

DOWNTOWN OVERLAY ZONING DISTRICT

Purpose

The Downtown District is intended to provide for a mix of land uses that will promote a downtown where people can live, work, and play within its boundaries, create a place that values the architectural history of our community while encouraging the best of contemporary design, to encourage human interaction through creating a safe and attractive pedestrian friendly environment and to promote the good, health, safety and general welfare of property users surrounding the downtown area.

Definitions

Arcade: a frontage wherein the façade is a colonnade that overlaps the sidewalk, while the façade at sidewalk level remains at the frontage line.

Arcade: A frontage wherein the façade is a colonnade that overlaps the sidewalk, while the façade at sidewalk level remains at the frontage line.

Awning: A covering of canvas or other material extending over a doorway, or the top of a window or extended the entire width of a facade.

Block-face: consists of the properties along one side of a street between two consecutive intersections.

Build-to-line: The distance between the property line and the building.

Commercial: The term collectively defining workplace, office, retail, and lodging functions.

Downtown Façade Design Standards: A guidebook that provides basic standards to improve building facades and make other structural and visual improvements to downtown buildings. A copy of the guide book maybe obtained from the director of planning services.

Façade: The exterior wall of a building that is set along a frontage line.

Forecourt: A frontage wherein a portion of the facade is close to the frontage line and the central portion is set back. The forecourt created is suitable for vehicular drop-offs.

Frontage: The land between a building and the street, inclusive of its built and planted components.

Frontage lines: A lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines.

Front street: The street on which a building's principal entrance is located.

Function: The use or uses accommodated by a building and its lot.

Gallery: A frontage wherein the façade is aligned close to the frontage line with an attached cantilevered shed or a lightweight colonnade overlapping the sidewalk.

Infill lot: A lot within a block face that at least 35 per cent or more is occupied by existing repairable building(s).

Linear building: A building specifically designed to mask a parking lot or a parking structure from a frontage.

Lot line: The legal boundary line of a parcel of land.

Pedestrian easement: A legally recorded easement granted to the city for use by the general public.

Permittee: A person issued a street furnishing, projecting sign, or sidewalk sign permit.

Principal building: The main building on a lot, usually located toward the frontage.

Private frontage: The privately held area between the frontage line and the principal building façade.

Projecting sign: A sign which projects over the public sidewalk and is supported by the wall of a building.

Property line: A recorded boundary of a plot of land.

Public frontage: The area between the curb of the vehicular traffic lanes and the frontage line.

Public street amenities include but are not limited to publicly owned signs, traffic signal poles, lamp posts, trees, landscape beds, benches, fencing, trash receptacles, kiosks, bus shelters or bike racks.

Residential: Characterizing premises available for long-term human dwelling.

Shop front and awning: A frontage wherein the façade is aligned close to the frontage line with the building entrance at sidewalk grade.

Side street: Any street adjacent to a land parcel on which a building is located other than the front street.

Street furnishings: Any privately owned item, amenity, or decoration placed in the public right-of-way or a pedestrian easement for private interests.

Substantial renovation shall be determined by the following ratios:

<u>Appraised Value of building</u>	<u>Cost of Renovation</u>
Greater than \$200,000	30%
\$100,000 to \$200,000	40%
Less than \$100,000	50%

Maintenance items such as roof repair or replacement, HVAC repair and replacement, electrical and plumbing repair, foundation stabilization, masonry repair, replacement of rotten wood, and repair of existing windows and doors that do not significantly change the architectural character of a building shall not, in and of themselves, be considered substantial renovation.

Stoop: A frontage wherein the façade is aligned close to the frontage line with the first story elevated from the sidewalk sufficiently to secure privacy for the windows.

Streetscape: The treatment of a street as it relates to pedestrian activity. This includes sidewalks, lighting, trees, pavers, and other amenities that enhance the pedestrian experience on a street.

Street screen: A freestanding wall built along the frontage line, or coplanar with the façade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

Terrace or light court: A frontage wherein the façade is set back from the frontage line by an elevated terrace or sunken light court.

Zoning Classification

The Downtown District is an overlay district and its regulations shall be applicable to each property within the district in addition to the regulations of the base R, O, C, or M District classification in which such property is located. The overlay zoning district is divided into two zones as fully described in section 28-880.16 "Downtown District Zones." The zoning classification of each property shall be designated by the base district classification plus the downtown (D) designation. For example, a property zoned C-4 within the downtown district will carry a C-4 (D1 or D2) designation.

Each project in the Downtown District shall comply with all site development standards contained in article III of this chapter for each use, and shall also comply with the following additional standards listed herein.

The establishment of the Downtown District will amend and supersede the current boundaries of the West End district and the Brazos River Corridor to the extent that said boundaries overlap.

Application of Regulations

The applicable provisions of the Code of Ordinances for each respective base district shall continue to apply to property located within the Downtown District, except as expressly supplemented or modified herein.

Zone 1, Downtown District: All regulations herein apply to this zone.

Zone 2, Downtown District: Only those provisions marked with an asterisk * shall apply to Zone 2 of the Downtown Overlay District.

The Downtown District regulations shall apply to any properties formerly located within the boundaries of any portion of the West End District or the Brazos River Corridor included within the newly established Downtown District.

***Uses**

Permitted uses and or uses allowed by special permit in the Downtown District shall be those uses specified for the base district in which a property is located, except as specified below.

In all base-zoning districts where residential uses are allowed by right, a density of 40 units per acre shall be permitted.

The following uses are specifically prohibited in the Downtown District:

- (1) HUD-Code manufactured homes.
- (2) Dispensing or serving of food and beverages directly to consumers in motor vehicles, except where property has frontage on Interstate 35.
- (3) Television and radio broadcasting towers.
- (4) Automobile sales (except where no outside display or storage occurs.)
- (5) Repair and servicing of automobiles and other passenger vehicles (except where no outside repair or storage occurs).
- (6) Automobile rental (except as incidental to primary use).
- (7) Automobile car-washing establishments (except as incidental to primary use).
- (8) Heavy machinery storage, rental, sales and repair.
- (9) Machinery, farm sales, repairing and overhauling.
- (10) HUD-Code manufactured home sales.
- (11) Warehouse storage.
- (12) Lumberyards.
- (13) Roofing sales and service.
- (14) Contractor's shop.
- (15) Tire retreading, recapping or rebuilding.
- (16) Self-storage warehouses.
- (17) Motor freight and truck service terminals.
- (18) Sand and gravel extraction except from the bed of the river.
- (19) Junkyards, automobile wrecking yards, salvage yards and scrap operations.
- (20) Storage or refining of petroleum or its products.
- (21) Sexually-oriented businesses.
- (22) Outside open storage (screened and unscreened).
- (23) Building materials, retail.
- (24) Recreation vehicle (RV) parks.
- (25) Well drilling shop.

Building Design Specifications

Awnings. Awnings may *encroach* over the sidewalk to within four feet of the curb depending on the proximity to features such as traffic signals, lampposts, and street trees and must clear the sidewalk vertically by a minimum of eight feet, subject to approval from building official.

***Boarded-up windows.** Boarded-up windows on the first floor of a building *façade* that fronts on a street are prohibited, except as follows:

- (1) Buildings that have been determined to be unrepairable and tagged accordingly by inspection services.
- (2) Time of compliance:
 - a. Existing buildings with boarded-up windows on the first floor will have six months from the effective date of this division to comply with the regulations herein.
 - b. Existing buildings with boarded-up windows along Elm Avenue and Bridge Street will have 24 months from the effective date of this division to comply with the regulations herein
- (3) Nothing in this section shall preempt enforcement of any city ordinance or state law with respect to the regulation of unsafe structures

Building height. The minimum height for a one-story building shall be 22 feet. The maximum building height for a building on an *infill lot* shall be no more than 3 stories above the tallest building on the *block-face*. The interior height of the first floor of a *commercial* use structure shall be a minimum of 12 feet from finished floor to finished ceiling for any new buildings and/or buildings undergoing *substantial renovation*.

Building set back. The *build-to-line*, or distance between the *property line* and the building, shall be zero (0) for 80% of the width of the building's *façade* on a *front street* and for 30% of a building's *façade* on a *side street*. Exceptions to this requirement may be permitted where angle parking adjoining the street is constructed on private property, subject to the approval of the directors of planning and engineering services. In case of an *infill* lot, structures shall match the *build-to-line* of one of the existing adjacent buildings.

Building width. The maximum building width for an *infill lot* shall be no wider than the widest existing building on the *block-face*, except in circumstances where the enforcement of this provision may result in the creation of unusable land parcels.

Façade glazing. All *façades* shall be glazed with clear glass at a rate of no less than 30 per cent on the ground floor for any new buildings and/or buildings undergoing *substantial renovation*.

Ground floor finish level. The maximum ground floor finish level for a *commercial* use structure shall be 6 inches above the sidewalk, except that properties located in the

floodplain are subject to additional requirements. The maximum ground floor finish level for a **residential** use structure shall be 36 inches above the sidewalk, except where topography of a lot requires lower/higher finish floor levels.

Loading and service entries. No loading and service entries may face the streets for new buildings and buildings undergoing **substantial renovation**.

*Metal buildings. Pre-engineered metal buildings shall not be permitted.

Primary entrance location. The primary entrance location shall be on the front building **façade** facing the street for any new buildings and/or buildings undergoing **substantial renovation**.

Private frontage. **Private frontage** may be in the form of a **Terrace or Dooryard, Forecourt, Stoop, Shopfront & Awning, Gallery or Arcade**.

Infill Lots

All development on infill lots shall comply with the Downtown Façade Design Standards Manual. Where there is a conflict between the provisions of this ordinance and the Downtown Façade Design Standards Manual, the Downtown Façade Design Standards Manual shall prevail in the restoration of an architecturally or historically significant structure. The principal entrance of an infill development must be located on the street which a majority of the existing buildings on a block-face have their principal entrance.

Parking and Access

*Parking requirements for renovation of existing buildings shall be reduced by 20% of the base district requirement.

Off-street parking shall be located behind buildings, underground, or in a parking structure subject to the following requirements: An existing parking lot(s) that serves a building that is undergoing **substantial renovation** must be substantially screened from view of the street by a 3.5 to 8 foot **street screen**. Openings in the **streetscreen** shall be no wider than 6 feet to allow for pedestrian access. Landscaping and/or fencing may be substituted for a **street screen** based on compatibility with existing development on the street and /or the visibility of the landscaping and/or fencing from the public right-of-way subject to the approval from the city building official.

*Parking structures fronting on streets shall have **linear buildings** lining design on the first story.

Curb cuts shall be minimized and concentrated at mid-blocks or off of alleys.

Additional curb cuts shall not be permitted along Austin Avenue between 3rd and 9th Streets.

***Signage**

The following signs shall be permitted within the Downtown Overlay District:

- (1) The national or state flag, insignia, legal notices, or fundamental directional or traffic signs which are legally required or necessary to essential functions of government agencies.
- (2) Monument type signs are permitted subject to the following requirements: The sign must be on the same lot as the primary structure; The area of the sign shall be a maximum of 24 sq. ft. for lots with up to 150 ft. of frontage on a public street and 48 sq. ft. for lots having more than 150 ft. of frontage; The signs shall not encroach into public right-of-way.
- (3) Banners, pennants, balloons or searchlights are permitted subject to the following requirements: Signage is permitted for a period not to exceed ten days for special events; The total number of days for which permits may be issued within one year shall not exceed 40 days; A written sign permit for temporary use shall be obtained from the building official.
- (4) Banners which are incorporated into the architectural design of the building or site.
- (5) Banners on light standards located on public property subject to approval from the city manager's Office or his/her designee.

On-premise signs shall be limited to one attached sign per building wall for each occupant or use on the premises subject to the following:

- (1) The cumulative size of all signs may not exceed 10 per cent of the wall area.
- (2) Painted signs that consist of at least 35 per cent graphic art versus lettering may cover up to 30 per cent of a blank side or rear wall.
- (3) Existing or replicated signs of historic or architectural significance shall be exempt from these provisions.

Sidewalk signs are permitted subject to the following requirements:

- (1) The sign must be located on the sidewalk directly in front of a building that is built to the property line.
- (2) The sign must be transportable and displayed at a designated location on the sidewalk only during the hours that the business it advertises is open to the public.
- (3) The sign must not create a sight obstruction that poses a safety problem for vehicles and/or pedestrians.
- (4) The sign may not be wider than the lesser of one-third the width of the sidewalk or 30 inches.
- (5) The sign may not be more than 4 feet high.

- (6) Only one sign shall be permitted per building.
- (7) The sign shall be professionally designed and constructed. Plans for such signs shall be subject to design review and approval of planning services based on compatibility with the surrounding buildings and streetscape.
- (8) Each permittee shall be required to execute a written agreement on a form approved by the city attorney to indemnify and hold harmless the city, its employees, officers and officials against all claims of injury or damage to persons or property arising out of the placement of sidewalk signs in the public right-of-way or pedestrian easement.

No permittee may place a sidewalk sign in the public right-of-way or pedestrian easement without having the required indemnification agreement on file with the city

Attached on-premise digital signs are permitted subject to approval of the city's building official.

Projecting signs are permitted subject to the following requirements and approval of the building official:

- (1) An eight-foot clearance is required between the lowest point of the sign and finished grade of the sidewalk.
- (2) The area of the sign(s) shall be limited to the following maximum: Buildings with 50 feet of street frontage or less shall be allowed a maximum size of 16 square feet of projecting sign(s); Buildings with more than 50 feet of street frontage shall be allowed a ratio of one-third square foot of projecting sign(s) for each foot of street frontage up to a maximum of 64 square feet.

Existing or replicated projecting signs of historic or architectural significance shall be exempt from the size requirements.
- (3) A sign 32 square feet or less shall not protrude more than four feet from the building; A sign larger than 32 square feet shall not protrude more than six feet from the building.
- (4) The sign may not extend vertically above the highest point of the building facade upon which it is projecting from.
- (5) The sign shall not exceed 30 feet above the finished grade of the sidewalk.
- (6) Each permittee shall be required to execute a written agreement on a form approved by the city attorney to indemnify and hold harmless the city, its employees, officers and officials against all claims of injury or damage to persons or property arising out of the placement of projecting signs in the public right-of-way or pedestrian easement.

No permittee may place a projecting sign in the public right-of-way or pedestrian easement without having the required indemnification agreement on file with the city

***Public Spaces**

Streetscape shall be installed along all street frontages in the overlay district subject to the following: The design shall be specific to the location of the development within the overlay; The design shall be in accordance with the Downtown Streetscape Guidelines Manual (a copy may be obtained from planning services).

Sidewalks shall be a minimum of eight feet in width or the width of the adjacent existing sidewalk if the width is greater than eight feet.

Street lighting shall be designed to be sensitive to "dark sky" principles to protect and preserve the nighttime environment through the use of outdoor lighting fixtures that minimize light pollution.

Open air vending shall be permitted subject to the provisions of Chapter 13, Article IX, Division 2 of the Code of Ordinances of the City of Waco.

***Street Furnishings**

It shall be unlawful to place street furnishings in the public right-of-way or a pedestrian easement:

- (1) Without a street furnishings permit; or
- (2) In violation of any provision of a street furnishings permit, this section, or any other applicable city ordinance or other law.

All applicants for a street furnishings permit shall apply for the permit from the inspection services department. A permit fee will be charged at time of issuing the permit. The city council shall set the fee for the permit.

To facilitate the review, the applicant shall submit a site plan describing to scale the following:

- (1) The location of existing public street amenities;
- (2) A pedestrian circulation plan;
- (3) The proposed street furnishings layout;
- (4) Detailed specifications of the proposed street furnishings necessary to adequately describe them, including design, materials, dimensions, and color schemes. Applicants may substitute color photographs for some of the specifications on the site plan where deemed acceptable by the planning services department; and
- (5) The storage location and plan for street furnishings during non-business hours.

The appropriate city departments shall review all applications. The applicant's site plan, including all components of the site plan listed in subsection (b) above shall be subject to

design review and approval by the planning services department based on conformance with this section and compatibility with the surrounding buildings and streetscape. When the review process is complete, the inspection services department will notify the applicant. Any modifications or special conditions and provisions imposed during the review shall be provided to the applicant in writing. When all conditions of the permit have been met, the permit shall be issued by the inspections services department.

Each permittee shall be required to either:

- (1) Provide to the city evidence that permittee has general liability and property damage insurance in the amount of \$100,000.00 that names the city, its employees, officers and officials as additional insureds and that protects the permittee and the additional insureds from all claims of injury or damage to persons or property arising out of the placement of street furnishings in the public right-of-way or pedestrian easement; or
- (2) Execute a written agreement on a form approved by the city attorney to indemnify and hold harmless the city, its employees, officers and officials against all claims of injury or damage to persons or property arising out of the placement of street furnishings in the public right-of-way or pedestrian easement.

No permittee may place any street furnishings in the public right-of-way or pedestrian easement without having either evidence of the required insurance or the required indemnification agreement on file with the city.

Street furnishings shall only be permitted as an accessory use to a business operating from a permanent structure located on private property. Street furnishings shall be restricted to that portion of the right-of-way or pedestrian easement immediately adjacent to and between the property line(s) of the property upon which the business is located and the curb, edge of a street or vehicle travel path, whichever is applicable. Street furnishings shall not be placed in the area of the right-of-way or pedestrian easement immediately adjacent to and between the property line(s) of adjoining properties. All street furnishings must be placed securely on the sidewalk within the right-of-way or pedestrian easement and may only occupy space in the right-of-way or pedestrian easement during permittee's business hours of operation. Street furnishings must be stored off of the right-of-way or pedestrian easement when the business is closed, but may be stored outside on the permittee's property if such storage location is approved by the city during the review process.

Pedestrian passageways must be maintained to preserve a minimum width as required under the provisions of the Americans with Disabilities Act.

No street furnishings shall be attached to any public street amenity including, but not limited to, signs, traffic signals, lamp posts, trees, benches, trash receptacles, kiosks, bus shelters, or bike racks.

Street furnishings shall not be permanently attached to the public sidewalk unless the applicant or permittee obtains an encroachment agreement with the city authorized by the city council.

Street furnishings must be properly maintained to ensure safety for the general public as well as promote the aesthetics of the permittee's business operation.

***Fences**

The use of chain link fences is prohibited.

The use of barbed wire and/or razor wire fencing is prohibited.

The following exceptions to the requirements of this section shall apply:

- (1) Chain link fences are allowed on properties abutting alleys if screened from public view by landscaping in accordance with the provisions of section 28-219(b)(2).
- (2) Barbed wire and/or razor wire fencing is allowed in the rear of a property along the property line adjacent to an alley.
- (3) All existing barbed wire and/or razor wire fencing shall have a six-month abatement period and shall be removed no later than six months from the effective date of this division.
- (4) Properties with barbed wire and/or razor wire fencing under an existing lease agreement that terminates after six months of the effective date of this division may make a written request to the building official to extend the abatement period to the end of the lease agreement.

Non conforming uses and structures

The regulations prescribed by this Downtown District shall not be construed to require changes in land use or the removal or other change or alteration of any structure not conforming to the regulations as of the effective date of this division or otherwise interfere with the continuance of any nonconforming use. All nonconforming uses shall be subject to sections 28-93 through 28-105.

All existing boarded-up windows and barbed wire and/or razor wire fences shall not be considered authorized non-conforming structures and shall comply with the abatement provisions contained in subsections 28-880.6(b) and 28-880.12(b).

Permits

No change in the use of land shall be made and no structure shall be erected or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the chief building official. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particularity to permit it to be

determined whether the resulting use or structure would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this division shall be granted unless a variance has been approved in accordance with sections 28-93 through 28-105.

Enforcement

It shall be the duty of the city chief building official to administer and enforce the regulations prescribed herein. Applications for permits shall be made to the chief building official upon a form furnished by him or her. Applications required by this division to be submitted to the chief building official shall be promptly considered and granted or denied. Applications for action by the board of adjustment shall be forthwith transmitted by the chief building official to the city planning department.

Downtown District Boundary and Map

The Downtown District boundaries will be as follows:

(1) Zone 1 boundaries:

(i) West side of the Brazos River:

Beginning at S. University Parks Drive and the alley between Mary and Jackson Avenue west to the assumed alley between S. 3rd Street and S. 4th Street;

Thence, southeast along the alley or assumed alley between S. 3rd Street and S. 4th Street to the Webster Avenue;

Thence, west along Webster Avenue to the assumed alley between S. 5th Street and S. 6th Street;

Thence, northwest along the assumed alley between S. 5th Street and S. 6th Street to the alley between Mary Avenue and Jackson Avenue;

Thence, west along the alley between Mary Avenue and Jackson Avenue to S. 8th Street;

Thence, north along S. 8th Street to the assumed alley between Franklin Avenue and Mary Avenue;

Thence, west along the assumed alley between Franklin Avenue and Mary Avenue to S. 11th Street;

Thence, north along S. 11th Street to alley between Washington and Columbus Avenue;

Thence, east along the alley or assumed alley between Washington Avenue and Columbus Avenue to N. University Parks Drive;

Thence, south along University Parks Drive back to the beginning point at S. University Parks Drive and the alley of Mary and Jackson Avenue

(ii) East of the Brazos River:

Beginning at S. Martin Luther King Jr. Boulevard and the assumed alley between Bridge Street and Taylor Avenue east to Myrtle Street;

Thence, north along Myrtle Street to the assumed alley between Elm Avenue and Bridge Street;

Thence, east along the assumed alley between Elm Avenue and Bridge Street to Pleasant Street;

Thence, north along Pleasant Street to the Elm Avenue;

Thence, west along Elm Ave to Dallas Street;

Thence, north along Dallas Street to the alley between Elm Avenue and Tyler Street;

Thence, west along the alley or assumed alley between Elm Avenue and Tyler Street to N. Martin Luther King Jr. Boulevard;

Thence, south along Martin Luther King Boulevard back to the beginning at S. Martin Luther King Jr. Boulevard and the assumed alley between Bridge Street and Taylor Avenue.

(2) Zone 2 boundaries:

(i) West of the Brazos River

(A) Portion extending south along S. 4th & 5th Street from Webster Avenue

Beginning on Webster Avenue at alley between S. 3rd Street and S. 4th Street southeast along alley or assumed alley to the southbound frontage road of Jack Kultgen Freeway (Interstate 35);

Thence, south along the south bound frontage road of Jack Kultgen Freeway (Interstate 35) to the assumed alley between S. 5th Street and S. 6th Street;

Thence, northwest along the assumed alley between S. 5th Street and S. 6th Street to Webster Avenue;

Thence, east to along Webster Avenue back to the beginning point on Webster Avenue at the alley between S. 3rd Street and S. 4th Street.

(B) Portion extending west along Austin Avenue from 11th Street Avenue

Beginning at a point along S. 11th Street at the assumed alley between Austin Avenue and Franklin Avenue, west along the alley or assumed alley between Franklin Avenue and Austin Avenue to S. 18th Street;

Thence, north along 18th Street from the alley between Franklin Avenue and Austin Avenue to the alley between Austin Avenue and Washington Avenue;

Thence, east along the alley between Austin Avenue and Washington Avenue to N. 11th Street;

Thence, south along 11th Street back to the beginning point along S. 11th Street at the assumed alley between Austin Avenue and Franklin Avenue.

(ii) East of the Brazos River:

Beginning at a point along Pleasant Street located at the alley between Elm Avenue and Taylor Street, east along the assumed alley between Elm Avenue and Taylor Street to Rose Avenue;

Thence, north along Rose Avenue to the alley between Elm Avenue and Tyler Street;

Thence, west along the alley or assumed alley between Elm Avenue and Tyler Street to Dallas Street;

Thence, south along Dallas Street to Elm Avenue;

Thence, east along Elm Ave to Pleasant Street;

Thence, south along Pleasant Street back to the beginning at a point along Pleasant Street located at the alley between Elm Avenue and Taylor Street.

The Downtown District zone map is kept on file in the city secretary's office and is hereby incorporated by reference and made a part of this division.

****Only those provisions marked with an asterisk shall apply to Zone 2 of the Downtown Overlay District.***