

**ORDINANCE NO.**

**AN ORDINANCE CREATING AND DESIGNATING THE AREA IN THE HOMESTEAD PRESERVATION DISTRICT AS A HOMESTEAD PRESERVATION REINVESTMENT ZONE, NAMED "HOMESTEAD PRESERVATION REINVESTMENT ZONE NUMBER ONE, CITY OF AUSTIN, TEXAS"; ESTABLISHING A BOARD OF DIRECTORS FOR THE REINVESTMENT ZONE; CREATING A TAX INCREMENT BASE; ESTABLISHING A TAX INCREMENT FUND; AND SETTING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. Findings.** The City Council finds that:

- (A) The City has proposed creation of a Homestead Preservation Reinvestment Zone (“the Zone”) under Chapter 373A of the Texas Local Government Code ( “Homestead Preservation Districts and Reinvestment Zones”) and Chapter 311 of the Texas Tax Code (the “Tax Increment Financing Act”) for the approximately 2,867 acre area within the Homestead Preservation District, located within the area bounded on the west by I-35; on the south by Lady Bird Lake; on the east by Springdale Road to Lyons Road to Webberville Road to Oak Springs Drive to Airport Boulevard on the east; on the north by 38<sup>th</sup> 1/2 Street to Cherrywood Road and Manor Road, and depicted in the map in Exhibit A attached to and incorporated as part of this ordinance. As required by Chapter 373A, the boundaries of the proposed Zone are located within or coterminous with the boundaries of the Homestead Preservation District, created by City Ordinance No. 20070111-053.
- (B) The City has prepared a preliminary Homestead Preservation Reinvestment Zone project and financing plan, attached to and incorporated as part of this Ordinance as Exhibit B (Preliminary Plan).
- (C) As required by Section 311.003 (*Procedure for Creating Reinvestment Zone*) of the Tax Increment Financing Act, the governing body of each taxing unit that levies taxes on real property in the proposed Zone has been given a copy of the Preliminary Plan, and provided 60 days notice of the creation of the proposed reinvestment zone. Presentations were made to the Travis County Commissioners’ Court, the Austin Community College Board of Trustees and the Austin Independent School District Board of Trustees. The Travis County Healthcare District waived the presentation.

- 1 (D) The Preliminary Plan provides that some or all of the ad valorem taxes of the  
2 City that constitutes the City's tax increment from property within the  
3 proposed Reinvestment Zone will be deposited into the Tax Increment Fund  
4 created by this ordinance, and that an amount equal to the amount that the  
5 City contributes to the Tax Increment Fund will be deposited into the Fund by  
6 Travis County if agreed to by the County, constituting their respective tax  
7 increments from property within the proposed Zone, and which funds may be  
8 utilized for the purposes described in the Preliminary Plan.
- 9 (E) On December 18, 2008, at 6 o'clock p.m., at the Austin City Hall, Austin,  
10 Texas, the City held a public hearing to receive public comments on the  
11 creation of the proposed Zone and its benefits to the City and the property in  
12 the proposed Zone.
- 13 (F) In compliance with the Tax Increment Financing Act, notice of the public  
14 hearing on the proposed Zone was published at least seven days before the  
15 date of the public hearing in the Austin American-Statesman, a daily paper of  
16 general circulation in the City.
- 17 (G) At the hearing, the City Council heard comment from each interested person  
18 supporting or opposed to: the creation of the proposed Zone; the boundaries of  
19 the proposed Zone; the inclusion of all or part of the territory included in the  
20 proposed Zone, and the concept of tax increment financing.
- 21 (H) The owners of property located within the proposed Zone, other taxing units,  
22 and other interested persons were given a reasonable opportunity at the public  
23 hearing to protest the creation of the proposed Reinvestment Zone, including  
24 the inclusion of certain property in the proposed Reinvestment Zone.
- 25 (I) The Reinvestment Zone meets the criteria for the creation of a reinvestment  
26 zone as set forth in the Texas Local Government Code Chapter 373A because:
- 27 (1) It is a contiguous geographic area located wholly within the Homestead  
28 Preservation District created by City Ordinance No. 20070111-053.
- 29 (2) It meets the requirements of Texas Local Government Code Section  
30 373A.1521(4) in that it is unproductive and blighted, because there are a  
31 substantial number of substandard, deteriorated or deteriorating  
32 structures and other improvements, including homesteads in need of  
33 rehabilitation; a predominance of defective sidewalks; defective or  
34 unusual conditions of title; and a substantial number of sites at which  
35 there has been illegal dumping or other activities which have resulted in  
36 environmentally deleterious conditions.

1 (3) The affordable housing and other improvements proposed to be  
2 implemented in the proposed Zone will significantly enhance the value  
3 of all taxable real property in the proposed Reinvestment Zone.

4 (J) The creation of the proposed Zone will benefit the City, its residents and  
5 property owners, including the property, residents, and property owners in the  
6 proposed Zone.

7 (K) The development or redevelopment of the property, especially affordable  
8 housing, in the proposed Zone will not occur solely through private  
9 investment in the reasonably foreseeable future.

10 (L) The creation of the proposed Reinvestment Zone and the expenditure of funds  
11 on deposit in the Tax Increment Fund is necessary or convenient to the  
12 creation of the Reinvestment Zone or to the implementation of the Preliminary  
13 Plan for the Reinvestment Zone, and constitutes a program to promote local  
14 economic development and to stimulate business and commercial activity in  
15 the City.

16 (M) The creation of the Reinvestment Zone becomes effective upon approval of an  
17 order by the Travis County Commissioners' Court agreeing to creation, the  
18 amount of tax increment to be contributed, and other terms in accordance with  
19 Texas Local Government Code Section 373A.1522. Therefore, the Council  
20 wishes to adopt this ordinance and provide that the amount of increment and  
21 certain other terms shall be subject to agreement on such terms by the  
22 Commissioners' Court.

23 **PART 2. Creation.** A Homestead Preservation Reinvestment Zone is created for the  
24 area described in Exhibit A and Exhibit B and this Zone is designated as "Homestead  
25 Preservation Reinvestment Zone Number One, City of Austin, Texas" (the "Zone").

26 **PART 3. Board of Directors.** A Board of Directors for the Zone is established,  
27 consisting of up to 15 members (Board).

28 (A) The Board of the Zone shall be appointed as follows:

29 (1) The Travis County Commissioners' Court may appoint 5 members to  
30 the Board, or a different number of members as agreed to by the City  
31 Council and Commissioners' Court, provided however, that the  
32 Commissioners' Court may not appoint more members to the Board than  
33 the City Council. The Austin Independent School District Board of  
34 Trustees may appoint one member to the Board of the Zone. The Travis  
35 County Healthcare District, and the Austin Community College Board of  
36 Trustees, have waived their right to appoint a member to the Board. For

1 those board positions for which taxing units have waived the right to  
2 appoint a member, the City Council may appoint a Board member to fill  
3 the board positions, unless filled by Travis County appointees.

4 (2) As provided in Subsection 311.009(a) of the Tax Increment Financing  
5 Act, the remaining members of the Board not appointed by another  
6 taxing unit, are appointed by the City Council.

7 (B) A Board member shall serve a two year term. The City Council shall designate  
8 a member of the Board to serve as its chair. The Board shall elect from its  
9 members a vice chair and other officers as it deems necessary.

10 (C) The Board shall make recommendations to the City Council and County  
11 Commissioners' Court concerning the administration of the Zone. It shall  
12 prepare and adopt a final project plan and financing plan for the Zone and  
13 submit these plans to the City Council and Commissioners' Court for approval.  
14 The extent of review and administration of the Zone by the Commissioners'  
15 Court is subject to negotiation and agreement between the City and County.  
16 The Board shall possess all powers necessary to prepare, implement and  
17 monitor the project plan and zone financing plan for the Zone as the City  
18 Council considers advisable, including the submission of an annual report on  
19 the status of the Zone.

#### 20 **PART 4. Authority of the Board.**

21 The City Council authorizes the Board of the Zone to exercise any of the City's  
22 powers with respect to the administration, management, or operation of the  
23 Zone or the implementation of the project plan for the Zone, except that the  
24 Board may not: issue tax increment bonds or notes; impose taxes or fees;  
25 exercise the power of eminent domain; or give final approval to the project  
26 plan.

27 **PART 5. Tax Increment Base.** The tax increment base for the Zone is the total  
28 appraised value determined by the Travis Central Appraisal District as of January 1,  
29 2008, of all taxable real property located in the Zone as provided in Texas Tax Code  
30 Section 311.012(c), unless the Travis County does not approve creation of the Zone until  
31 2009, in which case the tax increment base is the appraised value as of January 1, 2009.

#### 32 **PART 6. Tax Increment Fund.**

33 (A) A Tax Increment Fund for the Zone is established. The Tax Increment Fund  
34 may be divided into accounts and subaccounts as authorized by the City  
35 Council. A tax increment derived from City ad valorem taxes must be  
36 deposited into the Tax Increment Fund. Travis County shall deposit an

1 amount equal to the amount of tax increment deposited by the City, as  
2 established in an order approved by the Travis County Commissioners Court  
3 agreeing to creation of the Zone, its boundaries, termination date, and  
4 specifying an amount of tax increment. The Tax Increment Fund shall be  
5 used to pay approved project costs for the Zone. It is intended that the City  
6 and Travis County will contribute their agreed upon annual payments of tax  
7 increment derived from ad valorem taxes into the Tax Increment Fund for the  
8 term of the Zone.

9 (B) The City Council shall approve an expenditure from the Tax Increment Fund  
10 in excess of the City Manager's administrative limit or a related contract  
11 before the expenditure is made or the contract is executed.

12 (C) The Tax Increment Fund including an account or subaccount shall be  
13 maintained at the City's depository bank and secured as prescribed by state  
14 law.

15 **PART 7. Severability.** If any section, paragraph, clause, or provision of this ordinance  
16 is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of  
17 that section, paragraph, clause, or provision shall not affect any of the remaining  
18 provisions of this ordinance.

19 **PART 8. Effective Date and Termination.** In accordance with Texas Local  
20 Government Code Section 373A.1522, the Zone shall take effect on the date that the  
21 Travis County Commissioners' Court adopts an order agreeing to creation of the Zone  
22 and other terms, and shall terminate on the following: (1) December 31, 2018, or  
23 December 31, 2019 if Travis County approves creation of the Zone in 2009, or (2) at an  
24 earlier time designated by the City Council by ordinance and the County Commissioners'  
25 Court by order if the Council and the Commissioners' Court determine that the Zone  
26 should be terminated due to insufficient private investment, accelerated private  
27 investment, or other good cause, or (3) when all project costs or indebtedness if any,  
28 including interest, have been paid in full. If the Travis County Commissioners' Court  
29 has not approved an order agreeing to creation by March 31, 2009, then this ordinance  
30 expires and is of no effect.

**PASSED AND APPROVED**

§  
§  
§

\_\_\_\_\_, 2008

\_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Gentry  
City Clerk

Draft