

Update on Impact of State Legislation on Local Zoning

SENATE BILL 382

JANUARY 6, 2025

Goals:

- **Understand City’s ability to “downzone” property as outlined in Senate Bill 382/160D-601(d)**
 - Effective 12/11/24
- **Highlight the major components and effects of the bill**
- **Outline potential considerations and impacts**
- **Provide next steps by Staff**

SB382*

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 nor is it enforceable~~ 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."

***effective 12/11/24 and retroactive 180 days**

SB382

Bill Overview



□ **No local government initiated down-zoning without consent of affected property owner including the following:**

- Decreasing development density
- Reducing the permitted uses
- Creating any non-conformity, not in a residential zoning district.



By decreasing the development density of the land to be less dense than was allowed under its previous usage.

□ Example:



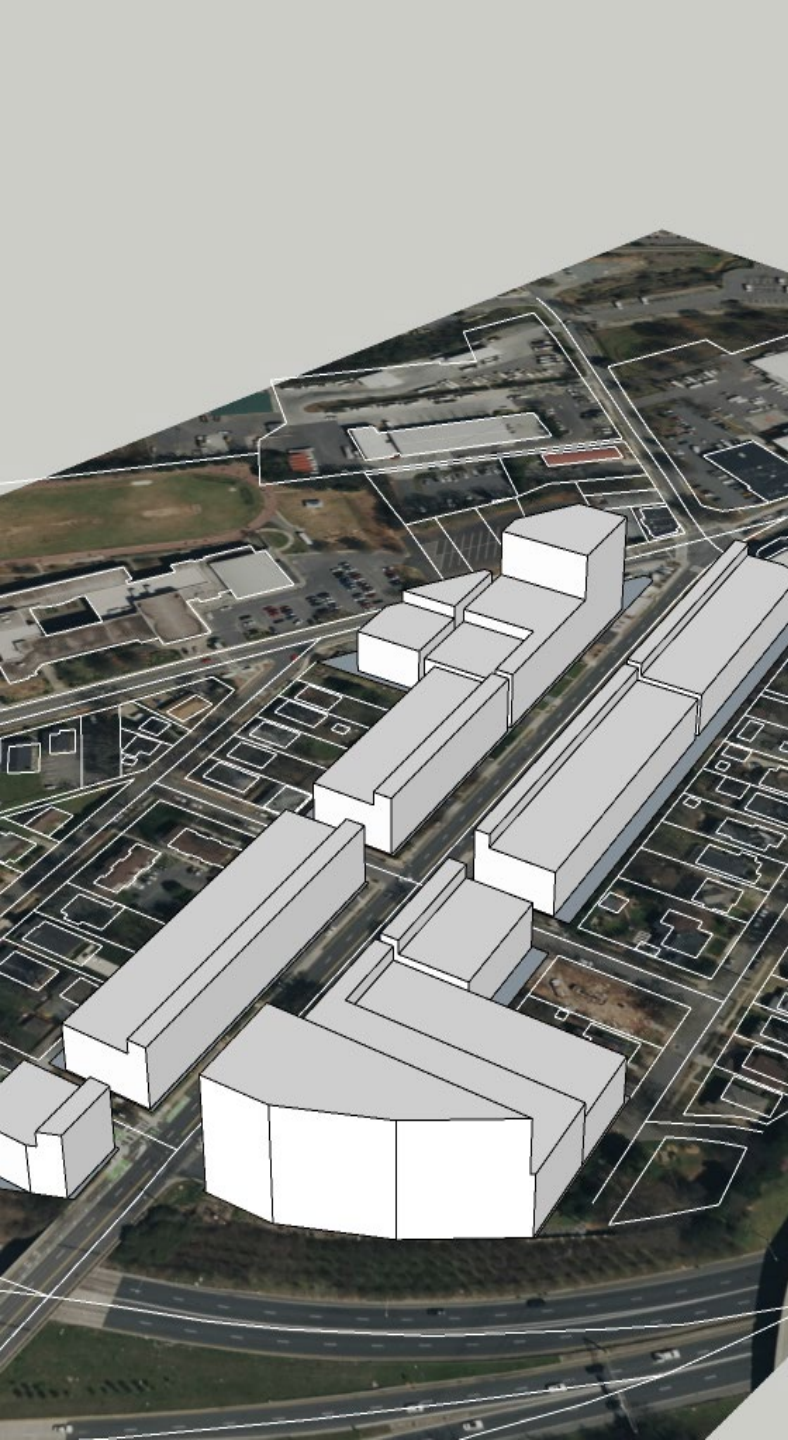
CURRENT UDO						
	Single Family Detached	Duplex	Triplex	Quadruplex (stacked)	Townhouse (up to 5 units)	Small Multifamily Building
Neighborhood 1 A	Allowed	Allowed	Allowed	With Restrictions	Not Allowed	Not Allowed
Neighborhood 1 B	Allowed	Allowed	Allowed	With Restrictions	Not Allowed	Not Allowed
Neighborhood 1 C	Allowed	Allowed	Allowed	With Restrictions	Not Allowed	Not Allowed
Neighborhood 1 D	Allowed	Allowed	Allowed	With Restrictions	Not Allowed	Not Allowed
Neighborhood 1 E	Allowed	Allowed	Allowed	With Restrictions	Not Allowed	Not Allowed
Neighborhood 1 F	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed



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.

□ Example:

- Eliminating uses from districts in the permitted use table



Local governments cannot create additional development restrictions (for non-residential zoning districts) that create a non-conforming use, structure, lot or element unless all property owners affected consent to the change

□ **Examples:**

- Additional separation requirements for fish arcades would not be possible unless all existing arcades were in compliance with the proposed change OR all current owners consented to the change
- Additional buffer requirements for manufacturing and logistics sites would not be possible unless all sites were in compliance with the proposed change OR all current owners consented to the change

A "non-conforming use" refers to a property use that was legal when it was established but no longer complies with the current zoning regulations due to a change in zoning laws

Impacts on Upcoming Initiatives

	Not Impacted	Delayed for Additional Evaluation	Major Impact
Clean Up Text Amendment (scheduled adoption December 2024)		X	
Housing to Support Faith Based Initiative		X	
Affordable Housing Tree Mitigation Bank	X		
Allowing Housing in Non-Residential Zoning Districts	X		
Office Conversions		X	
Neighborhood Character and Residential Infill Overlay		X	
Changing Allowed Uses (Triplexes, Townhouses, Stacked Quads) in Districts		X	X
Alignment Rezoning			X

Next Steps:

- ❑ **Bring forward the Clean Up Text Amendment in January**
 - Items that need additional evaluation or are impacted will be pulled out and eliminated
- ❑ **Review text amendments approved after 6/11/2024 (bill is retroactive 180 days)**
- ❑ **Evaluate other SB382 components that may affect the UDO**
- ❑ **Work with Intergovernmental Relations Team to collaborate on potential language modifications that would allow cities to creatively pursue housing solutions and respond to constituent issues**