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AN ORDINANCE TO ESTABLISH THE HEIGHTS LANDSCAPE DESIGN OVERLAY DISTRICT PURSUANT TO THE DESIGN OVERLAY AUTHORITY OF CHAPTER 36 OF THE CODE OF ORDINANCES OF THE CITY OF LITTLE ROCK, ARKANSAS; AND FOR OTHER PURPOSES.

WHEREAS, Heights residents concerned about the future development pattern of their neighborhood worked together to develop proposals during 2017 and 2018; and,

WHEREAS, the Heights Neighborhood Association did participate in the development of the draft Design Overlay District (DOD) and recommends its approval; and,

WHEREAS, the City of Little Rock desires to protect and support the continued vitality of this neighborhood; and,

WHEREAS, the Little Rock Planning Commission has worked with the Heights Neighborhood Association committee since September 2017, and of the topics discussed, trees was chosen to be the subject of the proposed DOD; and,

WHEREAS, the Heights Landscape DOD’s main goal is to have trees retained or planted in the front-yards and residents with corner lots shall also retain or plant trees along the street side as new houses are built or additions added to existing structures; and,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE CITY OF LITTLE ROCK, ARKANSAS.

Section 1. That Little Rock, Arkansas Rev. Code Chapter 36, Article V, Division V is hereby amended to add a new Section 36-434.46 through 36-434.51 inclusive, to be commonly known as “Division 17, Heights Landscape Design Overlay District” as follow:

DIVISION 17. - HEIGHTS LANDSCAPE DESIGN OVERLAY DISTRICT

Sec. 36-434.46. - Purpose and Intent:

- (a) *Purpose and Intent.* The purpose of the Heights Landscape Design Overlay District (District) is to restore the tree canopy along the streets where new residential construction and expansions of residential structures have decreased or created voids in the tree canopy.
- (b) *District Boundaries.* The District shall include all parcels within the area designated in Exhibit A and described as: A part of Sections 29, 30, 31, and 32 all in Township 2 North, Range 12 West and a part of Sections 25 and 26 all in Township 2 North, Range 13 West, Pulaski County, Arkansas, being more particularly described as follows: Beginning at the centerline intersection

1 of North University Avenue and Evergreen Street; thence north along the centerline of North
2 University Street to the centerline intersection of Cantrell Road; thence west along the
3 centerline of Cantrell Road to the centerline intersection of North Hughes Street; thence north
4 along the centerline of North Hughes Street to an extension of the north boundary of Betswood
5 Subdivision; thence easterly along said north boundary of Betswood Subdivision to the
6 northeast corner of Tract B Betswood Subdivision; thence southerly along the east boundary
7 of Tract B Betswood Subdivision extended to a point on the centerline of Perryville Road;
8 thence easterly along the centerline of Perryville Road to the centerline intersection of North
9 McKinley Street; thence north along the centerline of North McKinley Street to the centerline
10 intersection of Hawthorne Road; thence east along the centerline of Hawthorne Road to the
11 centerline of University Avenue; thence north along the centerline of University Avenue to
12 Brentwood Road; thence west along the centerline of Brentwood Road to an extension of the
13 west boundary of the Mountain Home Subdivision; thence north along the western boundary
14 of the Mountain Home Subdivision extended to a point on the centerline of Longwood Road;
15 thence east along the centerline of Longwood Road extended to the west boundary of the South
16 West ¼ North West ¼ of Section 30, Township 2 North, Range 12 West; thence north along
17 the west line of T2N R12W Sec 30 to a point on centerline of the CRI&P railroad; thence
18 southeasterly along the centerline of the CRI&P Railroad to the intersection of an extension of
19 the west boundary of Lot 31 Sherrill Heights Subdivision; thence along the west line of said
20 Sherrill Height Subdivision to the northwest corner of Lot 11 Club Terrace Subdivision; thence
21 southerly along the west line of Club Terrace Subdivision to a point on the north line of the
22 southeast ¼ southwest ¼ of Section 29, Township 2 North, Range 12 West; thence easterly
23 along said north line to the northeast corner of the southeast ¼ southwest ¼ of said Section 29;
24 thence southerly along east line of the southwest ¼ of said Section 29 to the southeast corner
25 of the southwest ¼ of said Section 29; thence west along the south line of T2N R12W Sec 29
26 to the centerline intersection of Cantrell Road; thence southeasterly along the centerline of
27 Cantrell Road to the centerline intersection of Allsopp Park Road; thence southwesterly along
28 the centerline of Allsopp Park Road to the centerline intersection of North Lookout Road;
29 thence southwesterly along the centerline of North Lookout Road to the centerline intersection
30 of Kavanaugh Boulevard; thence northwesterly along the centerline of Kavanaugh Boulevard
31 to the centerline intersection of L Street; thence west along the centerline of L Street to the
32 centerline intersection of North Fillmore Street; thence south along the centerline of North
33 Fillmore Street to the centerline intersection of Evergreen Drive; thence west along the
34 centerline of Evergreen Drive to the point of beginning.

1 **See attached Exhibit “A” for map of area.**

2 **Section 36-434.47. - Definitions.**

3 *Responsible Party.* As defined in Section 15-6 above, means the following:

- 4 (1) The permit applicant who is the designated agent for development related activities
5 for purposes of obtaining all required permits. The permit applicant relinquishes
6 responsibility to the construction superintendent when all necessary permits have
7 been issued by the City; or,
8 (2) The Construction Superintendent who is that person designated as the on-the-site
9 agent for the project and responsible for all construction related activities until the
10 issuance of a final Certificate of Occupancy; or,
11 (3) The lessee or any person or entity having control of the property subject to this
12 chapter; or,
13 (4) The owner, which is the person, firm, corporation or other entity holding current legal
14 title to the property. The responsibility of the owner shall commence upon the date
15 of issuance of the Certificate of Occupancy.

16 *Preserved Tree* means a tree selected for preservation by the responsible party and approved by the
17 City. A tree is considered preserved if a minimum of 75% of the critical root zone is maintained at
18 undisturbed natural grade and not more than 25% of the tree canopy is removed. Nothing within this
19 definition requires that a properly planted and appropriate tree shall survive for a period greater than
20 thirty-six (36) months.

21 *Tree Canopy.* As defined in Section 15-6 above, means the outermost spreading branch layer of a
22 tree.

23 **Sec. 36-434.48. - Application of design regulations.**

24 (a) The regulations in this Division shall be in addition to and shall overlay all other Zoning
25 Districts and other ordinances requirements regulating the development of land so that any
26 parcel of land lying in the Overlay District shall also lie within one (1) or more of the other
27 underlying Zoning Districts. Therefore, all property within this Overlay District will have
28 requirements of both the underlying and Overlay Zoning District in addition to other ordinance
29 requirements regulating the development of land. In case of conflicting standards between this
30 division and other city ordinances, the overlay requirements shall control.

31 (b) These regulations shall apply to all lots zoned or occupied by single-family or two-family
32 dwellings except non-residentially occupied lots with Conditional Use Permits.

- 33 (1) Any addition to the principal structure of more than 600 square-feet of foundation area.

1 (2) All other subsequent additions after passage of this division that result in total of more
2 600 square-feet of foundation area added to the principal structure as existing before
3 the passage of this Division.

4 (3) Construction of new single-family or two-family structures.

5 (4) Any lot that has had the principal building demolished and has not had active
6 construction activities on that lot within one (1)-year of the Demolition Permit being
7 issued.

8 **Sec. 36-434.49. - Review section.**

9 Prior to the issuance of any Building Permits within the boundaries of the Heights Landscape
10 Design Overlay District, the Planning & Development Department Director shall determine
11 compliance of all Building Permit requests with the terms of this ordinance.

12 **Sec. 36-434.50.**

13 New construction and additions or modifications to existing structures on lots zoned or occupied
14 by single-family or two-family dwellings except non-residentially occupied lots with Conditional
15 Use Permits.

16 (a) In order to be compatible with the tree canopy of the neighborhood, new construction and
17 additions to existing structures shall comply with the following criteria:

18 (1) Plans for new construction, additions and modifications which are subject to this
19 ordinance shall be submitted to the Planning & Development Department; and,

20 (2) The Department will review plans for consistency with the detailed requirements
21 of this ordinance and consistency with the tree canopy of the District; and,

22 (3) If a proposed tree is not on the list of approved trees, but in the opinion of the City
23 Arborist, in consultation with the Planning & Development Department Director,
24 is compatible with the intent of this Division, then such approved alternative is in
25 compliance with the provisions of this Code..

26 (b) *Tree Preservation.* There is no requirement under this Division to preserve existing trees
27 within the front-yard and street side-yard setbacks as defined per the underlying zoning.
28 However, the responsible party may select certain trees to be preserved to comply with the
29 provisions of this Division. See Section 15-52 (g) Prohibited Activities and Section 15-52 (h)
30 Tree Protection for proper methods of tree preservation.

31 (c) *Credits for Preserved Trees.* For each existing tree preserved within the front or side-yard
32 setback, there shall be a one to one credit applied to the minimum tree requirements. Trees in
33 the front or side-yard setback that are to be preserved that are twelve (12) inches or greater in
34 diameter at breast height (DBH) shall fulfill all requirements for the required trees within the
35 front or side-yard setback.

- 1 (d) *Required Tree Planting.* One (1), two and one-half (2-1/2)-inch or greater caliper single trunk
2 tree measured at twelve (12) inches above soil line shall be planted for every forty (40) feet or
3 portion thereof of street frontage of the lot. Multi-trunk trees shall be measured as a total
4 caliper of all trunks at twelve (12) inches above the soil line and shall be required to have a
5 minimum of four and one half (4-1/2)-inch or greater caliper. On corner lots, trees required on
6 one (1) street frontage may not be planted on a different street frontage. A minimum of one
7 (1) tree shall be planted for each street frontage.
- 8 (e) *Approved Planting Times.* To be an appropriately planted tree, the tree shall be planted in the
9 spring, or in the fall, with the approval of the City's Arborist, in consultation with the Planning
10 & Development Department.
- 11 (f) *Tree Form.* Trees planted shall provide shade. Trees shall not be planted that are of a columnar
12 form at maturity. A tree with a columnar form at maturity will be five (5) or more times as tall
13 as they are wide.
- 14 (g) *Species.* Trees shall be selected from the list attached as Exhibit B. Native species not on the
15 list are permitted upon review and approval by the City's Arborist, in consultation of the
16 Planning & Development Department. See attached Exhibit B for a list of Trees.
- 17 (h) *Location.* Trees shall be planted within the front yard and street side yard setbacks as defined
18 per the underlying zoning. Trees shall not be planted within five (5) feet of adjoining property
19 lines. A Franchise Permit is required for all trees that are proposed to be planted in the public
20 right-of-way. All tree plantings shall not interfere with above or utilities, obstruct views at
21 *intersections, or cause other public safety concerns.*
- 22 (i) *Installation.* Trees shall be planted according to recognized horticultural practices.
- 23 (j) *Continuous Maintenance.* See Sec 15-53. Tree Pruning. Responsible parties shall in no
24 instance overly prune to reduce or prohibit a tree's mature height and spread. Trees shall not
25 be topped. Trees shall be maintained according to recognized horticultural practices. Nothing
26 requires that a properly planted and appropriate tree shall survive for a period greater than
27 thirty-six (36) months. Any tree required to be planted which dies within thirty-six (36) months
28 of planting shall be replaced by the responsible party during the next planting period. In no
29 event will an approved and appropriately planted tree ever be pruned in such a manner as to
30 preclude future vertical growth.
- 31 (k) *Standards for Preserved Trees.* The City Official may visit each site and review photographs
32 of each site for which there is a plan in order to verify that the trees to be preserved pursuant to
33 the plan are of sufficient size, quantity and quality to warrant preservation. Trees that do not
34 warrant preservation shall not qualify as preserved trees as determined by the City Official.

1 (l) *Utility.* This article shall not apply to the maintenance of overhead or underground utility lines,
2 nor does it apply to the development of subdivisions in the construction of streets, curbs,
3 gutters, storm sewers and overhead or underground utility lines. It is expected that proper care
4 and planning are used in the construction so that the maximum number of trees can be
5 preserved.

6 **Sec. 36-434.51. - Exceptions.**

7 Any request to vary, alter, or modify specifications of this Design Overlay District shall be
8 processed as a request for a variance considered by the Board of Adjustment.

9 **Section 2.** Nothing in this ordinance shall affect any Planned Zoning District in affect prior to the date
10 of the approval of this ordinance.

11 **Section 3. *Penalty.*** If responsible party determined to be out of compliance with the provisions of
12 this ordinance does not come into compliance within a time frame set by the Planning & Development
13 Department, then the responsible owner shall be subject to the penalties set forth in Section 1-9 of this
14 Code.

15 **Section 4. *Severability.*** In the event any title, section, paragraph, item, sentence, clause, phrase, or
16 word of this ordinance is declared or adjudged to be invalid or unconstitutional, such declaration or
17 adjudication shall not affect the remaining portions of the ordinance which shall remain in full force and
18 effect as if the portion so declared or adjudged invalid or unconstitutional was not originally a part of the
19 ordinance.

20 **Section 5. *Repealer.*** All laws, ordinances, resolutions, or parts of the same that are inconsistent with
21 the provisions of this ordinance are hereby repealed to the extent of such inconsistency.

22 **PASSED: October 2, 2019**

23 **ATTEST:**

APPROVED:

24
25 _____
26 **Susan Langley, City Clerk**

_____ **Frank Scott, Jr., Mayor**

27 **APPROVED AS TO LEGAL FORM:**

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30 **Thomas M. Carpenter, City Attorney**

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Exhibit A

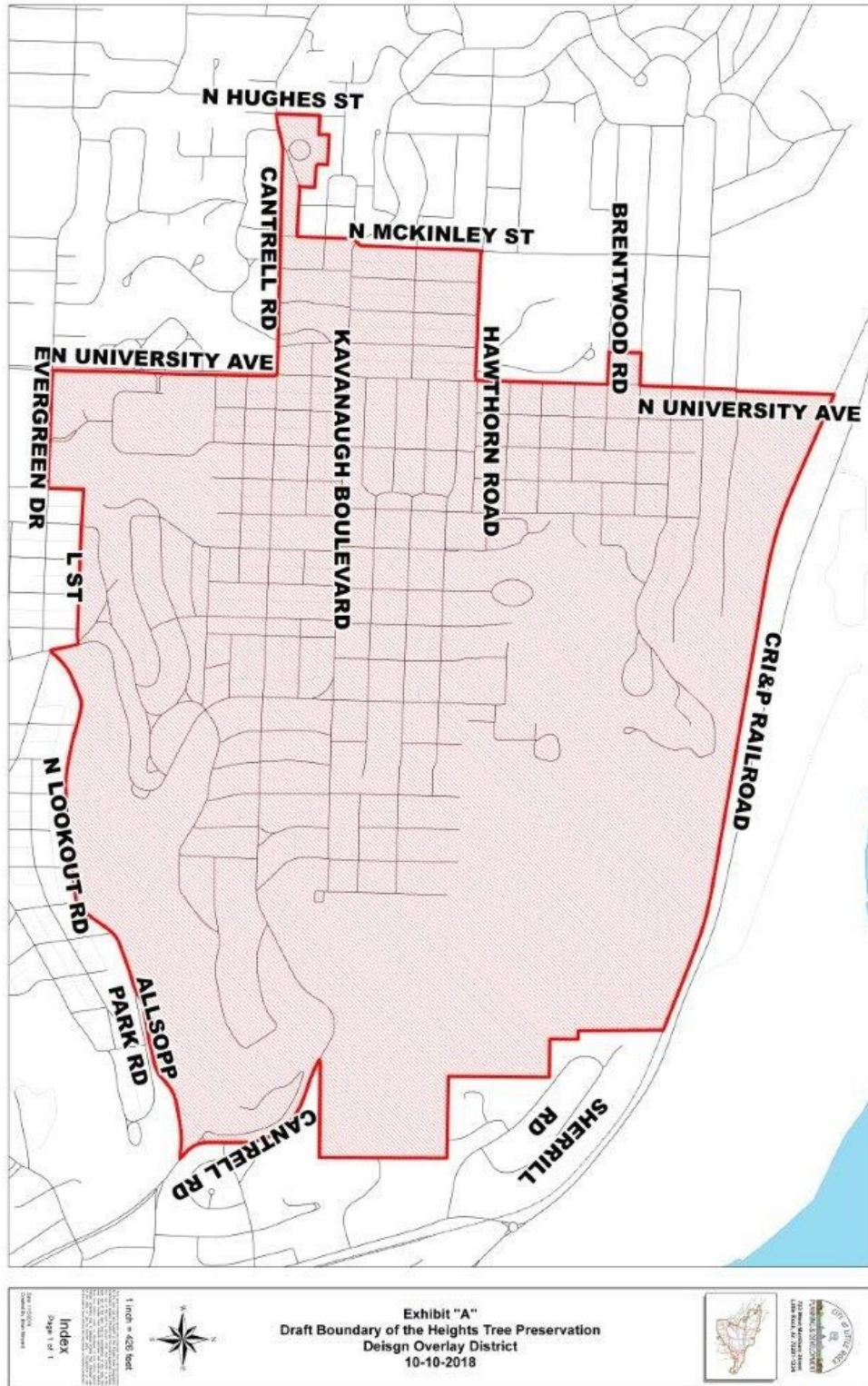


Exhibit B

Trees shall be selected from the following list:		
(1) Deciduous—Large (average height 60' × 40' width)		
Botanical Name	Common Name	Native species
<i>Fagus grandifolia</i>	American Beech	
<i>Liriodendron tulipifera</i>	Tulip Poplar Tree	
<i>Magnolia acuminata</i>	Cucumber Magnolia	
<i>Platanus occidentalis</i>	Sycamore	
<i>Quercus acutissima</i>	Sawtooth Oak	
<i>Quercus alba</i>	White Oak	Yes
<i>Quercus falcata</i>	Southern Red Oak	Yes
<i>Quercus michauxii</i>	Swamp Chestnut Oak	Yes
<i>Quercus nigra</i>	Water Oak	Yes
<i>Quercus nuttallii</i>	Nuttall Oak	Yes
<i>Quercus palustris</i>	Pin Oak	Yes
<i>Quercus phellos</i>	Willow Oak	Yes
<i>Quercus shumardii</i>	Shumard Oak	Yes
(2) Deciduous—Medium Trees (average height 40' × 30' width)		
Botanical Name	Common Name	Native species
<i>Acer rubrum</i> "Drummondii"	Swamp Red Maple	
<i>Acer rubrum</i>	"Red Sunset" Red Sunset Maple	
<i>Betula nigra</i>	River Birch	Yes
<i>Ginkgo biloba</i>	Ginkgo (male)	
<i>Koelreuteria paniculata</i>	Golden Rain Tree	
<i>Pistacia chinensis</i>	Pistachio	
<i>Taxodium distichum</i>	Bald Cypress	Yes
<i>Ulmus parvifolia</i>	Chinese Elm	
(3) Trees to be planted under utility lines shall be selected from the following species: Deciduous—Small Trees (average height 20' × 15' width)		
Botanical Name	Common Name	Native species
<i>Acer palmatum</i>	Japanese Maple	
<i>Cercis canadensis</i>	Redbud	

Cercis chinensis	Chinese Redbud	
Cornus florida	Flowering Dogwood	Yes
Ilex decidua	Deciduous Holly	
Magnolia soulangiana	Saucer Magnolia	
(4) Evergreen—Large Trees (average height 60' × 30' width)		
Botanical Name	Common Name	Native species
Magnolia grandiflora	Southern Magnolia	
(5) Evergreen—Medium Trees (average height 40' × 30' width)		
Botanical Name	Common Name	Native species
Ilex opaca	American Holly	
Magnolia virginiana	Sweet Bay Magnolia	
(6) Evergreen—Small Trees (average height 20' × 15' width)		
Botanical Name	Common Name	Native species
Ilex attenuata "Fosteri"	Foster's Holly	
Ilex vomitoria	Yaupon Holly	