

A U S T I N C I T Y C O U N C I L

# AGENDA



Thursday, January 11, 2007

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**Item(s) from Council**  
**RECOMMENDATION FOR COUNCIL ACTION**

**ITEM No 53**

**Subject** Approve an ordinance creating a Homestead Preservation District under Local Government Code Chapter 373A, and establishing an effective date

**Sponsor** Council Member Mike Martinez

**Co-Sponsor1** Mayor Will Wynn

**Co-Sponsor2** Council Member Sheryl Cole

**Additional Backup Material**

(click to open)

- ☐ Ordinance
- ☐ Exhibit
- ☐ Exhibit B

**For More Information** Bobby Garza, 974-2264

**ORDINANCE NO.**

**AN ORDINANCE CREATING A HOMESTEAD PRESERVATION DISTRICT.**

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

**PART 1. Findings**

- (A) The City wishes to promote and expand the ownership of affordable housing and to prevent the involuntary loss of homesteads by existing low-income homeowners in the City
- (B) The City is authorized to adopt a homestead preservation district under Chapter 373A, Local Government Code, enacted in 2005 by H B 525
- (C) Based on the interpretation of Chapter 373A in Attorney General Opinion No GA-0474, certain legislative revisions are necessary to allow the City to achieve its affordable housing goals using a homestead preservation district and homestead preservation zone

**PART 2.** Subject to the condition described in Part 3, the City Council creates a Homestead Preservation District consisting of Census Tracts 4 02, 8 02, 8 03, 8 04, 9 01, 9 02 and 10 00, as depicted on the map attached as Exhibit A. The district has the powers of a homestead preservation district under Chapter 373A, Local Government Code

**PART 3.** If the 80<sup>th</sup> Texas Legislature adopts legislation substantially similar to H B 470, attached as Exhibit B, this ordinance takes effect on the effective date of the legislation

**PASSED AND APPROVED**

\_\_\_\_\_, 2007

§  
§  
§

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

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

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

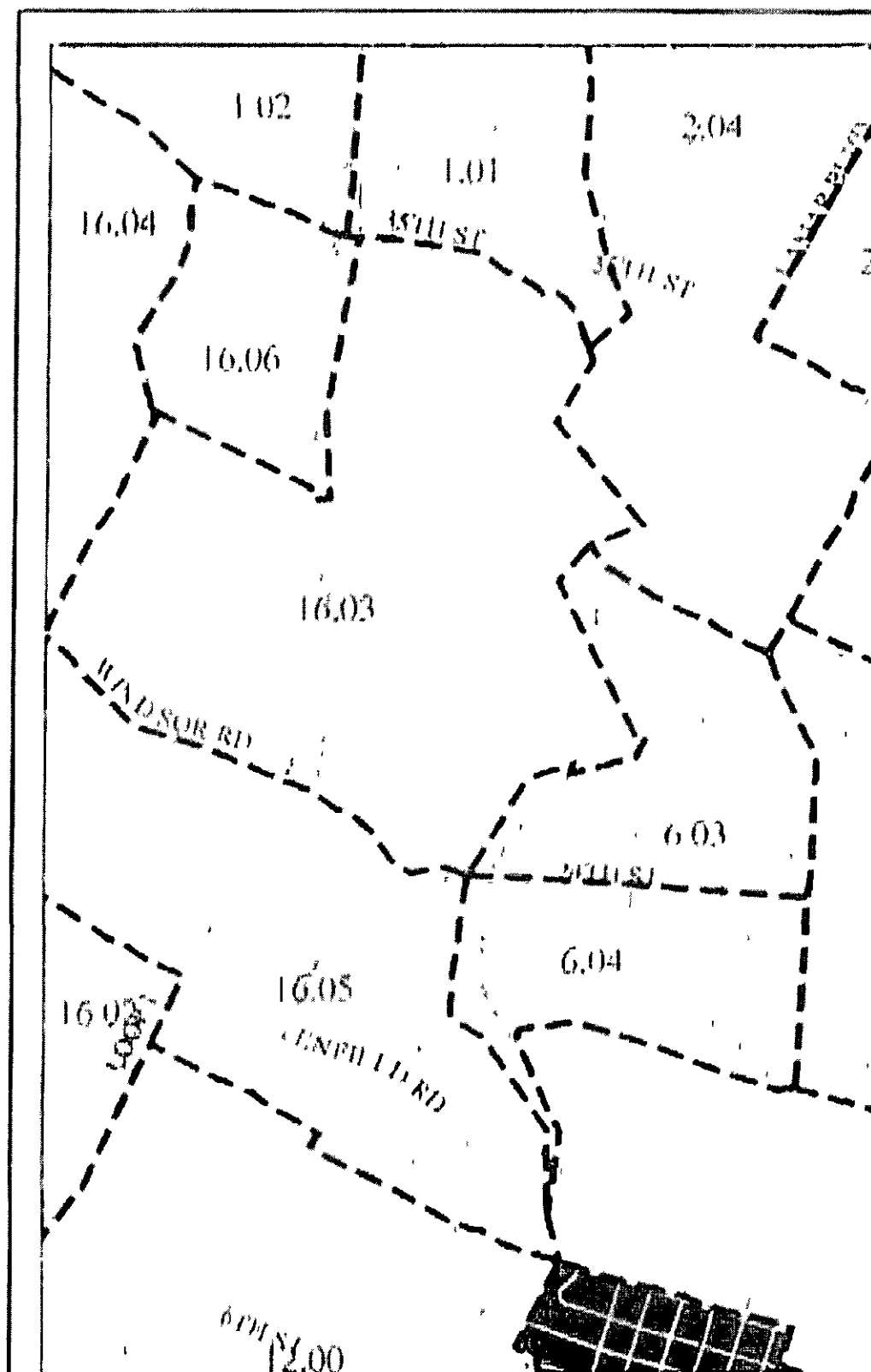


EXHIBIT B

80R3135 E

By Rodriguez

H B No 470

A BILL TO BE ENTITLED  
AN ACT

1-1  
1-2 relating to the creation, operation, management, and programs of  
1-3 homestead preservation districts

1-4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS

1-5 SECTION 1 Section 373A 002, Local Government Code, is  
1-6 amended by amending Subdivision (1) and adding Subdivisions (1-a),  
1-7 (2-a), and (4-a) to read as follows

1-8 (1) "Affordable housing" means both subsidized and  
1-9 nonsubsidized housing designed for persons whose incomes generally  
1-10 deny them the opportunity to purchase or rent housing on the open  
1-11 market and includes project costs for projects located inside or  
1-12 outside a zone related to providing subsidized and nonsubsidized  
1-13 housing

1-14 (1-a) "Central business district" means a compact and  
1-15 contiguous geographical area of a municipality in which at least 90  
1-16 percent of the land is used or zoned for commercial purposes and  
1-17 that has historically been the primary location in the municipality  
1-18 where business has been transacted

1-19 (2-a) "County" means the county containing all or the  
1-20 greatest portion of a homestead preservation reinvestment zone  
1-21 For purposes of applying other law to a district or program created  
1-22 under this chapter, including Chapter 311, Tax Code, a reference in  
1-23 the other law to a "county" has the meaning assigned by this  
1-24 section

2-1 (4-a) "Project costs" has the meaning assigned by  
2-2 Section 311 002(1), Tax Code

2-3 SECTION 2 Section 373A 003, Local Government Code, is  
2-4 amended to read as follows

2-5 Sec 373A 003 APPLICABILITY OF CHAPTER This chapter  
2-6 applies only to

2-7 (1) a municipality with a population of more than  
2-8 650,000 that is located in a uniform state service region with fewer  
2-9 than 550,000 occupied housing units as determined by the most  
2-10 recent United States decennial census, and

2-11 (2) a political subdivision with jurisdiction over  
2-12 territory that is also part of a municipality described by  
2-13 Subdivision (1)

2-14 SECTION 3 Subchapter B, Chapter 373A, Local Government  
2-15 Code, is amended by adding Section 373A 0521 to read as follows

2-16           Sec 373A 0521 DISSOLUTION (a) The governing body of a  
2-17 municipality in which a district is located may adopt an ordinance  
2-18 dissolving the district

2-19           (b) On the adoption of the ordinance, the district is  
2-20 dissolved and the municipality succeeds to the property and assets  
2-21 of the district and assumes all bonds, debts, obligations, and  
2-22 liabilities of the district

2-23           (c) This section does not prohibit the municipality from  
2-24 continuing to operate programs established by the municipality,  
2-25 including programs established under Subchapter C, D, or E, in the  
2-26 area previously included in the district that are owned and  
2-27 operated by the municipality on the date the district is dissolved

3-1           SECTION 4   Section 373A 101, Local Government Code, is  
3-2 amended to read as follows

3-3           Sec 373A 101 CREATION   The governing body of a political  
3-4 subdivision [~~municipality~~] by ordinance or order may create or  
3-5 designate under this subchapter one or more homestead land trusts,  
3-6 including a housing finance corporation established under Chapter  
3-7 394 or a land trust operated by a community housing development  
3-8 organization certified by the municipality, to operate in an area  
3-9 that includes a district designated under Subchapter B [~~by the~~  
3-10 ~~municipality~~]

3-11           SECTION 5   Section 373A 102, Local Government Code, is  
3-12 amended to read as follows

3-13           Sec 373A 102 NATURE OF NONPUBLIC TRUST   A trust that is  
3-14 not created by the governing body of a political subdivision must be  
3-15 a nonprofit organization that is

3-16           (1) created to acquire and hold land for the benefit of  
3-17 developing and preserving long-term affordable housing in the  
3-18 district, and

3-19           (2) exempt from federal income taxation under Section  
3-20 501(a), Internal Revenue Code of 1986, by being certified as an  
3-21 exempt organization under Section 501(c)(3), Internal Revenue Code  
3-22 of 1986

3-23           SECTION 6   Section 373A 104, Local Government Code, is  
3-24 amended to read as follows

3-25           Sec 373A 104 BOARD OF DIRECTORS   (a) A trust shall be  
3-26 governed by a board of directors

3-27           (b) ~~[The governing body of the municipality shall appoint~~  
4-1 ~~the directors of a trust created by the municipality.~~

4-2           ~~[(c) The initial board of a trust created by the~~  
4-3 ~~municipality must be composed of four members of the governing body~~  
4-4 ~~of the municipality and three residents of the district.~~

4-5           ~~[(d)]~~ If a trust holds land that provides at least 100  
4-6 housing units, at least one-third of the board members must reside  
4-7 in housing units located on land held by the trust

4-8           SECTION 7   Subchapter C, Chapter 373A, Local Government  
4-9 Code, is amended by adding Section 373A 110 to read as follows

4-10           Sec 373A 110 APPLICABILITY OF SUBCHAPTER TO TRUST  
4-11 OPERATED BY HOUSING FINANCE CORPORATION   Sections 373A 102,  
4-12 373A 104, 373A 105(b), and 373A 106 do not apply to a trust  
4-13 operated in the district by a housing finance corporation  
4-14 established under Chapter 394

4-15           SECTION 8   Section 373A 151, Local Government Code, is

4-16 amended to read as follows

4-17       Sec 373A 151 APPLICABILITY [NONAPPLICABILITY] OF OTHER  
4-18 LAW (a) Except as provided by this subchapter, Chapter 311, Tax  
4-19 Code, applies [does not apply] to a homestead preservation  
4-20 reinvestment zone created under this subchapter To the extent of  
4-21 any conflict between this subchapter and Chapter 311, Tax Code,  
4-22 this subchapter prevails

4-23       (b) In addition to other provisions of this subchapter that  
4-24 modify or supersede the application of Chapter 311, Tax Code, to a  
4-25 zone established under this subchapter, Sections 311 005 and  
4-26 311 006, Tax Code, do not apply to a zone established under this  
4-27 subchapter

5-1       SECTION 9   Section 373A 152(a), Local Government Code, is  
5-2 amended to read as follows

5-3       (a) A municipality by ordinance may designate a contiguous  
5-4 geographical area contained entirely within the boundaries of the  
5-5 district as [create] a homestead preservation reinvestment zone to  
5-6 develop or redevelop affordable housing [as provided by this  
5-7 section] if the municipality determines the zone is necessary to  
5-8 accomplish the purposes of this chapter [finds that the area to be  
5-9 included in the zone is unproductive, underdeveloped, or blighted  
5-10 as provided by Section 1-g(b), Article VIII, Texas Constitution.  
5-11 The governing body of the municipality shall administer the zone]

5-12       SECTION 10   Subchapter D, Chapter 373A, Local Government  
5-13 Code, is amended by adding Sections 373A 1521 and 373A 1522 to read  
5-14 as follows

5-15       Sec 373A 1521   CONTENTS OF REINVESTMENT ZONE ORDINANCE

5-16 The ordinance designating the homestead preservation zone must

5-17       (1) contain the information required under Sections  
5-18 311 004(1), (4), and (6), Tax Code,

5-19       (2) assign a name to the zone for identification, with  
5-20 the first zone designated as "(Name of municipality) Homestead  
5-21 Preservation Reinvestment Zone Number One," and subsequently  
5-22 created zones assigned names in the same form numbered  
5-23 consecutively in the order of their designation,

5-24       (3) specify the amount of tax increment to be  
5-25 deposited by the municipality into the tax increment fund, and

5-26       (4) contain findings that the area is unproductive,  
5-27 underdeveloped, or blighted as provided by Section 1-g(b), Article  
6-1 VIII, Texas Constitution

6-2       Sec 373A 1522   EFFECTIVE DATE OF ZONE   The zone  
6-3 designated by the ordinance adopted under Section 373A 1521 takes  
6-4 effect on the date on which the county adopts a final order

6-5       (1) agreeing to the creation of the zone, the zone  
6-6 boundaries, and the zone termination date specified by the  
6-7 municipality under Section 373A 1521(1), and

6-8       (2) specifying an amount of tax increment to be  
6-9 deposited by the county into the tax increment fund that is equal to  
6-10 the amount of the tax increment specified by the municipality under  
6-11 Section 373A 1521(3)

6-12       SECTION 11   Subchapter D, Chapter 373A, Local Government  
6-13 Code, is amended by adding Section 373A 1541 to read as follows

6-14       Sec 373A 1541   TAX INCREMENT FINANCING AND ABATEMENT  
6-15 Designation of an area as a homestead preservation reinvestment

6-16 zone is also designation of the area as a reinvestment zone for tax  
6-17 increment financing under Chapter 311, Tax Code

6-18 SECTION 12 Section 373A 155, Local Government Code, is  
6-19 amended to read as follows

6-20 Sec 373A 155 COLLECTION AND DEPOSIT OF TAX

6-21 INCREMENTS (a) The municipality designating the zone and the  
6-22 county [Each taxing unit that taxes real property located in a zone]  
6-23 shall provide for the collection of its taxes on real property  
6-24 located in the zone as for any other property taxed by the  
6-25 municipality and the county [unit]

6-26 (a-1) The municipality shall pay into the tax increment fund  
6-27 an amount specified in the ordinance designating the zone

7-1 (b) The county [Except as provided by Subsection (d), each  
7-2 taxing unit] shall pay into the tax increment fund for the zone an  
7-3 amount equal to the tax increment paid by the municipality as  
7-4 specified in the order adopted under Section 373A 1522 [produced by  
7-5 the unit.

7-6 [(c) A taxing unit shall make a payment required by  
7-7 Subsection (b) not later than the 90th day after the delinquency  
7-8 date for the unit's property taxes. A delinquent payment incurs a  
7-9 penalty of five percent of the amount delinquent and accrues  
7-10 interest at an annual rate of 10 percent.

7-11 [(d) A taxing unit other than the municipality is not  
7-12 required to pay into the tax increment fund any of its tax increment  
7-13 produced from property located in a zone unless the taxing unit  
7-14 enters into an agreement to do so with the governing body of the  
7-15 municipality that created the zone. A taxing unit may enter into an  
7-16 agreement under this subsection at any time before or after the zone  
7-17 is created. The agreement may include conditions for payment of  
7-18 that tax increment into the fund and must specify the portion of the  
7-19 tax increment to be paid into the fund and the years for which that  
7-20 tax increment is to be paid into the fund. The agreement and the  
7-21 conditions in the agreement are binding on the taxing unit and the  
7-22 municipality]

7-23 SECTION 13 Sections 373A 157(a) and (e), Local Government  
7-24 Code, are amended to read as follows

7-25 (a) The tax increment fund is administered by the governing  
7-26 body of the municipality in accordance with the project and  
7-27 reinvestment zone financing plans [annual plan developed by the

8-1 municipality under Section 373A 156] Revenue from the tax  
8-2 increment fund must be dedicated as provided by this section to the  
8-3 development, construction, and preservation of affordable housing  
8-4 in the zone by a political subdivision, a community housing  
8-5 development organization certified by the municipality, a trust  
8-6 created or designated by a political subdivision [the  
8-7 municipality], or another entity as provided by this section

8-8 (e) The municipality must spend at least 80 percent of the  
8-9 revenue expended annually from the tax increment fund for the  
8-10 purchase of real property and the construction or rehabilitation of  
8-11 affordable housing in the zone, including project costs The  
8-12 municipality may spend not more than 10 percent of the revenue  
8-13 expended annually from the tax increment fund for administration of  
8-14 the zone

8-15 SECTION 14 Sections 373A 158(a) and (b), Local Government

8-16 Code, are amended to read as follows

8-17 (a) The county is the only taxing unit entitled to receive  
8-18 the annual report prepared under Section 311 016(a), Tax Code [On  
8-19 or before the 90th day following the end of the fiscal year of the  
8-20 municipality, the governing body of the municipality shall submit  
8-21 to the chief executive officer of each taxing unit that imposes  
8-22 property taxes on real property in a zone created by the  
8-23 municipality under this subchapter a detailed report on the status  
8-24 of the zone]

8-25 (b) The report must include

8-26 (1) the amount and source of revenue in the tax  
8-27 increment fund established for the zone,

9-1 (2) the amount and purpose of expenditures from the  
9-2 fund and the income levels of the persons who benefited from the  
9-3 expenditures,

9-4 (3) the number of parcels of property purchased,  
9-5 housing units rehabilitated, and housing units constructed and the  
9-6 income levels of the persons residing in the housing units,

9-7 (4) the tax increment base and current captured  
9-8 appraised value retained by the zone,

9-9 (5) the total amount of tax increments received, and

9-10 (6) any additional information necessary to  
9-11 demonstrate good faith ~~[strict]~~ compliance with the provisions of  
9-12 this subchapter

9-13 SECTION 15 Section 311 0031, Tax Code, is amended to read  
9-14 as follows

9-15 Sec 311 0031 ENTERPRISE ZONE Designation of an area ~~[as~~  
9-16 ~~an enterprise zone]~~ under the following other law [Chapter 2303,  
9-17 ~~Government Code]~~ constitutes designation of the area as a  
9-18 reinvestment zone under this chapter without further hearing or  
9-19 other procedural requirements other than those provided by the  
9-20 other law

9-21 (1) Chapter 2303, Government Code, and

9-22 (2) Chapter 373A, Local Government Code

9-23 SECTION 16 The following laws are repealed

9-24 (1) Sections 373A 152(b), (c), (d), (e), and (f),  
9-25 Local Government Code,

9-26 (2) Section 373A 158(c), Local Government Code, and

9-27 (3) Sections 373A 108, 373A 153, 373A 154, and

10-1 373A 156, Local Government Code

10-2 SECTION 17 This Act takes effect September 1, 2007