

**RESOLUTION 2021-15**

**A RESOLUTION IN OPPOSITION TO  
SENATE BILL 349 AND HOUSE BILL 401, ENTITLED  
“AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT  
ZONING AUTHORITY TO INCREASE HOUSING OPPORTUNITIES  
AND TO MAKE VARIOUS CHANGES AND CLARIFICATIONS TO  
THE ZONING STATUTES”**

NOW COMES THE CITY COUNCIL FOR THE CITY OF BREVARD, and says that:

Whereas, the bills referred to in the title of this Resolution have been reviewed by Council and by the City Attorney;

Whereas, the spirit, intent and effect of these two bills are not evidenced by their titles;

Whereas, these two bills are aimed directly at the goal of eliminating zoning in the cities of North Carolina;

Whereas, the enactment of these bills would cause great hardship and detriment to residents and property owners within the City of Brevard and its Extraterritorial Jurisdiction;

Whereas, the long term effect of these two bills would be that the special, unique and pleasing character of residential areas within the City of Brevard and its Extraterritorial Jurisdiction would be severely damaged or completely lost;

Whereas, the Long Term Planning of the City of Brevard would be of no effect and there would be chaos in unrestricted development throughout;

Whereas, the attractiveness of Brevard to tourists and to prospective new residents would be detrimentally and devastatingly affected by the passage of these bills;

Whereas, the tourism industry, the real estate development industry, the general contracting industry and all businesses and industries related to these industries, would all be devastated by a lack of zoning over a period of years as orderly neighborhoods fall into chaos without any development plan, zoning guidelines or restrictions;

Whereas, the Home Builders Association, in sponsoring and promoting these bills, is apparently only able to see a short term windfall in the near term as condominiums,

apartment buildings and other multi-unit constructions are built rapidly and without any regulation, the ultimate and long term result being a devastating drop in property values as marketability suffers, actually creating great harm to itself and to its membership;

Whereas, much of the language in these bills is so ambiguous as to lead only to unnecessary litigation, including language in Section 2.3 (G.S. Section 160D-703(e)), which either greatly restricts or eliminates conditional zoning; and Section 2.5 (G.S. Section 160D-706(c)), which creates new ambiguities within the important legal concept that the free use of land should be favored in the law;

Whereas, in Section 1.1(a) (G.S. Section 160D-707(b) and (c)), these bills create ambiguities concerning whether even “areas zoned for single-family homes,” with no exceptions can be protected, or whether they, like all other areas, including even districts “zoned for residential use, including those that allow for the development of detached single-family dwellings,” will lose all zoning protection against multi-unit development if these bills are enacted;

Whereas, in Section 1.1(a)(Section 160D-707(c)), the express language in the bills is that developers may protect their developments by means of private restrictive covenants, but the bills leave little or no authority in cities to offer zoning protection to the populace, which will enhance the power and riches of those who own homes in the most wealthy and exclusive neighborhoods, to the detriment of all others, thereby creating an even greater divide and segregation between rich and poor;

Whereas, the bills contain many other negative and harmful provisions, including language in Section 2.2 (G.S. Section 160D-702(e)) eliminating the power of Cities to consider many restrictions on the use of land; and Section 2.6 (G.S. Section 160D-1402(j)(3)(b)), taking away the local authority of cities to consider the public safety effect of traffic impact of a development if the State has done a Traffic Impact Study;

Whereas, the bills include a highly unusual penalty provision that if any zoning-related decision by a City is successfully contested, the Court is required to “award reasonable attorney’s fees and costs to the party who successfully challenged the actions of

the local government,” which is intended to have the devastating and chilling effect of discouraging local zoning legislation and enforcement;

Whereas, the League of Municipalities, which ably and objectively advises and supports North Carolina municipalities, opposes the enactment of these bills;

Whereas, the enactment of these bills would be against the Public Interest, would not be in the best interest of the citizens, residents or property owners of cities in North Carolina and in the long term, would hurt even the sponsors and proponents of such legislation;

Whereas, the hidden goal and real purpose of these bills is to attain the unwise political goal of emaciating municipalities and taking away their power and their legitimacy of existence, which is not in the long term best interest of any group or faction, including the sponsors and proponents of these bills.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF BREVARD, NORTH CAROLINA, THAT:

Section 1. City Council, acting for and on behalf of the residents of the City of Brevard, opposes the enactment of these bills.

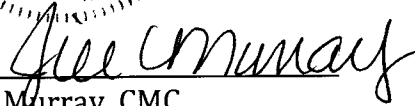
Section 2. This resolution shall be published by the City Clerk to the Transylvania Times, the Asheville Citizen, the Hendersonville Times, and other local media, with copies going to all elected members of the General Assembly, to the Governor and to the League of Municipalities.

Section 3. This Resolution is effective upon approval.

Approved this 19<sup>th</sup> day of April, 2021.



Attest:

  
Jill Murray, CMC  
City Clerk

  
Jimmie Harris  
Mayor