b. Two separate incidents which result in a homicide or homicides;
- c. Any one offense of prostitution, lewd conduct, gambling, drug or narcotics possession or sales, or assault permitted or committed on the premises, by act or omission, by the owner, agent or employee of the premises;
- d. Fifteen arrests of intoxicated persons on premises;
- e. Any two sales of alcoholic beverages to a minor by the owner, agent or employee of the premises; or
- f. Two violations in the hours of operation.

(2) Any establishment denied the renewal of a city liquor permit due to meeting or exceeding the above criteria will require a new special use permit to open or re-open any bar at the same location regardless of duration of closure of previous establishment (that is, no grandfathering).

(3) The initial permit approval (SUP) for a bar/lounge shall be no longer than one year.

(b) Appeal process. Any person who is denied renewal of a liquor license due to this article may appeal the administrative decision to the city commission in writing within ten working days of the official denial of renewal. The decision of the city commission shall be by simple majority vote.

(Code 1997, § 159.177; Ord. No. 99-42, 6-16-1999; Ord. No. 00-88, 11-1-2000; Ord. No. 01-101, 10-30-2001; Ord. No. 02-41, 5-1-2002; Ord. No. 03-26, 5-7-2003; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010; Ord. No. 10-35, 8-4-2010)

Sec. 111-508. - Maintenance and upkeep.

In order to accomplish the intent of this article, buildings and property shall be maintained in both good structural condition and positive aesthetic appearance. Neglect of buildings and/or property, including structural defects, shall be prevented by compliance with not less than the minimum standards listed herein. The city shall give written notice to building owners and/or tenants as to any violations, which include, but are not limited to the following:

- (1) Broken windows or glass;
- (2) Crumbling, broken or loose materials such as paint, bricks, paneling, and the like;
- (3) Deteriorated, ineffective, or missing portions or entireties of any exterior wall, partition, or roof;
- (4) Accumulations of rubbish or debris;

- (5) Obsolete signs (as defined in this article);
 - (6) Residual surface damage, scarring, discoloration, uneven natural fading of paint, or any other damage due to normal wear and tear or the removal or loss of signs, awnings, and other such parts and appurtenances;
 - (7) Incomplete exterior alterations, painting or other surface repairs and replacements;
 - (8) Other conditions as defined in the unsafe building ordinance.
- (Code 1997, § 159.178; Ord. No. 99-42, 6-16-1999; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010)

Sec. 111-509. - Design guidelines.

The appearance of the district is the result of an evolutionary process in which buildings stay the same, are altered or are completely replaced. This process is continuous and inevitable. Its success or failure depends on how sensitive these changes are to the existing framework of buildings. Certain elements of a building's appearance are addressed in more detail here as elements that contribute to the overall quality of the district.

(1) Storefronts.

a. *Improvements.* Improvements to buildings are encouraged through incentive programs for storefronts, signs, and fire safety enhancements.

b. *Owners working together.* Owners of one-story buildings, which are not part of a larger structure and therefore are more easily overwhelmed by larger neighboring buildings, should relate to the buildings on either side of them. The most effective approach for building owners in this situation is to use similar storefront and sign designs to create a unified, attractive row of buildings.

c. Materials.

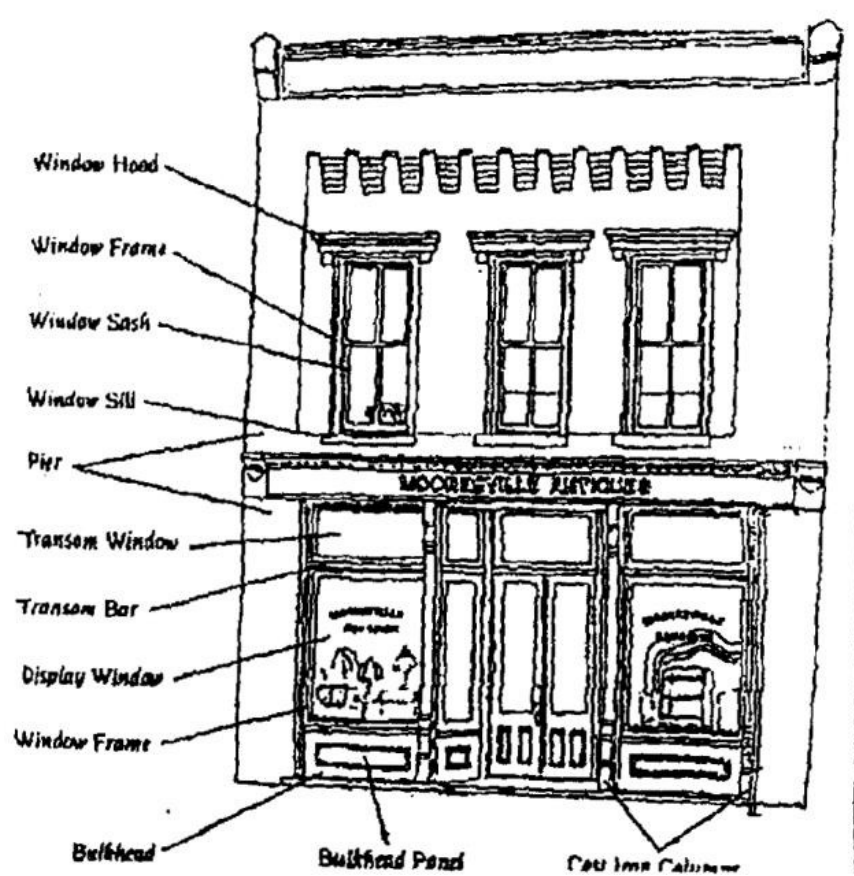
1. Any original materials on the building's facade, such as brick, stone, or glass are also part of the building's architecture and must not be painted or covered over.

2. The following list of traditional and adaptable contemporary storefront materials must be utilized:

- (i) Storefront window frames must be wood, hollow metal, or anodized aluminum;
- (ii) Display windows must be clear glass or tinted glass which is still transparent;
- (iii) Entrance door frames must be made of wood, steel, or aluminum;
- (iv) Bulkheads must be finished with wood panels, brick, polished stone, glass, tile, masonry, or aluminum-clad plywood panels.

3. Not allowed:

- (i) Fake bricks;
- (ii) Stone and gravel aggregate materials;
- (iii) Reflective windows;
- (iv) All glass fronts;
- (v) Vinyl or plastic siding;
- (vi) Mirrored glass; or
- (vii) Metal or prefabricated buildings.



d. *Color*. Painting is one of the most dramatic improvements that can be made to a building. Choosing the right combination of colors can unify the building elements within the facade as well as relate the building to others on the block. The following criteria must be adhered to when considering color selection:

1. Coordinate with other colors on the block;
2. The orientation of the building affects the appearance of colors;
3. Historically, certain color types were associated with architectural styles;
4. Colors must be used to highlight architectural details;
5. No more than one vivid color per building;
6. No more than three colors shall be used on one building;
7. Base color for wall surfaces and storefront pier;
8. Major trim color for cornices, window caps, window frames, columns, bulkheads;
9. Minor trim color for window sashes, doors, storefront frame, and other small details;
10. Bright and/or fluorescent colors are prohibited.
11. Must comply with the HDB latest-adopted color palette

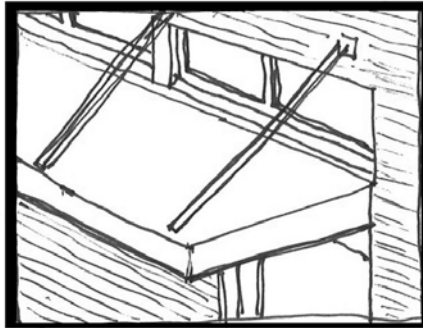
e. *Windows*. The style and type of windows help establish the historical character of buildings. Hence, the following shall be adhered to:

1. The original shape of the window as well as the original number and

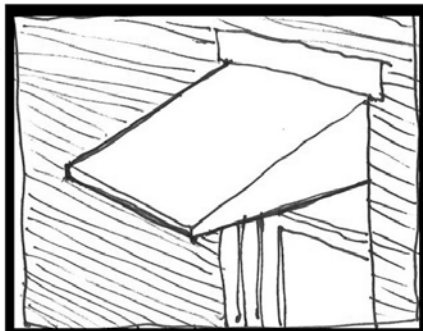
- arrangement of panes shall be maintained;
2. Shutters are not allowed;
 3. New window openings are not allowed unless they match the existing window configuration, and their placement is consistent with the existing openings;
 4. Original windows facing the street on which the business is addressed shall not be filled, boarded up, or painted without prior approval of the HDB;
 5. Burglar bars may not be installed on the exterior of windows or doors facing a street;
 6. Windows that have been blocked in, boarded up, or painted must be restored to their original appearance, size, and type. When original wooden frames cannot be duplicated or afforded, aluminum frames of similar profiles must be used. Factory painted finishes for aluminum are available;
 7. Mechanical devices such as air conditioners or exhaust vents shall not be placed in storefront windows.
 8. Overhead or jamb coiling security grills or doors may not be located on the exterior of any storefront or window, but they are acceptable on the interior.

(2) *Awnings and canopies.* The use of awnings or canopies is strongly recommended for all commercial buildings. They encourage pedestrian traffic by protecting them from excessive heat or rain. They protect display window merchandise from damage, regulate the amount of heat and direct sunlight entering a store, and serve as a sign or help identify the business.

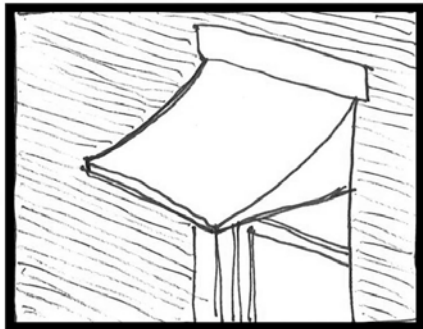
- a. The following standards apply to awnings and/or canopies:



Projecting Metal Canopy
Typically supported by metal rod or tube, below transom windows, and found on pre-war and mid-century buildings. Care should be taken to match depth and height of adjacent canopies or awnings, as well as scale and style of existing building.



Standard Canopy
Can be made of fabric with metal frame or entirely of metal. Care should be taken to not obscure existing building features or detail. Align canopy with existing architectural openings or pilasters when possible.



Convex Canopy
Similar to Standard Canopy above, and may have open sides to reduce visual impact.

1. Open air canopies or awnings of any type adjacent to or facing a street are prohibited.
2. Street level awnings or canopies shall be no less than eight feet above the sidewalk.
3. No portion shall extend closer than two feet to the face of the curbline and should project out four through six feet from the building, but not farther than two-thirds the distance from the building to the curb.
4. Only weather resistant canvas, vinyl, or standing seam metal are allowed (no wood or sheet metal).
5. All framing materials shall be steel or aluminum and must be attached directly to the building.
6. The shape must relate to other awnings and/or canopies on the same block. Recommended styles include standard, concave, and flat or low slope (see illustration).

b. Not allowed:

1. Mansard; awnings.
2. Fiberglass.

(3) *Signs.* All signs shall be subject to building permits and review as provided in the sign ordinance. The function of the storefront sign is to inform the customer of the goods or services provided within. Limiting the amount of information to essentials most effectively conveys the sign message. Signs must be individual metal, plastic, or wood letters. A sign containing neon lights, is backlit, or has a plastic face is allowed. No plywood signs or new billboards (as defined in the city's sign ordinance) are allowed. Signs that are painted on the building shall be approved by the HDB prior to commencement of such painting.

a. *General sign guidelines.*

1. Signs are permitted on awnings provided they are painted, printed, or sewn onto the fabric;
2. Permanent banners or flags (excluding government flags) will not be allowed. Temporary banners or flags are allowed for a period not to exceed 30 days per calendar year;
3. Signs cannot obscure or destroy architectural detail on the building;
4. Rooftop signs are not allowed;
5. Window signs shall encompass no more than 30 percent of the total glass area, not including any neon outlining of the glass;
6. Total sign area of all signs on any building face, which also includes any windows, awnings, and canopies associated with such building face, shall not exceed the amount of linear building frontage facing the street (measured in feet) on which the building is addressed, multiplied by 1.5. Illustrative example: A building at 123 Anywhere Street has 50 feet of building frontage along Anywhere Street (i.e., it is 50 feet wide along Anywhere Street). The maximum available area for all signs on any particular building face shall not exceed 75 square feet (50 multiplied by 1.5).

b. *Color.* A dark background with light letters is most easily perceived by the human eye, depending on the base color of the building. A sign can be the best place to add lively color, but care should be taken to ensure that the sign colors compliment and relate to the building and its surroundings.

(3) *Other exterior elements.*

a. *Fencing.* Fencing must be in character with the surroundings. Barbed wire fences shall not be permitted. Fences of brick, wrought iron, stucco, wood or concrete shall be encouraged. Fence requirements as included in this chapter.

b. *Walkways/sidewalks.* Walkways or sidewalks must be maintained by the property owner in good condition and free of obstruction or debris.

c. *Landscaping.* Native and low water usage landscaping shall be encouraged. Public areas use of alleys as public space shall be encouraged. Projects containing courtyards, public art or landscaping visible to the public shall be encouraged.

(Code 1997, § 159.79; Ord. No. 99-42, 6-16-1999; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010; Ord. No. [2020-09](#), § I, 3-18-2020)

Sec. 111-510. - New construction.

(a) Downtown buildings are situated in one of two arrangements relative to adjacent surroundings: hereinafter called either "infill buildings" or "stand-alone buildings" and are defined as follows:

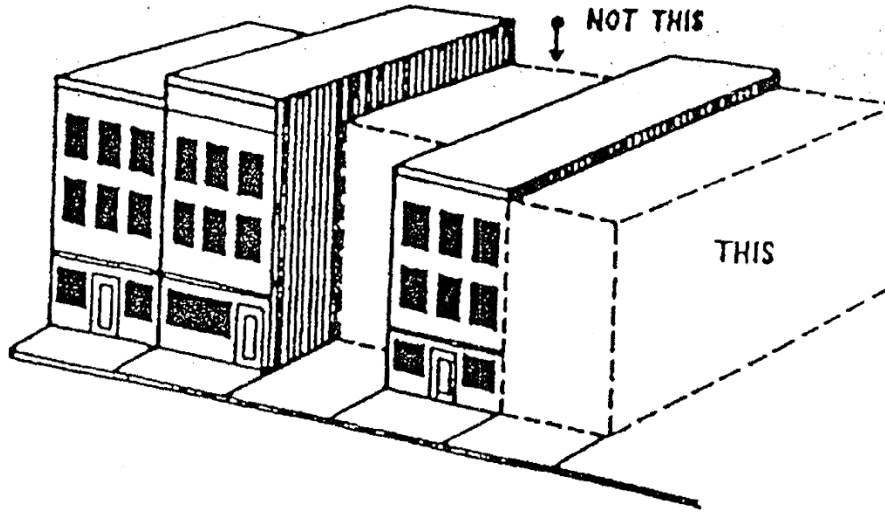
(1) Infill buildings fill the width of space but not necessarily the depth of space between other buildings or groups of buildings. It should be flush with the adjoining buildings.

(2) A stand-alone building is situated not between other buildings or groups of buildings. One or both of its sides face toward "open" space.

(b) Any new infill building or replacement of an existing infill type of building must fill the entire space toward the street front and between the other buildings.

(c) Any new stand-alone building or replacement of an existing stand-alone type of building must fill the entire space available toward the street front and toward any adjacent side street front.

(d) Exterior design and the completed construction of any new or replacement existing building must be deemed by the HDB to satisfactorily reflect the desired characteristic rhythm of facades along the street, as well as all specific requirements given herein including alignment of building fronts. (See illustration below.)



(e) All section

building new construction and replacement of existing buildings shall apply equally to other actions including the following:

the requirements of this applicable to any whole

- (1) Construction of additions onto, over or about the street-side fronts of any existing stand-alone building.
- (2) Partial building demolition and repair or replacement of building structural members at the street-side front of any existing building.

(Code 1997, § 159.180; Ord. No. 99-42, 6-16-1999; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010)

Sec. 111-511. - Sidewalk displays.

(a) For the purpose of commercial advancement of Harlingen's Downtown District, outdoor display of wares for sale will be allowed with the approval of a permit from the HDB. This is intended to allow merchants with proper permits to display regular store merchandise outside the enclosed establishment.

(b) The permit review process will be overseen by the HDB or a subcommittee delegated by the HDB. The HDB or delegated committee will actively pursue the highest standards of aesthetic presentation of the downtown area are upheld. They will also ensure, through the permitting and code enforcement process, that guidelines and procedures for building occupants/owners to use the right-of-way for such permitted displays are maintained in such a manner that will not restrict pedestrian movement.

(c) Violation of any permit stipulations will be considered a zoning violation and shall be enforced with the same penalties and provisions stipulated in this article for other such offenses.

(Code 1997, § 159.181; Ord. No. 07-27, 4-18-2007; Ord. No. 08-32, 4-16-2008; Ord. No. 10-10, 5-10-2010)