

Data Centers and Zoning in North Carolina

Jim Joyce & Adam Lovelady
Fall 2026



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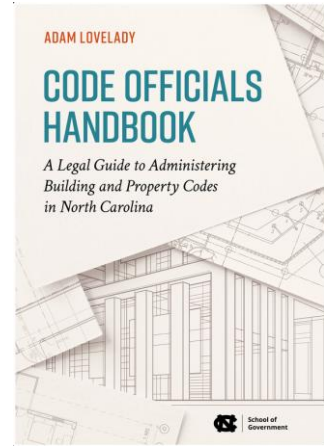
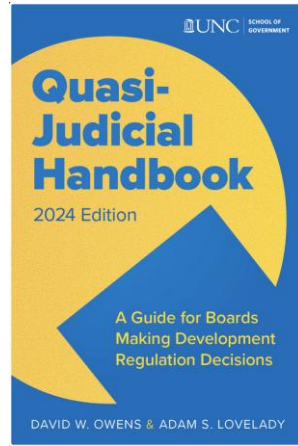
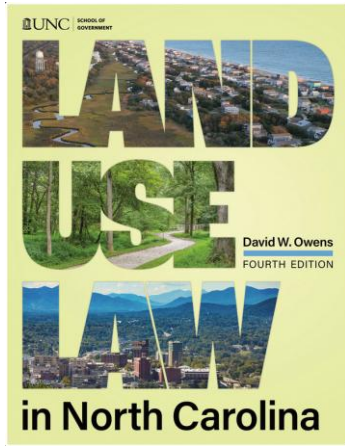
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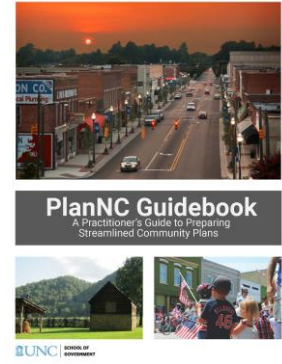
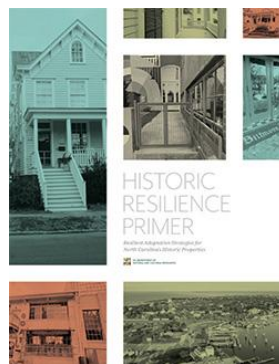
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Online Resources



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Focus and Limitations

- Focus: Data centers and North Carolina land use law
- Limitations
 - Not a technology presentation.
There are many technical details of data centers.
 - Not promoting a particular policy approach.
There are many issues communities must balance for themselves.
 - Not covering all possible legal topics.
 - There are many legal issues beyond zoning.
 - Not legal advice.
Local government officials should coordinate with their attorney.

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Zoom Reminders

- Please stay muted unless invited to unmute
- Cameras encouraged
- Questions in the chat box
(but please minimize the back and forth)
- Q&A at the end of each section

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Data Center Basics Under Current Zoning Temporary Moratoria Limits on Down-Zoning Potential New Rules

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Why do we have data centers?

- Internet and social media
- Media, streaming, and gaming
- Telecommunications
- Banks, healthcare, research
- Cloud storage and computing
- Cryptocurrency
- Artificial intelligence



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Types of Data Centers

- Internal / On-site
 - from closet to room to nearby building
- Stand-alone / Offsite
 - enterprise or multi-tenant/colocation
- Campus-scale (Hyperscale)
 - Amazon Web Services (AWS), Apple, Google, Meta, Microsoft
 - Digital Reality, Equinix, Vantage Data Centers



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North Carolina Examples



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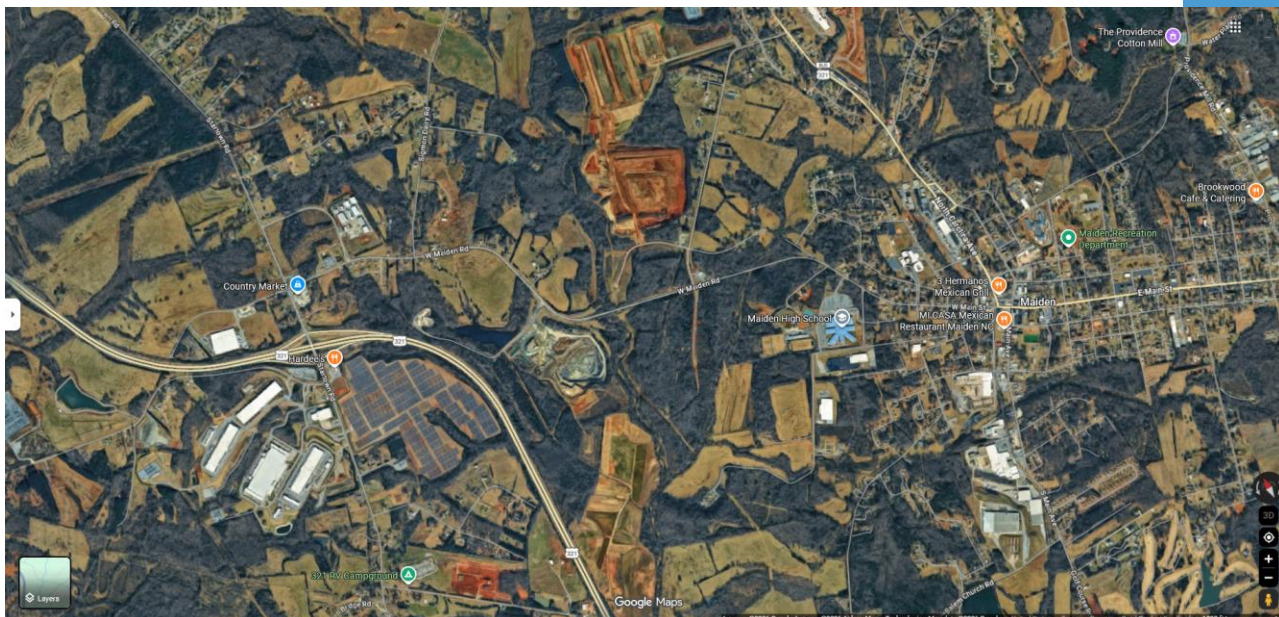


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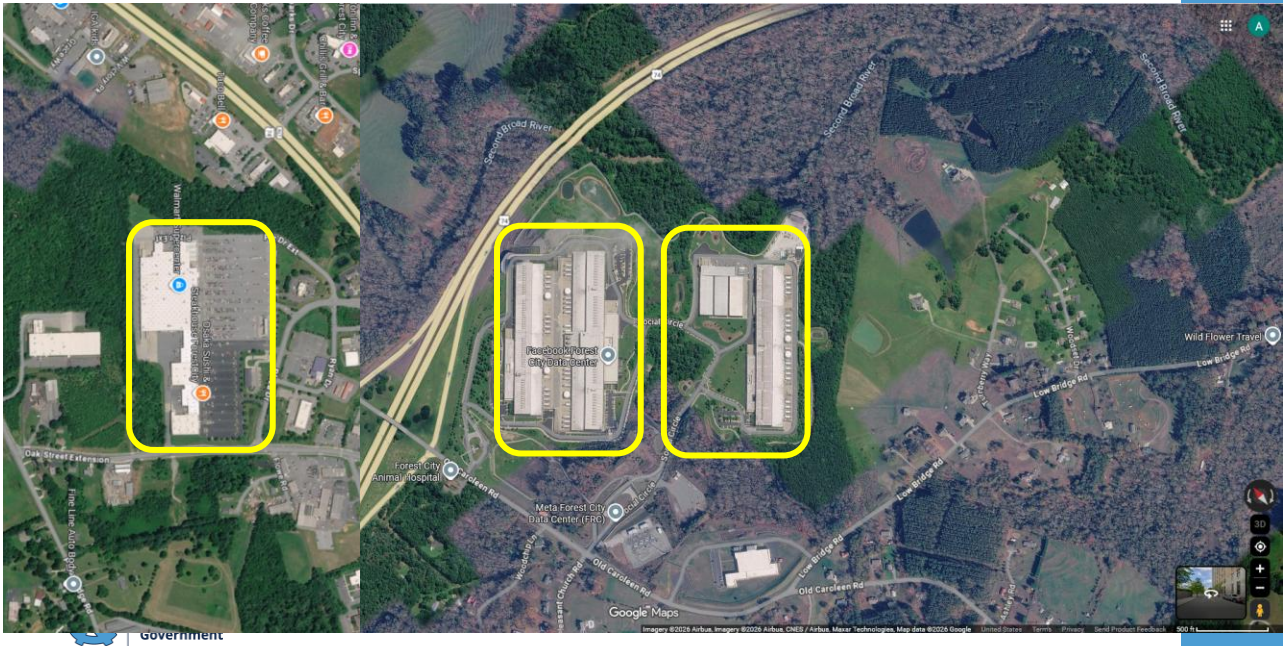


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Siting Factors

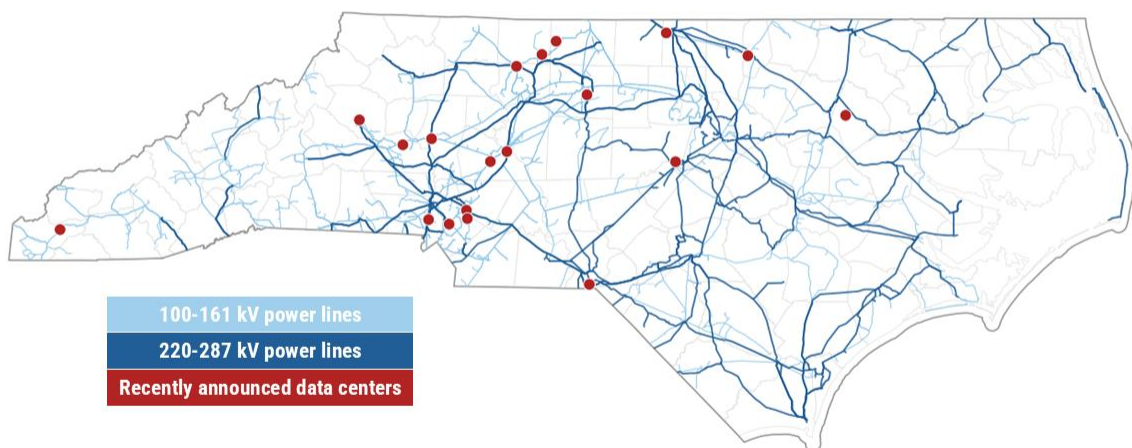
- Electric power (high-voltage line, capacity, and substation availability)
- Water (depending on cooling system)
- Data connection
- Hazard risks
- Land availability



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Data centers tend to be built near high-voltage power lines

(That also have capacity.)



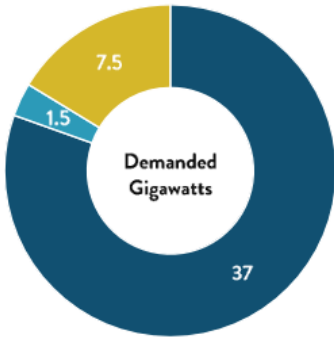
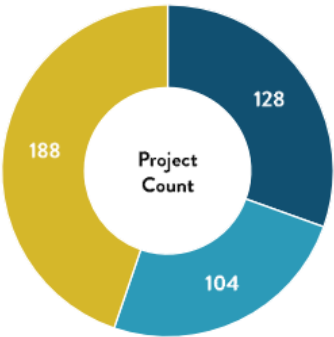
Map by Frank Muraca
ncdatacenters.substack.com

May 18, 2026

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Carolinas Economic Development Pipelines

Source: Duke Energy as of October 8, 2025



Note: Data includes all economic development projects tracked by Duke Energy, not just the more vetted projects included in the IRP.

North Carolina Energy Policy Task Force Interim Report

Additional Legal and Policy Issues

Permitting Data Centers

- Development Approvals (zoning, building, etc.)
- Environmental Permits (stormwater, waters/wetlands, air permits, etc.)
- Utility Approvals (electric utility agreement, water connection, etc.)
- Utilities Commission for Onsite Generation



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Local Considerations Beyond Zoning

- Nondisclosure Agreements
- Economic Development
- Tax Implications
- Water Connections
- Power Connections
- Potential emergency response (onsite chemical hazards, diesel storage, batteries, etc.)
- Opportunity Costs



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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HOUSE BILL 1063

Short Title: Ratepayer and Resource Protection Act.
Sponsors: Representatives Prather, Johnson-Hostler, Longest, and Helfric
Sponsors).
For a complete list of sponsors, refer to the North Carolina General A
Referred to: Rules, Calendar, and Operations of the House
April 28, 2026

1 A BILL TO BE ENTITLED
2 AN ACT TO REGULATE LARGE-SCALE DATA CENTERS IN ORDE
3 RATEPAYERS, WATER RESOURCES, AND GRID RELIABILITY
4 ON-SITE CLEAN GENERATION, COST-BASED RATES, INFRAST
5 RESPONSIBILITY, DISCLOSURES, AND REPORTING FOR C
6 CENTERS; TO LIMIT STATE AND LOCAL INCENTIVES FOR DATA
7 TO MAKE RELATED CHANGES TO PUBLIC UTILITIES LAW.
8 Whereas, North Carolina's electric and water utility systems ar
9 services relied upon daily by households, small businesses, and local gover



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

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SENATE BILL 730
Second Edition Engrossed 5/7/25
House Committee Substitute Favorable 5/21/26
House Committee Substitute #2 Favorable 6/2/26
Fifth Edition Engrossed 6/3/26

Short Title: Ratepayer Protection Act. (Public)
Sponsors:
Referred to:
March 26, 2025

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH REQUIREMENTS FOR SITING AND OPERATION OF DATA
3 CENTERS AND TO MAKE VARIOUS CHANGES TO STATE ENERGY AND
4 UTILITIES POLICY.
5 The General Assembly of North Carolina enacts:
6
7 **PART I. REQUIREMENTS FOR DATA CENTERS**
8
9 **REQUIREMENTS FOR LOCAL DEVELOPMENT APPROVAL PROCESS**
10 **SECTION 1(a)** Article 9 of Chapter 160D of the General Statutes is amended by
11 adding a new section to read:
12 **"§ 160D-974. Site assessment required for data centers; other requirements.**
13 (a) Prior to any approval of a rezoning application, special exception, conditional or
14 special use permit, or building permit for the siting of a new data center, a local government shall
15 require that an applicant:
16 (1) Perform and submit a site assessment to examine the sound profile of the data
17 center on residential units and schools located within 500 feet of the data
18 center property boundary. A locality may also require that a site assessment



Data Center Basics

Under Current Zoning

Temporary Moratoria

Limits on Down-Zoning

Potential New Rules

Clarifying Questions About . . . The Basics



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Data Center Basics Under Current Zoning Temporary Moratoria Limits on Down-Zoning Potential New Rules

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What if the ordinance does not include “data center” as a use?



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Dealing with Unlisted Uses

- Interpretation depends on the ordinance
 - “General” industrial / business / etc. categories
 - “Most similar use” provisions, some of which include a written determination

(b) Uses not listed in article III of this chapter shall be placed in the most similar category. For a nonresidential use, the North American Industrial Classification System (NAICS) code shall be the first guide. Where the same NAICS code is found in several use categories, the land development administrator shall consider the characteristics of the use, including the intensity of the use and its likely adverse impacts. Where a choice remains after reviewing for adverse impacts, the use should be classified with the similar use that has the most adverse impacts.



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Dealing with Unlisted Uses

- Beware a blanket prohibition such as

“[u]ses not specifically listed in the Table [] are prohibited.”

- Courts err in favor of the free use of land and reject blanket prohibition of unlisted uses
 - Byrd v. Franklin Cnty., 368 N.C. 409, 778 S.E.2d 268 (2015)
 - Land v. Vill. of Wesley Chapel, 206 N.C. App. 123, 697 S.E.2d 458 (2010)



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< Home | Regulating Land Uses Not ...

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November 17, 2015

Last revised: June 27, 2022

Print

Regulating Land Uses Not Specifically Mentioned in a Zoning Ordinance

David Owens

If a person is considering undertaking a particular land use, it is important that they know whether or not that would be allowed by the zoning ordinance.

It is usually a simple proposition to determine whether or not the use is allowed. The owner finds out how the property is zoned – what zoning district applies to this parcel – and then sees whether the intended use is listed as a permitted use on the property. The ordinance may provide that the use is always allowed in the applicable zoning district (often referred to as a “use by right” or “permitted use”) or only allowed with a special review (a special use permit). If the intended use is prohibited, the person must find a different site or apply to have the property rezoned to a district that allows the intended use.

But what if the zoning ordinance does not specifically address the intended use? Perhaps it is a new type of land use that was not contemplated when the ordinance was adopted. For example, many older zoning regulations did not address solar farms or sweepstakes parlors. Perhaps it is a use the local government did not



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What if the ordinance does include “data center” but it is inadequate?



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Refining use definitions

- Still have to apply current rules until they are changed
 - Even if ordinance has under-inclusive definitions or standards designed with traditional scale in mind
- Review definitions for coverage of different types of centers
 - Not all data centers (or data center regulations!) are the same
 - If planning to amend, consider whether to address different scales of data center differently
 - Beware of down-zoning!



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Data Center Basics

Under Current Zoning

Temporary Moratoria

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Potential New Rules

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Clarifying Questions About ...

Current Zoning



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Can we adopt a moratorium?



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G.S. 160D-107

- Authority
- Process
- Exemptions
- Findings
- Time Limits
- Judicial Review



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Process

- 60 days or less: notice at least seven days before a legislative hearing
- Greater than 60 days: standard notice for legislative land use decisions
- Public safety exception from notice requirement “in cases of imminent and substantial threat to public health or safety.”



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Necessity, Scope, and Plan

- “the ***problems or conditions*** necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the local government and why those alternative courses of action were not deemed adequate.”
- “***development approvals subject to the moratorium*** and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.”
- “***date for termination*** of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.”
- “***actions, and the schedule for those actions***, proposed to be taken by the local government during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.”



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Potential Justifications

- Whether a moratorium is necessary will depend on individual circumstances
- Some example justifications
 - Evaluating impacts of new land uses that present new challenges
 - Developing or modifying regulations
 - Time for infrastructure to “catch up”
- Can’t adopt moratorium “for the purpose of developing and adopting new or amended plans or development regulations governing residential uses”



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Duration and Extensions

- “[t]he duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary to correct, modify, or resolve such conditions.”
- Limits on extension or renewal – “No moratorium may be subsequently renewed or extended ... unless the local government has taken ***all reasonable and feasible steps*** proposed ... in its ordinance establishing the moratorium ...and unless new facts and conditions warrant an extension.”



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What about proposals and projects already underway?

Timing matters: application date, call for hearing, effective date

Exempt from moratorium if prior to call for hearing

- project with a valid building permit
- project for which a special use permit application has been accepted as complete
- development described in a site-specific vesting plan
- development with common law vested rights
- subdivision plats accepted for review
- Permit choice applies when moratorium expires



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February 23, 2023



Hit the Pause Button: Temporary Development Moratoria in North Carolina

Adam Lovelady

Help! New development has outpaced our water and sewer capacity! There's a high impact industry talking about locating in our community, and the land use is not addressed in our ordinance! What's a community to do? Can we hit the pause button on development?

One option is to adopt a temporary moratorium on development permits long enough to adopt new plans or rules. Under [G.S. 160D-107](#) North Carolina local governments "may adopt temporary moratoria on any development approval required by law." While the authority is available, it is limited by specific procedures and a carve-out for residential uses. This blog outlines the procedures and limits for temporary development moratoria in North Carolina.

Necessity, Scope, and Plan

G.S. 160D-107(d) requires the local government to be clear about why the moratorium is necessary as well as when and how the issues will be resolved. At the time of adopting a development moratorium the regulation must include the following details:



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Clarifying Questions About . . . **Moratoria**



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G.S. 160D-601

(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning 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.



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G.S. 160D-601

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Data Center Regulations . . . and Down-zoning

- Defining “data center” as a land use and limiting where that land use is allowed . . .

may be “reducing permitted uses”

- Increasing setbacks and reducing developable area . . .

may be “decreasing the development density of the land”



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Down-zoning Does Not Apply to Everything

- Some zoning amendments that do not necessarily reduce uses or density:
 - Increased vegetative buffering (within established setbacks)
 - Placement and screening of exterior equipment
 - Building design standards
 - Lighting standards
 - Operational limits such as noise standards
 - Fencing requirements



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Down-ZONING is About ZONING

(d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment. For purposes of

- General police-power ordinances are not zoning



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December 20, 2024



Limits on "Down-Zoning"

Adam Lovelady

The North Carolina General Assembly amended state law to greatly restrict local government discretion to amend local zoning ordinances. The statutory provision, amended as part of the Disaster Recovery Act of 2024 – Part III, Session Law 2024-57 (S.B. 382), broadly defines "down-zoning" and provides that local governments cannot adopt a down-zoning without written consent from all impacted owners.

The precise interpretation and breadth of impact of this law are not perfectly clear. There are many questions. One thing is clear: the law dramatically alters the authority for local governments to amend local zoning ordinances.

This blog seeks to decipher the meaning and scope of the new limits on down-zoning. The blog outlines the amended statutory language; it investigates the meaning and scope of "down-zoning" as defined by state law; and it identifies some of the ways that local zoning administration may be impacted by the new limits.

Property Rights and Ordinance Changes

State and local law has long addressed this question of fairness that is central to land use regulations: To what extent should governments exercise their police power to regulate land use? What rights do property owners have to control their own property?

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Clarifying Questions About ... **Down-Zoning**



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*depending on down-zoning

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Topics for Potential New Rules

- Balancing Interests
- Definitions and Districts
- Approval Processes
- Application Fees
- Typical Zoning Standards
- Other Development Standards



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Balancing Interests

- Account for different scales of data centers
- Tailor Regulations
Consider what other industries will be impacted?
- Consider the broader policy impacts
(tax, economic development, utility capacity)



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Definition and District Considerations

- Distinguishing based on size
- Broad enough to capture range of applications, narrow enough to avoid every office building
- Distinguishing based on substance of computing (crypto)?
- Districts? Industrial, campus/institutional, commercial
- Can we just ban 'em? For most local governments, likely no.



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Approval Process: Types of Decisions

- Administrative zoning permit and site plan review
- Quasi-judicial special use permit
- Legislative zoning or conditional zoning



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Process Matters



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Application Fees (160D-402)

- Reasonable fees to cover the costs of review
- May charge applicant for necessary technical review by third-party
- Cannot use application fees as deterrent nor revenue generation



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Typical Standards

- Setbacks
 - From property lines
 - From sensitive properties (residential, schools, churches)
 - Specific to mechanical equipment
- Screening for equipment
- Vegetative buffers at boundary
- Building height, massing, design



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Typical Standards

- Accessory uses and buildings (generator and/or battery back-up)
- Operational Limits
 - Noise levels
 - Lighting levels
 - (Consider are the general rules sufficient?)
- Adequacy of public utilities
- Parking (not after S.L. 2026-39 (HB162))



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Beyond the Standard Standards?

- Specify type of cooling system?
- Require use of renewable energy?
- Community benefits agreements?
- Conditional Zoning (160D-703)
- Environmental Impact Statements (G.S. 113A-1 et seq.)
(*process not substance)



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