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**MEMORANDUM**

**TO:** Sylvia Carrillo, City Manager, City of Bastrop

**FROM:** Alan Bojorquez, City Attorney

**DATE:** February 6, 2025

**RE:** Iredell District: Texas Historical Commission Determination: *Building Materials*

This memorandum is intended to discuss and highlight the major points regarding the Iredell District and the Texas Historical Commission's determination on the City of Bastrop ("City") becoming a Certified Local Government. Due to recent communications with the Texas Historical Commission and the applicability of Texas Government Code Section 3000.002, we recommend suspension of the enforcement of prohibiting certain building materials within the Iredell District. The following bullet points briefly describe the history and current analysis of the matter:

- The Iredell map was created by a land surveyor, Mr. Iredell, in 1919 which establishes the core of Authentic Bastrop by several subdivided Farm Lots. This map was never formally adopted until the Planning Department began trying to certify this area as a Historic District in 2016.
- In 2016, the Planning Department had begun work with the Texas Historical Commission to review the Historic Landmark Preservation Ordinance ("Ordinance") to comply with the Certified Local Government determination. The process and requirements were never fully complied with, but staff made amendments to the Ordinance between 2018-2019.
- An item went to the Historic Landmark Commission for review and recommendation on September 12, 2019. The recommendation to create the Iredell District with the current boundaries passed by a vote of 6-0. An item went to the Planning & Zoning Commission for public hearing and recommendation on September 26, 2019. The creation of the Iredell District with the current boundaries passed by a vote of 8-0. The item was discussed at a joint workshop meeting of the City Council and P&Z on September 30, 2019. Subsequently, the Iredell District was only adopted by reference in the B3 Code in November 2019. That portion of the B3 Code (Sec. 9.2.008 (c)) was never amended to include the date of the adoption of the Code.

- Former Planning Director Jennifer Bills confirmed that in 2019 there was an intent to adopt the Iredell District by separate ordinance, but the item never made it to Council despite efforts to submit a separate ordinance for approval.
- In 2019, the Legislature passed HB 2439 which amends Texas Government Code Chapter 3000 to prohibit a governmental entity from adopting an ordinance that restricts certain building materials (that are otherwise allowed by standard / uniform / international building codes) unless an exception applies (such as a Historical District created before a specific date or a landmark ordinance that meets the requirements under the state's Certified Local Government program).
- The relevant portions of Texas Government Code Section 3000.002 provide that the prohibition does not apply to a building located in a place or area designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality:
  - (A) is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or
  - (B) has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission.
- The Iredell District does not currently meet any of the exceptions listed under Texas Government Code Section 3000.002. However, the Bastrop Commercial District does meet one of the exceptions specified in Section 3000.002 to prohibit certain building materials.
- The current Ordinance has been preliminarily reviewed by Texas Historical Commission Coordinator Kelly Little. Kelly has suggested some revisions to the Ordinance before they would be able to recommend the City for certification to the National Park Service
- It is our recommendation that if the City wishes to regulate building materials in the Iredell District, then the City should formally submit the revised Ordinance to the Texas Historical Commission for compliance with the Certified Local Government program.
- At this point, City is without legal authority to enforce specific building materials (except for within the Bastrop Commercial District).

If you have any questions or concerns, please feel free to contact us.

cc: Rezzin Pullum, Assistant City Attorney