

FOUR BENEFITS OF LIMITING MINIMUM LOT SIZES

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Chair Dolan, Vice Chair Piemonte, and members of the committee, thank you for inviting me to comment on minimum lot sizes. I study land use regulation and housing markets as codirector of the Urbanity Project at the Mercatus Center at George Mason University. During the past two years, my research has focused especially on minimum lot sizes, which I believe to be the most prevalent form of land use regulation in the United States.

The bill before you would slightly limit municipal regulatory authority: landowners statewide would gain the right to create parcels for single-family housing as small as a half-acre, provided those parcels use neither a well nor a septic field. There are several benefits to having small lot sizes but few costs, a fact that a just and limited government ought to take into account.

POTENTIAL BENEFITS OF REDUCING MINIMUM LOT SIZES

To get a sense of the reach of the bill, I audited zoning, water, and sewer maps of six New Hampshire municipalities: Dover, Exeter, Keene, Manchester, Meredith, and Nashua. In all six municipalities I found areas that are served by municipal water and sewer but that are zoned for an acre or more. However, all of those areas were modest in size, often consisting of one or two subdivisions. Curiously, most house lots in those districts were already a half-acre or less.

I believe HB 132 would have modest and scattered effects. Nevertheless, the effects would largely be positive for New Hampshire residents, municipal governments, and those seeking to conserve forest and agricultural land:

1. Smaller lots promote affordability. Aside from requiring less land, smaller lots are likely to be developed as smaller homes. Of course, large lots are still legal; there's no maximum lot size.
2. Smaller lots use fewer municipal resources. A street where lots are 200 feet wide uses four times as much pavement, plowing, water mains, sewer mains, and so on than a street where lots are 50 feet wide. But few jurisdictions require utility users to pay for infrastructure maintenance in proportion to their use of it; water users, for example, typically pay by the gallon. As research by the Strong Towns organization has shown, large lot subdivisions rarely

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pay their own way in taxes over the long term.¹ Instead, everyone's taxes and utility rates rise to cover the extra costs.

3. Smaller lots have less impact on the environment. They conserve forest and agricultural land by using less of it.
4. Most important, lower minimum lot sizes expand private property rights. There are, of course, legitimate limits on property rights, but those limits ought to be clearly justified by a legitimate public interest that cannot be achieved with a lighter touch. For example, I certainly support restrictions on pollution. But in this case, the public interest mainly runs in the opposite direction.

OTHER CONCERNS

There is also an issue of fairness. As I have noted, most of the lots that would be affected by this bill are already a half-acre or smaller. This bill would extend a right some property owners already enjoy—the right to have a house on a half-acre—to neighbors with similarly situated land.

When I speak about deregulation, people often object that changing their neighbor's zoning without their permission violates their property rights. To this, I have a simple response: if you want to control your neighbor's property, you ought to buy it.²

New Hampshire property owners—current and future—would benefit from less regulation of minimum lot sizes. More young families would be able to afford a starter home, future taxes and utility rates would be lower, there would be more woods and farms, and property rights would be stronger and fairer.

Thank you for your time. I am happy to answer any questions, either in person or by email.

1. Charles Marohn, "The More We Grow, the Poorer We Become," *Strong Towns*, August 22, 2018.

2. One could also buy a conservation easement.