

ORDINANCE NO. 20070111-053

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.

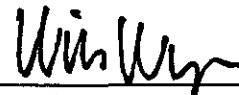
PART 2. Subject to the condition described in Part 3, the City Council creates a Homestead Preservation District consisting of Census Tracts 4.02, 8.02, 8.03, 8.04, 9.01, 9.02 and 10.00, as depicted on the map attached as Exhibit A. The district has the powers of a homestead preservation district under Chapter 373A, Local Government Code.

PART 3. If the 80th 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

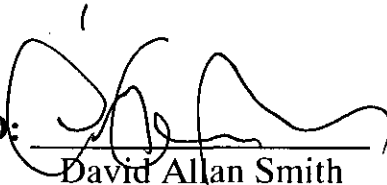
_____, January 11, 2007

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Will Wynn
Mayor

APPROVED:


David Allan Smith
City Attorney

ATTEST:

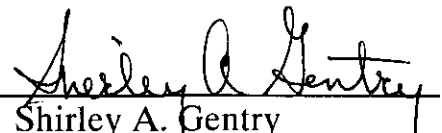
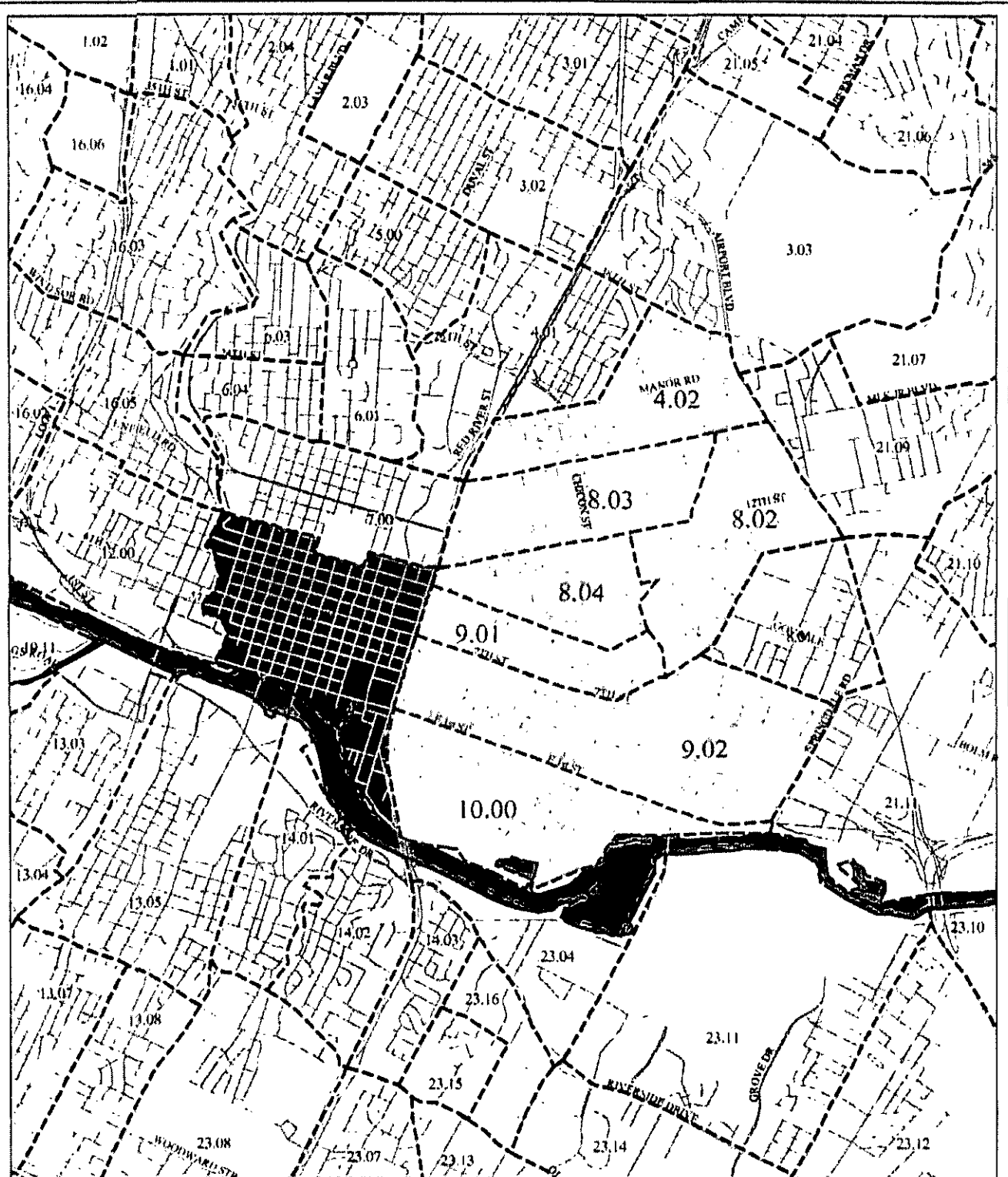

Shirley A. Gentry
City Clerk

Exhibit A



Provisional Homestead Preservation District

Seven Tracts: 4.02, 8.02, 8.03, 8.04, 9.01, 9.02, 10.00




-  Census 2000 Tracts
 Potential District Tracts
 Central Business District

EXHIBIT B

80R3135 E

By: Rodriguez

H.B. No. 470

A BILL TO BE ENTITLED

AN ACT

relating to the creation, operation, management, and programs of homestead preservation districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

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

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

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

(4-a) "Project costs" has the meaning assigned by Section 311.002(1), Tax Code.

SECTION 2. Section 373A.003, Local Government Code, is amended to read as follows:

Sec. 373A.003. APPLICABILITY OF CHAPTER. This chapter applies only to:

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

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

SECTION 3. Subchapter B, Chapter 373A, Local Government Code, is amended by adding Section 373A.0521 to read as follows:

Sec. 373A.0521. DISSOLUTION. (a) The governing body of a municipality in which a district is located may adopt an ordinance 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 [ereate] 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 [(e) 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.