

## Bill Description:

Senate Bill 382, or the "down-zoning" bill was passed by the North Carolina General Assembly on December 11, 2024. The bill limits local governments in North Carolina from adopting zoning rules that lower development potential without first obtaining landowner consent. Despite its adoption date in December, the bill reaches back 180 days to June 14, 2024. The front page of this sheet explains the bill and its terms. The back page explores the potential ramifications of the bill and actions local governments should consider taking.

The adopted bill text changes G.S. 160D-601 in the following ways:  
(underlined text is new, stricken text is deleted)

Terms used in the bill include:

**NO LOCAL GOVERNMENT INITIATED DOWN-ZONING WITHOUT CONSENT OF AFFECTED PROPERTY OWNER**

**SECTION 3K.1.(a)** G.S. 160D-601(d) reads as rewritten:

"(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be ~~initiated~~ initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment, ~~unless the down-zoning amendment is initiated by the local government.~~ amendment. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

- (1) By decreasing the development density of the land to be less dense than was allowed under its previous usage.
- (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.
- (3) By creating any type of nonconformity on land not in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element."

**SECTION 3K.1.(b)** If any provision of this section is declared unconstitutional or invalid by the courts, it does not affect the validity of this section as a whole or any part other than the part so declared to be unconstitutional or invalid.

**SECTION 3K.1.(c)** This section is effective when it becomes law and applies to local government ordinances adopted on or after that date and any local government ordinance enacting down-zoning of property during the 180 days prior to the date this section becomes effective. Ordinances adopted in violation of this section shall be void and unenforceable.

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**Down-Zoning:**

An action by a government that reduces or limits the development potential of land - usually through a zoning ordinance text amendment that reduces the range of allowable uses, densities, or building sizes

**Density:**

The maximum allowable number of dwelling units on a lot or site - usually expressed as a maximum number of units per acre of land

**Use:**

The primary purpose or activity conducted on a lot or within a building, though it can also include related accessory or temporary uses

**Nonconformity:**

A situation where an existing lot, structure, use type, or site element that was legal when established no longer complies with the development rules - typically created when zoning regulations change [NOTE: the General Statutes do not define 'nonconformity']

**Residential Zoning District:**

An area designated on a zoning map where the primary use types are residential in nature, though other use types (like institutional, governmental, or even commercial) may also be allowed - typically includes the term "residential" in the district name

**Site Element:**

A physical component, feature, or aspect of a lot or building, such as an off-street parking area, required landscaping, signage, exterior building materials, or building design detail

**Written Consent:**

Written agreement or authorization providing clear evidence of permission or approval for a specific action, decision, or arrangement, such as the downzoning of land or the application of development regulations



# Ramifications of SB382 for local governments...

SB382 affects the ability of local governments to initiate changes to some of their development regulations by requiring prior consent from affected landowners in some (but not all) instances.

## Prior consent from affected landowners is **REQUIRED** before adopting amendments that:

- 1 Reduce in the range of allowable uses within existing zoning districts
- 2 Change prior 'by-right' development to now require special use permit approval
- 3 Reduce maximum density within existing zoning districts
- 4 Increase setbacks or dimensional requirements within existing zoning districts
- 5 Increase development standards that change existing conforming development to nonconforming development on lots in non-residential zoning districts

## Prior consent from landowners is **NOT REQUIRED** for:

- 1 Text amendments that maintain or expand the range of allowable uses in current zoning districts
- 2 Text amendments that maintain or reduce setbacks or dimensional requirements in current zoning districts
- 3 Text or map amendments that maintain or that reduce current development standards
- 4 Text amendments that establish new unmapped zoning districts
- 5 Increases in development standards applied to developed lots in residential districts; even if such changes create nonconforming development
- 6 Increases in development standards on undeveloped lots in residential or non-residential districts
- 7 Application of voluntary incentives even when incentives result in a reduction of allowable uses or densities, increases in setbacks or dimensional requirements, or increases in development standards

## 3 things to consider

### 1

#### Must review amendments adopted after 6/14/24

- Rescind government-initiated text or map amendments that are down-zonings, or get consent from affected landowners

### 2

#### Should make the following changes going forward:

- Consider seeking a local bill exempting you from the SB382 changes to 160D-601
- Prepare blank consent form(s)
- Catalogue existing pre-SB382 nonconformities
- Discuss the ramifications of conventional upzonings with elected and appointed officials

### 3

#### If planning to initiate amendments:

- Carefully consider district consolidations and create new districts where possible
- "Lean in" to conditional rezoning with new conditions
- Re-define nonconformity
- Explore incentives for encouraging existing development compliance with new development standards

