

SECTION 15: SPECIAL USE REGULATIONS AND RESTRICTIONS

Section 15.01 Construction Offices (temporary)

Buildings and building material storage areas to be used for construction purposes may be permitted for a specified period of time in accordance with a permit issued by Building Inspection and subject to periodic renewal by the Inspector for cause shown. Upon completion or abandonment of construction or expiration of permit, such field offices and buildings shall be removed at the direction of the Chief Building Official or other designated person.

This ordinance shall have no effect on the continuity and enforcement of Chapter 19, Code of Ordinances, City of Harlingen, regulating the subdividing, platting and operation of Class A Mobile Home Developments and Class B Recreational Vehicle Developments in the City of Harlingen.

The location, whether permanent or temporary, of Mobile Homes, including temporary storage or parking of mobile homes shall be expressly prohibited in all residential single family, residential multi-family, offices, neighborhood services, general retail, light industry, heavy industry and not designated zoned Districts in the City of Harlingen (unless otherwise allowed under Section 5 of this ordinance as in the case of Mobile Homes displayed for sale, lease or rent on Mobile Homes sales lots and Mobile Homes as offices for Mobile Home sales lots, or Mobile Homes displayed on Mobile Home manufacturing plants). The location of Recreational Vehicles shall be permitted in accordance with Section 5 of this ordinance. The use and occupancy of Mobile Homes shall be expressly prohibited in any Not Designated zoned district or any designated district (save and except where a particular use is allowed in a specified district as provided under Section 5 of this ordinance). Any use and occupancy of Recreational Vehicles is prohibited in all zoned districts except as allowed under Section 5 of this ordinance, or as otherwise expressly allowed under the provisions of this ordinance or any other ordinance or City Code, Mobile Homes and/or Recreational Vehicles used as temporary field offices shall be allowed subject to the requirements pertaining to temporary field offices in general.

Section 15.02 Courtyards

Where an apartment building or buildings are erected so as to create inner courts, the faces of all opposite walls in such courts shall be a minimum distance of thirty (30) feet and no balcony or canopy shall extend into such courts area for a distance greater than five (5) feet.

Section 15.03 Gasoline Stations

Gasoline stations, gasoline pumps, underground tanks, and other storage and dispensation facilities are prohibited within 500 feet of any building in which public or private school classes are conducted. This measurement shall taken in a straight line measurement from the nearest property line of a property developed with a gasoline station to the nearest property line of any building in which public or private school classes are conducted. The prohibition shall not apply to the installation of such facilities within 500 feet of buildings used exclusively and solely as offices for appointive or elective school officials in which no classes are conducted. Should any dispute arise as

to the definition of "classes" as used herein, a class shall mean the gathering of five or more public or private school students for the purpose of receiving instruction from a teacher or instructor as designated by the Harlingen Consolidated Independent School District.

Gasoline service station pump islands may not be located nearer than eighteen (18) feet to the front property line.

Section 15.04 Home Occupations

A home occupation is an occupation customarily carried on in the home by a member of the occupant's family, without the employment of additional persons, without the use of an on-premise sign to advertise the occupation, without offering any goods for sale on the premises and which does not create obnoxious noise or other obnoxious conditions to abutting residential property, such as odor, increased traffic congestion, light or smoke.

A home occupation may advertise by phone number, but without the use of the physical address. No hazardous chemicals shall be stored and/or used in the process of the home occupation.

A home occupation must maintain the residential look of the structure.

A home occupation for child or adult daycare must meet the above requirements and shall accommodate no more than six children or adults.

Section 15.05 Mobile Vendors and Special Events

All vendors who wish to market their wares in Harlingen for a temporary time must meet the following requirements:

1. NO VENDING WILL BE ALLOWED FROM A VACANT LOT (except seasonal Christmas tree and Halloween pumpkin sales for a period not to exceed 30 days and only with the permission of the lot owner.)
2. All mobile vendors operate with equipment and/or displays that can be entirely removed from the site at the end of each day of operation.
3. All mobile vendors shall have permission from the owner of record of the property on which the use is to be located where an already established legally conforming business use exists to allow the vendor to share the parking and restroom facilities provided and maintained by the main business use on the lot.
4. All mobile vendors shall fill out completely a "Mobile Vendor's Permit" as seen in Appendix G and pay a fee as established in Section 3.08.

5. The Planning Department (and other departments as necessary) shall inspect the site for compliance to normal regulations such as health requirements for a food vendor, parking requirements for the total site.
6. Once issued, the maximum length of time allotted by a “Mobile Vendor’s Permit” shall be no more than one (1) year from the issuance date.
7. A “Mobile Vendor’s Permit” may be renewed any number of times by following the specifications set forth in this section as long as the property owner is willing to continue to allow the use of bathroom and parking facilities and both businesses continue to be in compliance with all required ordinances.
8. Temporary Mobile Vendors which market their wares at Special Events shall be allowed without a “Mobile Vendor’s Permit” for a period not to exceed ten (10) nonconsecutive days per year. Special Events shall include, but not be limited to festivals, charity events, carnivals or other recognized and organized public gatherings. (Examples include Jackson Street Jubilee, Riofest, The Birding Festival, carnivals, circuses, etc.) This section shall not affect the required compliance with other sections of this or other ordinances.

Section 15.06 Planned Development Districts - Purpose and Permitted Uses

The purpose of the Planned Development District is to:

- (a) Provide flexibility in planning for development of medium and large-scale developments incorporating a single type of a variety of residential and related uses that are planned and developed as a unit. Such developments may consist of individual lots or may have common building sites; and
- (b) Establish a procedure for the development of parcels of land under unified control in order to reduce or eliminate the inflexibility that would otherwise result from strict application of land use standards and procedures designed primarily for individual lots; and
- (c) Ensure orderly and thorough planning and review procedures that will result in quality urban design and the creation and improvement of common open space and pedestrian circulation in residential areas; and
- (d) Encourage mixed use and avoid monotony in large developments by allowing greater freedom in selecting the means to provide access, light, open space and amenities; and
- (e) Provide for flexibility in the strict application of certain of the land use regulations, development regulations, and standards found in the base zoning

The City Commission of the City of Harlingen, Texas after public hearing and proper notice to all parties affected and after recommendation from the City Planning and Zoning Commission, may authorize the creation of Planned Development Districts of a designated size of five acres or more, permitting but not limited to, the following uses:

- (a) Shopping center;
- (b) Residential development, including mobile homes with restricted neighborhood and related commercial, within one overall Planned Development District subject to review and approval by the Planning and Zoning Commission and the City Commission,

- (c) Medical center and hospital;
- (d) Civic center and community center;
- (e) Office center;
- (f) Recreation center;
- (g) Industrial center;
- (h) A combination of any of the developments listed in (a) through (g)
- (i) Any use so designated as permissible in Section 5.

REQUIREMENTS OF PLANNED DEVELOPMENT DISTRICT

In establishing a Planned Development District in accordance with this section, the Planning and Zoning Commission and City Commission shall require a comprehensive site plan of the development. Such site plan shall be approved and filed as part of the ordinance prior to the issuance of any building permit in a Planned Development District. Such required plan and ordinance shall show building footprints, locations, and proposed heights (non residential uses only); maximum buildable area or building setbacks (for residential uses); proposed uses; ingress and egress; public or private streets or drives with adequate right-of-way to conform to the thoroughfare plan of the City of Harlingen; sidewalks; utilities; on-site drainage; parking spaces (non residential uses only), yards and open spaces; screening walls or fences; Other development and protective requirements considered necessary to create a reasonable transit on to and protection of the adjacent property.

PLANNED DEVELOPMENT DISTRICT - AMENDMENT TO ORDINANCE

Every Planned Development District shall be approved under the provisions of this ordinance as applicable to the property involved. In approving the Planned Development District, the City Commission may impose conditions relative to the standard of development and such conditions shall be complied with before a Certificate of Occupancy is issued for the use of the land or any structure which is part of the Planned Development District and such conditions shall not be construed as conditions precedent to the approval of the zoning amendment, but shall be construed as conditions precedent to the granting of a Certificate of Occupancy.

SECTION 15.07: HARLINGEN’S DOWNTOWN DISTRICT OVERLAY

1. Purpose

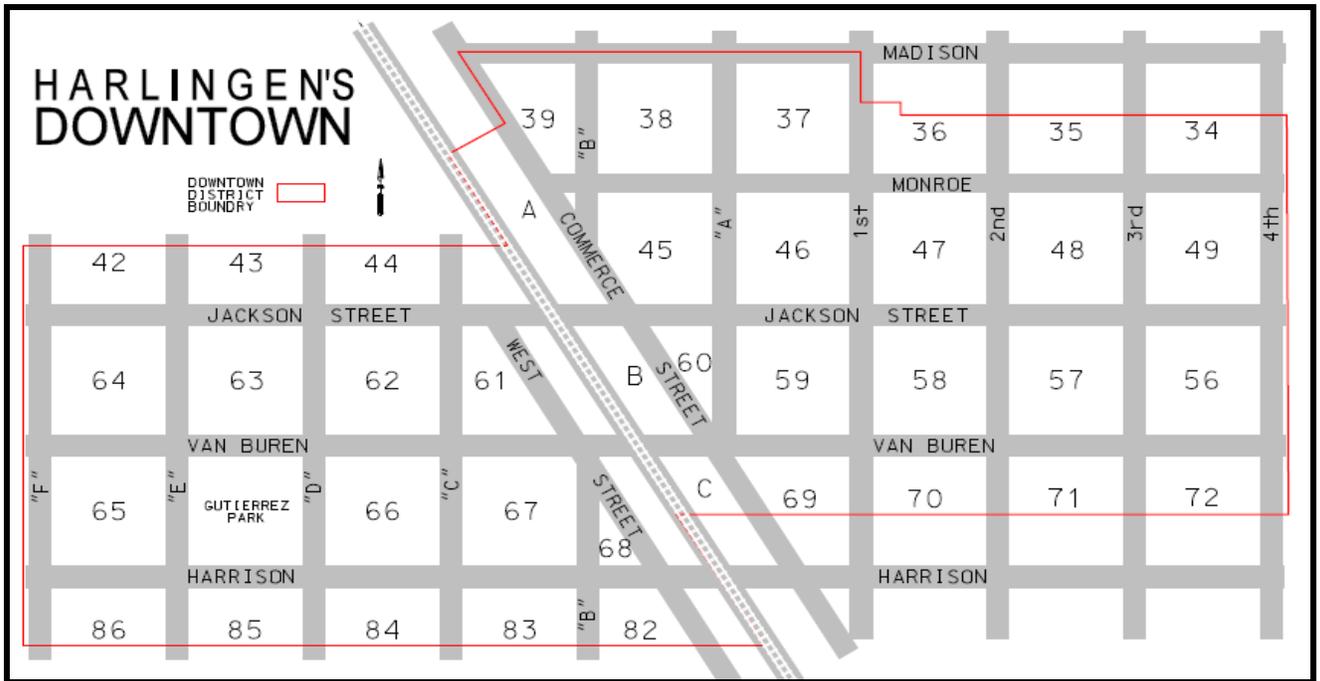
The Harlingen’s Downtown District Overlay is hereby established to help achieve specific goals as laid out in several City plans including the Comprehensive Plan, the Harlingen First Blueprint for Economic Vitality, and The Downtown Improvement Service Plan adopted by City Commission and as called out below:

- Enhance safety in the district;
- Recognize the importance of a vital economy especially in a downtown district;
- Support the creation of jobs;
- Minimize the subjectivity of project selection;

- Prevent encroachment of incompatible uses that would disturb the achievements intended to be accomplished;
- Enhance and preserve buildings of local historic significance and heritage;
- Establish a unifying theme that respects the Downtown’s unique qualities, enhances its historical and cultural character, and promotes aesthetic and functional design;
- Enhance landscaping for public and private open spaces to provide shade, comfort, and aesthetic quality;
- Encourage pedestrian movement and connections;
- Develop a venue for cultural arts and entertainment.

2. Description and Map of District

The Downtown District boundaries are as follows: From the alley immediately south of Harrison Street at the railroad tracks west to the centerline of “F” Street, then north to the alley immediately north of Jackson Street, then east to the east side of the railroad tracks, north to the north lot line of Lot 18 east to the centerline of Commerce Street, then north to the centerline of Madison Street, then east to the centerline of First Street then south to a point in Lot 1, 100 feet south of north lot line then east to the middle of Lot 2, then south to the alley immediately north of Monroe Street, then east along the alley to the centerline of Fourth Street, then south to the alley immediately north of Harrison Street, then along the alley west to the railroad tracks, then south along the railroad tracks to the alley immediately south of Harrison Street at the railroad tracks, as displayed below:



3. Definitions

- A. Alcohol Establishments – any business serving alcohol as its primary product (meaning that more than 50% of its sales are derived from alcohol).

- B. Block – 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.
- C. Harlingen’s Downtown Board (HDB) – A twelve member board consisting of owners or representatives of owners of real property within the District. The Mayor and each City Commissioner shall each appoint one member from the La Placita geographic area (described as west of the railroad tracks) and one member from the Downtown Improvement District geographic area (described as east of the railroad tracks), as established in Ordinance #05-16, Section III.
- D. Historical Significance and Heritage – Any structure which contains unique architectural features which are attributable to the specific time period and cultural environment during which the District was formed.
- E. Obsolete Sign – a sign that advertises a business no longer in existence, or one that is illegible, or in disrepair.
- F. Overlay District or Zone – an additional level of zoning requirements that is superimposed over the existing zoning in the area.
- G. Site Plan – 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.

4. 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, façade, etc.) 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 10 working days or will be deemed automatically approved.
- d. Projects subject to “a.” and/or “b.”, above, that are denied by the HDB for non-compliance with Section 15.07, may be appealed by the applicant to the City Commission within 10 days of such denial. The City Commission shall, by majority vote, approve or deny such projects based on compliance with Section 15.07.

- e. Standards for approval are contained in Section 15.07(10). (This shall include condemnation proceedings initiated by the City.)
- f. Minor deviations from the design standards contained herein may be approved by the HDB if the proposed project is otherwise in compliance with said design standards and the proposed deviations will not be contrary to the general intent of this Section 15.07.
- g. Approval Not Required – Nothing in this Section 15.07 shall be construed to prevent the ordinary maintenance or repair of any exterior feature(s), including but not limited to broken window glass, in that such action is required to secure the building and/or to mitigate unsafe conditions, and does not involve a change in design, materials, or original appearance.

5. Variance Procedures

Variance procedures are defined in Section 18.04, Variance Application Procedure.

6. Specific Use Permits

- a. No Specific Use Permit application for this district shall be heard by the City Commission until it has received a recommendation from the Harlingen’s Downtown Board and the Planning & Zoning Commission.
- b. No Specific Use Permit application for any Adult Business or Sexually Oriented Business in this district will be considered, with the exception of Specific Use Permits for bars/lounges in accordance with paragraphs “7.” And “8.”, below.

With the above conditions excepted, Specific Use Permits are obtained as specified in Section 17.05 of the Zoning Ordinance.

7. Alcohol Regulations

- A. 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 Harlingen’s Downtown Board. (Said event must be approved by the appropriate City departments and Harlingen’s Downtown Board.) In the case of an event, liquor consumption shall be limited to the area designated for the event.
- B. No minors (younger than 21) will be allowed in bar/lounges without an accompanying parent or legal guardian.
- C. Video surveillance shall be provided at all bar/lounge establishments.
- D. Security personnel must be provided at all bar/lounge establishments during peak hours of operation (Thursday – Saturday, 9:00 p.m. – 2:00 a.m.).
- E. Adequate lighting must be provided around all bar/lounge building entrance/exits, and on-site parking areas.

8. Texas Alcohol Beverage Commission (TABC) Liaison

The Planning Director 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:

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 premise, 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.

Any establishment denied the renewal of a City liquor permit due to meeting or exceeding the above criteria will require a new Specific 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).

A 50-foot spacing is required between any existing bar/lounges and any new bar/lounges being established or re-established. Such distance shall be measured by shortest line distance from property line to property line.

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

Appeal Process

Any person(s) who are denied renewal of a liquor license due to this ordinance 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.

9. Maintenance and Upkeep

In order to accomplish the intent of this ordinance, 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:

- Broken windows or glass;
- Crumbling, broken or loose materials such as paint, bricks, paneling, etc.;

- Deteriorated, ineffective, or missing portions or entireties of any exterior wall, partition, or roof;
- Accumulations of rubbish or debris;
- Obsolete signs (as defined in this Ordinance);
- Residual surface damage, scaring, 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;
- Incomplete exterior alterations, painting or other surface repairs and replacements;
- Other conditions as defined in the Unsafe Building Ordinance(Ord. #74-12 as amended)

10. Design Standards

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.

A. Storefronts

Improvements to buildings are encouraged through incentive programs for Storefronts, Signs, and Fire Safety enhancements.

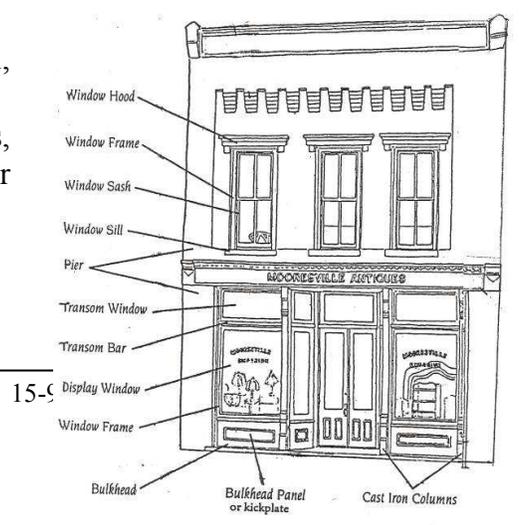
Owners of one-story buildings, which are not part of a larger structure and therefore are more easily overwhelmed by larger neighboring buildings, should relate to the buildings on either side of them. The most effective approach for buildings owners in this situation is to use similar storefront and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

Materials

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

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

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



Not allowed:

- Fake bricks
- Stone and gravel aggregate materials
- Reflective windows
- All glass fronts
- Sheet metal
- Aluminum, Composite, or Plastic Siding
- Mirrored Glass
- Metal or prefabricated buildings

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 façade as well as relate the building to others on the block. The following criteria must be adhered to when considering color selection:

- coordinate with other colors on the block
- the orientation of the building affects the appearance of colors
- historically certain color types were associated with architectural styles
- colors must be used to highlight architectural details
- no more than one vivid color per building
- no more than three colors shall be used on one building
- base color for wall surfaces and storefront piers
- major trim color for cornices, window caps, window frames, columns, bulkheads
- minor trim color for window sashes, doors, storefront frame, other small details
- Bright and/or fluorescent colors are prohibited.

Windows

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

- The original shape of the window as well as the original number and arrangement of panes shall be maintained;
- Shutters, unless appropriate to the style of the building, are not allowed;
- New window openings are not allowed unless they match the existing window configuration and their placement is consistent with the existing openings;
- 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;
- Burglar bars may not be installed on the exterior of windows or doors facing a street;
- 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.

- Mechanical devices such as air conditioners or exhaust vents shall not be placed in storefront windows.

B. 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.

The following standards apply to awnings and/or canopies:

- Open air canopies or awnings of any type adjacent to or facing a street are prohibited;
- Street level awnings or canopies shall be no less than 8 feet above the sidewalk;
- No portion shall extend closer than two feet to the face of the curb line and should project out 4-6 feet from the building, but not farther than 2/3rds the distance from the building to the curb
- Only weather resistant canvas, vinyl, or standing seam metal are allowed (no wood or sheet metal);
- All framing materials shall be steel or aluminum;
- Must be attached directly to the building;
- The shape must relate to other awnings and/or canopies on the same block. Recommended styles include standard, convex, dome, bullnose, concave, and marquee (see illustration).

Not Allowed:

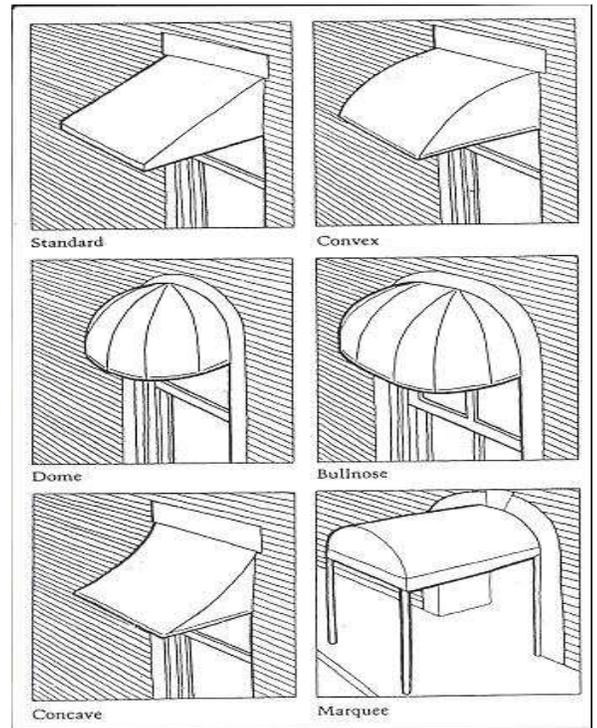
- sloped and/or slatted aluminum;
- mansard; awnings
- Wood, sheet metal, plastic, or fiberglass.

C. Signs

All signs shall be subject to building permits and review as provided in the City of Harlingen 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 are allowed.

Signs that are painted on the building shall be approved by the HDB prior to commencement of such painting.

General Sign Guidelines:

- No new off-premise signs, including billboards, are allowed;
- Signs are permitted on awnings provided they are painted, printed, or sewn onto the fabric
- 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;
- Signs cannot obscure or destroy architectural detail on the building;
- Rooftop signs are not allowed.
- Window signs shall encompass no more than 30% of the total glass area, not including any neon outlining of the glass;
- 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 one and one-half (1.5). Illustrative example: A building at 123 Anywhere Street has fifty (50.0) feet of building frontage along Anywhere Street (i.e. it is fifty feet wide along Anywhere Street). The maximum available area for all signs on any particular building face shall not exceed seventy-five square feet (50 multiplied by 1.5).

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.

D. Other Exterior Elements

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 the City of Harlingen Zoning Ordinance Section 7.03.

Walkways/Sidewalks

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

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.

11. New Construction

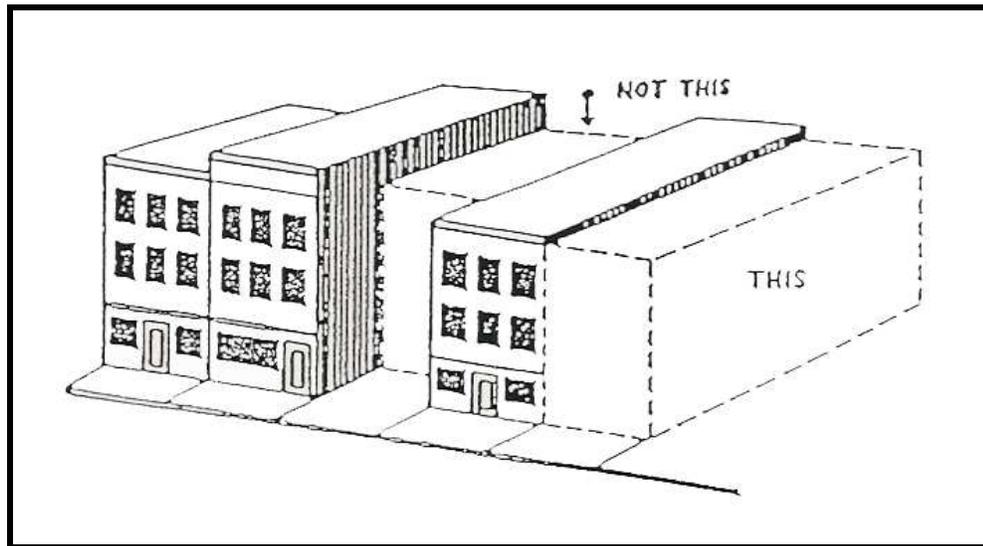
Downtown buildings are situated in one of two arrangements relative to adjacent surroundings: hereinafter called either “infill buildings” or “stand-alone buildings” and are defined as follows:

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

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.

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.

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.)



All the requirements of this section applicable to any whole building new construction and replacement of existing buildings shall apply equally to other actions including the following:

- Construction of additions onto, over or about the street-side fronts of any existing stand alone building.

- Partial building demolition and repair or replacement of building structural members at the street-side front(s) of any existing building.

12. Sidewalk Displays

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.

The permit review process will be overseen by the HDB or a sub-committee 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.

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

Section 15.08 Bed and Breakfast Businesses in Historically Significant Buildings

The Planning and Zoning Commission and City Commission, through review and approval of a specific use permit (SUP) as defined in Section 17.05 herein, may allow for additional accessory social event type uses (weddings, receptions, etc.) in addition to the primary Bed and Breakfast use, subject to the following standards:

1. The building containing the subject Bed and Breakfast use must be of historical significance; and
2. Off-street parking is available for the secondary social event type use(s) in accordance with the city's standard or as modified through the approval of the SUP; and
3. Social events allowed through the approval of the SUP shall not exceed 40 attendees; and
4. Any kitchen must comply with the City's standard for commercial kitchens; and
5. Commercial water, sewer, and garbage collection fees will apply to the subject site; and
6. Compliance with the City's building and fire codes is required as applicable to the use(s), occupancy, and/or condition of the subject building(s); and
7. Compliance with The Americans with Disabilities Act of 1990; and
8. The SUP may also regulate, but is not limited to, the following: noise, frequency of events, hours of events, any other situation that may adversely affect the residential character of the surrounding neighborhood.

Section 15.09 Airport Overlay District Regulations

Section 15.091 Land Use Zoning Regulations for Valley International Airport

A. DEFINITIONS

For the purposes of this Chapter, the following terms, phrases, words, and their derivatives shall have the meaning ascribed to them in this section;

1. AIRPORT: Valley International Airport located in Harlingen, Texas.
2. AIRPORT OVERLAY ZONING DISTRICTS: The areas of land use within the Controlled Area of the Airport and within the 65 and Greater Ldn contours of the Airport as established in the Federal Aviation Administration, FAR Part 150 Study and attached as Exhibit A.
3. BOARD OF ADJUSTMENT: The Harlingen Zoning Board of Adjustment as set out in the Harlingen Zoning Ordinance.
4. CENTERLINE: A line extending through the midpoint of each end of a Runway.
5. ELEVATION, AIRPORT: The established elevation of the highest point on the usable Landing Area measured in feet from mean sea level which is 35 feet above mean sea level.
6. HAZARD, AIRPORT: A Structure or object of natural growth that obstructs that air space required for the taking off, landing, and flight of aircraft or that interferes with visual, radar, radio, or other systems for tracking, acquiring data relating to, monitoring, or controlling aircraft.
7. HAZARD AREA, AIRPORT: Any area of land or water upon which an Airport Hazard might be established if not prevented as provided in this Chapter.
8. LDN: See Yearly Day-Night Average Sound Level.
9. LANDING AREA: The surface area of the Airport used for the landing and taking off of aircraft.
10. LAND USE, COMPATIBLE: The use of land adjacent to the Airport that does not endanger the health, safety, or welfare of the owners, occupants, or users of the land because of levels of noise or vibrations-or the risk of personal injury or property damage created by the operations of the Airport, including the taking off and landing of aircraft.
11. NOISE LEVEL REDUCTION (NLR): The reduction of outside noise transmitted inside a structure achieved through the incorporation of noise attenuation into the design and construction of the structure.
12. STRUCTURE: An object, including a mobile object, constructed or installed by one or more persons and includes, but is not limited to a building, tower, cranes, smokestacks, earth formation, overhead transmission lines.

- 13. TREE: Any object of natural growth.
- 14. YEARLY DAY-NIGHT AVERAGE SOUND LEVEL (Ldn): The 24-hour average sound level in decibels, for the period from midnight to midnight, obtained after the addition of ten decibels to sound levels for the period between midnight and 7:00 a.m. and between 10:00 p.m. and midnight (local time) as averaged over a span of one year. A mathematical definition of Ldn can be found in Federal Aviation Regulation Part 150 on file in the Planning Department of the City of Harlingen.

B. GOVERNING AUTHORITY; ADMINISTRATION AND ENFORCEMENT

In accordance with Chapter 241, Texas Local Government Code, the Planning and Zoning Commission shall act as the Airport Zoning Commission and the Harlingen City Commission shall act as the Airport Zoning Board.

C. ADMINISTRATION AND ENFORCEMENT

It shall be the duty of the Planning Director and Chief Building Official in conjunction with the Director of Aviation to administer and enforce the regulations prescribed herein. Applications for permits shall be made to the Chief Building Official. Applications for variances shall be made to the Director of Planning and may be consider and granted or denied by the Zoning Board of Adjustments.

The Planning Director shall, when directed by the Airport Zoning Board, initiate in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this Chapter or of any order ruling made in connection with its administration or enforcement.

D. AIRPORT OVERLAY ZONES ESTABLISHED

The prevention of the establishment of incompatible land use on properties adjacent to the Airport are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land. Therefore, for the purpose of regulating the development of noise sensitive land uses to promote compatibility between the Airport and the surrounding land uses, to protect the Airport from incompatible development and to promote the health, safety, and general welfare of property users, the Controlled Area of Valley International Airport is divided into three (3) Airport Overlay Zoning districts. The three (3) Airport Overlay Zoning districts established herein shall be known as:

Abbreviated Designation	Zoning District Name	Ldn Designation
AO-1	Airport Overlay District-1	65 through 69 Ldn contour
AO-2	Airport Overlay District-2	70 through 74 Ldn contour
AO-3	Airport Overlay District-3	75 Ldn and greater

E. AIRPORT OVERLAY ZONING DISTRICT MAP

1. The boundaries of the Airport Overlay Zoning Districts set out herein are delineated upon the Airport Overlay Zoning District Maps of the City of Harlingen, said Airport Overlay Zoning District Map being adopted by reference and made a part of this Chapter as fully as if the same were set forth herein in detail.
2. An official copy of the Airport Overlay Zoning District Map dated November 1992, reflecting the boundaries of the Airport Overlay Zoning Districts is hereby adopted; and the Mayor and City Secretary are authorized to sign and attest the map as the Airport Overlay Zoning District map of the City of Harlingen, a copy of which shall be incorporated into the official Zoning Map of the City. Map copies shall be filed as follows:
 - (a) One (1) copy shall be filed to permanent record as part of this Chapter in the office of the City Secretary.
 - (b) One (1) copy shall be filed in the office of the Director Planning.
 - (c) One (1) copy shall be filed in the office of the Airport Manager.

F. AIRPORT OVERLAY ZONING DISTRICT BOUNDARIES

1. The Airport Overlay Zoning District boundary lines shown on the official Airport Overlay Zoning District Map shall be located and delineated along contour lines established in the Federal Aviation Administration FAR Part 150 Study. Where uncertainty exists as to the boundaries of the Airport Overlay Zoning Districts as shown on the official maps, the following rules shall apply
 - (a) Boundaries shall be scaled from the nearest physical feature shown on the map.
 - (b) Boundaries may be scaled from the nearest platted lot line as shown on the map.
 - (c) Distances not specifically indicated on the original Airport Overlay Zoning District Map shall be determined by a scaled measurement on the map.
2. Where physical features on the ground differ from the information shown on the Official Airport Overlay Zoning District Map or when there arises a question as to how or where a parcel of property is zoned and such questions cannot be resolved by the application of Section G herein, the property shall be considered to be classified as the more restrictive Airport Overlay Zoning District.
3. Where a parcel of land lies within more than one (1) Airport Overlay Zoning District, the zone within which each portion of the property is located shall apply individually to each portion of the development.

G. USE OF LAND AND BUILDINGS

1. Within the Airport Overlay Zoning Districts as defined herein, no land shall hereafter be used and no structure or other object shall hereafter be erected, altered, converted,

or modified other than for existing structures which have non-conforming status or for those compatible land uses permitted by underlying comprehensive zoning districts, as specified in the Harlingen Zoning Ordinance (No. 97-35) as amended. Additional land uses are prohibited in the Airport Overlay Zoning Districts, regardless of underlying zoning, as set forth in the following land use table.

**LAND USE TABLE
YEARLY AVERAGE DAY-NIGHT
SOUND LEVEL (Ldn) IN DECIBELS**

LAND USE	AO-1 (65-69Ldn)	AO-2 (70-74Ldn)	AO-3 (75&Up)
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RESIDENTIAL USES:

One Family Housing Unit (Detached)	No	No	No
One Family Housing Unit (Attached)	No	No	No
Two Family Housing Unit	No	No	No
Mobile Home	No	No	No
Mobile Home Park	No	No	No
Mobile Home Subdivision	No	No	No
Travel Trailer Park		No	No

RECREATION / ENTERTAINMENT USES:

Amusement, Commercial (Indoor)	No	No	No
Amusement, Commercial (Outdoor)	No	No	No
Carnival or Circus (Temporary)		No	No

LAND USE	AO-1 (65-69Ldn)	AO-2 (70-74Ldn)	AO-3 (75&Up)
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Country Club (Private)		No	No
Day Camp for Children		No	No
Playfield or Stadium (Public)		No	No
Theater or Playhouse in Building			No
Theater (Drive-in)		No	No

EDUCATIONAL AND INSTITUTIONAL USES:

Art Gallery or Museum			No
Church or Rectory		No	No
College or University		No	No
Convent or Monastery		No	No
Community Center (Public)		No	No

Day Care Center	No	No	No
Public or Denominational Day Care	No	No	No
Family Care Facility for Children	No	No	No
Group Care Facility for Children	No	No	No
Fraternity, Sorority, or Membership Assoc.		No	No
Hospital Acute Care	No	No	No
Hospital Chronic Care	No	No	No
Institution of Religious, Charitable or Philanthropic Nature	No	No	No
Halfway House for Mentally Retarded Adults	No	No	No
Institution for Alcoholic, Narcotic, Psychiatric Patients	No	No	No
Mental Health Center or Hospital	No	No	No
Library (Public)	No	No	No
Nursing Home or Residence for Aged	No	No	No
School, Private, Elementary or Secondary	No	No	No
School, Public, or Denominational	No	No	No

2. Where any use of prohibited land and buildings set forth in Section H-1.(a) conflicts with any use of land and buildings set forth in Zoning Ordinance No. 97-35, as amended, as an allowed use on the Zoning District Map, this-Chapter shall apply.
3. Where the official Airport Overlay Zoning District Map indicates an area as being outside the limits of the City of Harlingen, the prohibited uses, as set forth in Section H-1.(a), shall apply as though the area is within the City of Harlingen and no Structure or object shall be erected, altered, converted, or modified except to comply with uses not prohibited by this Chapter.
4. Section H does not apply to property within the official boundaries of the Airport.
 5. As an accessory use to an office, commercial or industrial development located on a tract of land consisting of twenty (20) or more acres in size, one (1) dwelling unit may be located on the site providing the property owner dedicates, in advance of receiving a building permit, an aviation clear zone easement to the City of Harlingen. The purpose of this easement shall be to establish a maximum height restriction on the use of property and to hold the public harmless for any damages caused by noise, vibration, fumes, dust, fuel, fuel particles or other effects that may be caused by the operation of aircraft landing at, taking off from, or operating on or at, public airport facilities.

H. ADDITIONAL LAND USE REGULATIONS

1. Within the City of Harlingen, all regulations in the Zoning Ordinance (No. 97-35), as amended, shall apply to the development of all property covered by the Airport Overlay Zoning District Map based on the underlying zoning of the property.
2. On property within the Airport Overlay Zoning District Map Jurisdiction, but outside the city limits of the City of Harlingen, Section H-1(a) shall apply to the property to

establish the prohibited uses, but no other provisions of the Zoning Ordinance (No. 97-35), as amended, shall apply to this property.

3. Notwithstanding any other provisions of this Chapter or other Chapter of the City of Harlingen Municipal Code, no use may be made of land, water, or Structures within any zone established by this Chapter in such a manner as to create electrical interference with navigational signals or radio communication between the Airport and aircraft, make it difficult for pilots to distinguish between Airport lights and others or result in glare in the eyes of pilots using the Airport; impair visibility in the vicinity of the Airport; create bird strike hazards, or otherwise in any way endanger or interfere with the landing, taking off, or flights operations of aircraft utilizing the Airport.
4. When a subdivision plat or building permit is required for any property within an Airport Overlay Zoning District for Valley International Airport, the property owner shall dedicate an aviation hazard easement to the City over and across that property. This easement shall establish a height restriction on the use of the property and hold the public harmless from any damages caused by noise, vibration, fumes, dust, fuel, fuel particles, or other effects that may be caused by the operation of aircraft taking off, landing, or operating on or near Valley International Airport.

I. NOISE ATTENUATION REQUIREMENTS

1. Noise Zones.

- (a) For the purpose of this Chapter, certain areas within the City of Harlingen Boundaries are established as zones subject to significant noise from aircraft. These zones shall be known and designated 65 through 69 Ldn and the 70 and Greater Ldn noise zones; both areas being known on the Airport Overlay Zoning District Map.
- (b) A Structure which is located partly within a noise zone and partly outside, or located partly within one or more noise zones shall be considered to be entirely within the more restrictive of the noise zones within which it is located.

J. CERTIFICATION OF PLANS

1. The Building Official shall not issue a building permit for any Structure within the zones set forth in Section J unless the plans and specifications accompanying the application for said building permit have been certified by a Registered Professional Engineer or Registered Professional Architect in the State of Texas as meeting the Noise Level Reduction (NLR) standards specified in Section L.
2. The Registered Professional Architect or Engineer must certify that said plans and specifications shall reduce the noise impact from outdoor to indoor noise level, at least the minimum specified in this Division, using commonly accepted engineering and architectural acoustical practices.

K. NOISE LEVEL REDUCTION (NLR) STANDARDS

1. In the Noise zones, whether inside or outside the limits of the City of Harlingen, allowed land uses shall meet minimum construction standards to achieve a minimum outdoor to indoor NLR as follows:
 - (a) Airport noise level of 65 through 69 Ldn must be reduced by a minimum of 25 decibels.
 - (b) Airport noise level of 70 and greater Ldn must be reduced by a minimum of 30 decibels.
2. The required minimum NLR applies to all portions of a Structure where the public is received, office areas, public assembly rooms, sleeping areas, noise sensitive areas, or where the normal noise level is low.

L. PERMITS

1. No structure or tree shall be built or located in an Airport Overlay Zoning District unless a permit is obtained.
2. The Building Official shall not issue building or remodeling permits for any Structure in an Airport Overlay Zoning District unless the applicant fully complies with all provisions of this Chapter.
3. The (Public Health Administrator) shall not issue a permit for the installation of a water well and/or septic tank in an Airport Overlay Zoning District unless the Building Official has stated that the permit applicant has complied with all provisions of this Chapter.
4. Each application for a permit shall indicate the purpose for which the permit is desired with sufficient details to determine whether the resulting use would conform to the regulations of this Chapter. If such determination is found to be in compliance with this Chapter, the permit may be granted. No permit inconsistent with the provisions of this Chapter shall be granted unless a variance has been approved in accordance with Section 18.04 of this Ordinance.

M. PUBLIC IMPROVEMENTS

The City of Harlingen shall withhold all public improvements including the maintenance of streets and the furnishings of water and sewer service unless the applicant for a building permit fully complies with all provisions of this Chapter.

N. NON-CONFORMING USES AND STRUCTURES.

The regulations prescribed by this Chapter shall not be construed to require the removal, lowering, or other change or alteration of any structure not conforming to the regulations as of the effective date of this Chapter or otherwise interfere with the continuance of any legal Non Conforming Use as set forth and governed by Section 16 of this Ordinance.

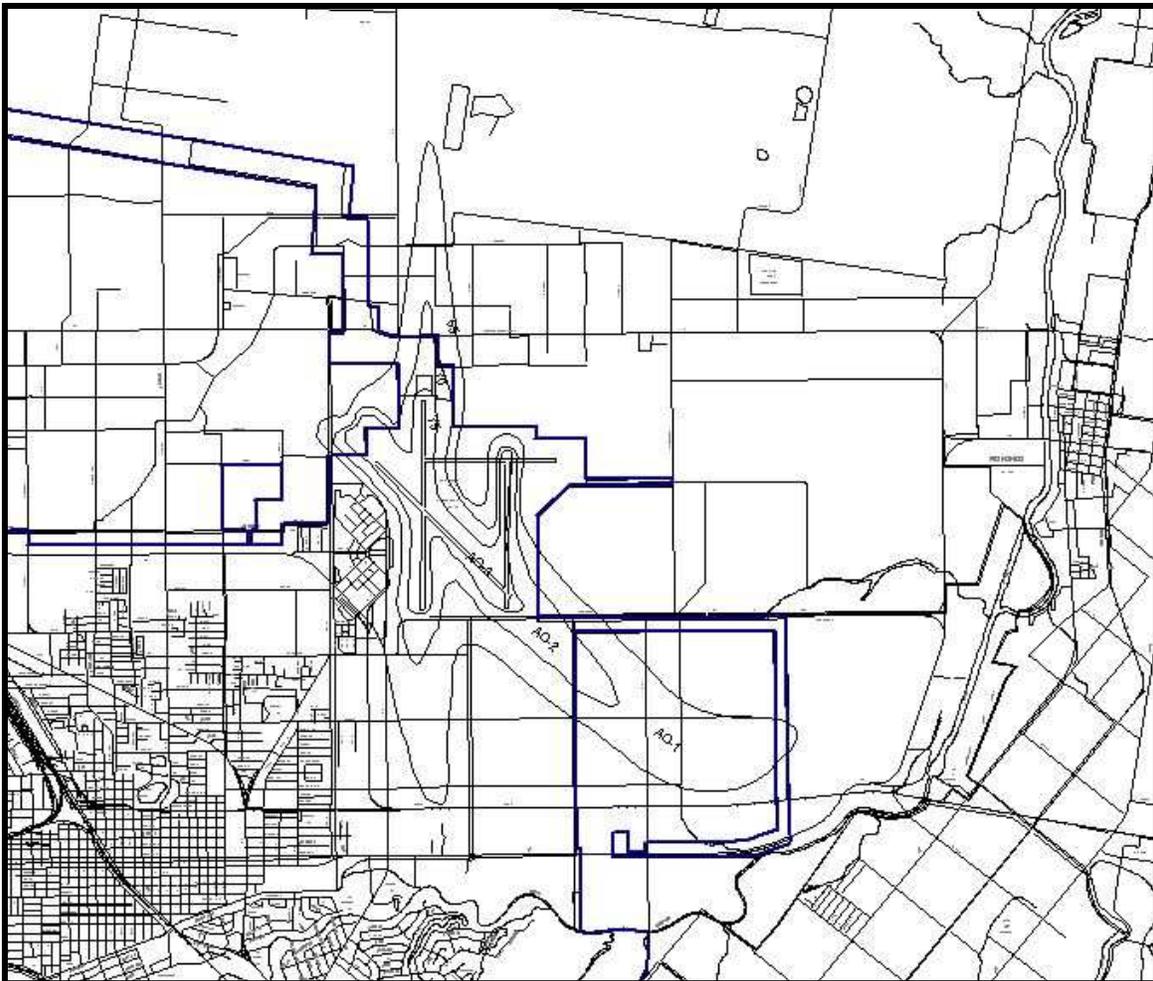
O. MARKING AND LIGHTING

Notwithstanding the preceding provision of this Division, the owner of any Non-Conforming Structure or Tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the City Manager of the city of Harlingen, Texas, to indicate to the operators of aircraft in the vicinity of Valley International Airport, the presence of such Airport Hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the Valley International Airport, City of Harlingen, Texas.

P. APPEALS

1. Any person aggrieved, or any taxpayer affected by any decision of the city staff made in administration of this Chapter may appeal to the Board of Adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by Section 18.01 (3).

CONTOUR MAP



15.092 Height Hazard Regulations

A. NOTIFICATION OF FAA

Any person who proposes the following construction or alteration shall notify the Federal Aviation Administration (FAA) in accordance with Title 14 of the Code of Federal, FAR Part 77:

1. Any construction or alteration of more than 200 feet in height above the ground level at its site; and
2. Any construction or alteration of greater height than an imaginary surface extending outward and upward from an airport runway at a 100:1 slope for a horizontal distance of 20,000 feet from the nearest point of the nearest runway.

It is further declared that the prevention of the creation or establishment of hazards to air navigation; the elimination, removal, alteration or mitigation of hazards to air navigation; or the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interest in land.

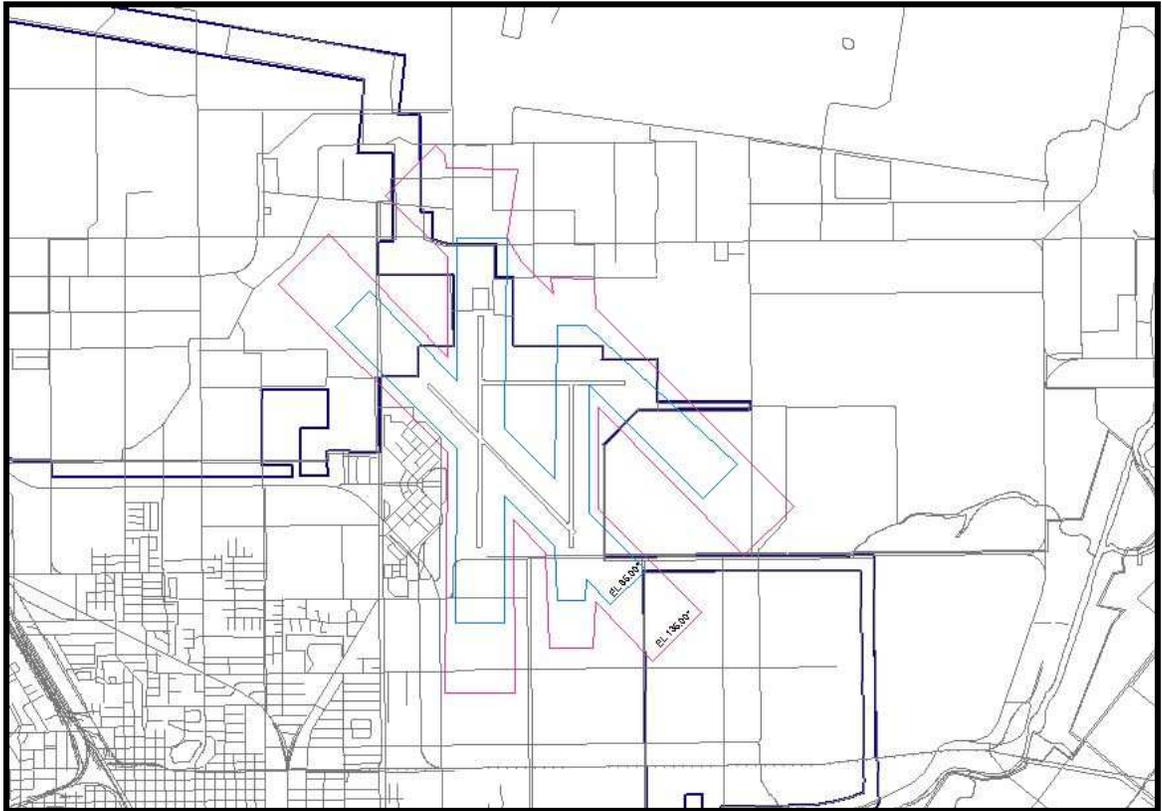
B. AIRPORT ZONES

1. In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surface area, transitional surfaces, horizontal surface area, and conical surfaces as they apply to Valley International Airport. Such zones are shown on the map located in this section of the Zoning Ordinance. An area located in the zone is considered to have restrictive height limitations as described herein.
2. For all areas within the one hundred thirty five foot (135') elevation contour as identified on the map, any structure erected shall be restricted to height not to exceed the fifty foot (50') limitation allowable for commercially zoned property and thirty foot (30') for residentially zoned property. **Height variances will not be allowed within this contour boundary. Towers will not be allowed to exceed these height limits within this contour boundary.**
3. For all areas within the eighty-five foot (85') elevation contour as identified on the map, any structure erected shall be restricted to height not to exceed twenty feet (20') at the edge of the airport boundary (unless a more restrictive aerial easement is in effect) and continuing in a straight line incline at the rate of one foot for every forty feet (40') in distance to a height of fifty feet (50') where the condition in paragraph 2 above shall commence. **Towers will not be allowed to exceed these height limits within this contour boundary.**

C. AIRPORT HEIGHT RESTRICTION MAP

1. The boundaries of the Airport Height Restriction Contours set out herein are delineated upon the Airport Height Restriction Map of the City of Harlingen, said map being adopted by reference and made a part of this Chapter as fully as if the same were set forth herein in detail.
2. An official copy of the Airport Height Restriction Map, reflecting the boundaries of the height restrictions hereby adopted; and the Mayor and City Secretary are authorized to sign and attest the map as the Airport Height Restriction Map of the City of Harlingen, a copy of which be incorporated into the official Zoning Map of the City. Map copies shall be filed as follows:
 - a. One (1) copy shall be filed to permanent record as part of this Chapter in the office of the City Secretary.
 - b. One (1) copy shall be filed in the office of the Director Planning.
 - c. One (1) copy shall be filed in the office of the Airport Manager.

HEIGHT RESTRICTION MAP



D. CONFLICTING REGULATIONS

Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent the limitations or requirements shall govern and prevail.

Section 15.10 Garage/Occasional Sales Regulations

A. DEFINITIONS

For the purposes of this Chapter, the following terms, phrases, words, and their derivatives shall have the meaning ascribed to them in this section.

1. GARAGE/OCCASIONAL SALE shall mean and include the offering for sale of personal and/or household property belonging to or in the possession of the person conducting the sale. Said sales shall include “yard sale”, “patio sale”, “estate sale”, “rummage sale” or other similar casual sale of tangible personal and/or household property, which is advertised by any means whereby the public at large is or can be made aware of such sale.
2. RESIDENT shall mean and include a person who has a residence within the city limits of Harlingen, Texas.
3. PERSON shall mean and include individuals, partnerships, voluntary associations and corporations.

B. REGULATIONS

1. Garage/occasional sales are authorized only in compliance with this section.
2. No more than four (4) garage/occasional sales shall be conducted at the same address in any calendar year, and no resident shall conduct more than four (4) garage/occasional sales within a calendar year.
3. No garage/occasional sale shall exceed four (4) consecutive calendar days in duration, and at least five (5) business days shall elapse between consecutive garage/occasional sales.
4. The following persons or sales shall be exempt from the provisions of this ordinance:
 - a. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
 - b. Persons acting in accordance with their powers and duties as public officials.

- c. Persons selling or advertising for sale an item of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.
- d. Nonprofit and/or charitable organizations.

C. SIGNAGE

- 1. All signs used to advertise the garage/occasional sale must comply with Section 131.06 of the City of Harlingen Code of Ordinances.
- 2. All signs used to advertise the garage/occasional sale must not be placed more than three (3) days prior to the sale and must be removed within twelve (12) hours of completion of the sale.