



INSTITUTE FOR JUSTICE

February 3, 2025

New Hampshire House Standing Committee on Housing
Legislative Office Building, Room 305
33 North State Street
Concord, New Hampshire, 03301

Re: Testimony before the House Committee on Housing in support of HB 459

Dear Chair Alexander, Vice Chair Cole, and Members of the Committee:

My name is Samuel Hooper. I am Legislative Counsel at the Institute for Justice (IJ), a nonprofit law firm that works to protect civil and economic liberties, including property rights. Through strategic litigation in courthouses and advocacy in statehouses, IJ's Zoning Justice Project seeks to reform restrictive zoning and land-use regulations that limit housing supply, drive up costs, and infringe upon private property rights.¹

Addressing housing availability in New Hampshire

As demand for housing continues to outstrip supply, outdated zoning policies are straining the housing market, contributing to localized shortages, and increasing costs across all home types and price points. This affordability crisis affects all New Hampshire citizens, but particularly low-income families, young professionals, and seniors.²

Restrictive zoning and land-use regulations contribute significantly to the shortage of housing. These regulations reduce housing options by effectively prohibiting multifamily housing, restricting smaller, more affordable homes, and barring “missing middle” housing options such as duplexes or townhomes. They also limit the construction of higher-density housing, pushing development outward away from urban cores, thus increasing transportation costs for working families. Costly and lengthy permitting processes discourage development and add to housing prices. And not only does restrictive zoning contribute to the rise in homelessness,³ it can also restrict the ability of citizens and organizations to respond to the very problems that it creates.⁴

Overzealous zoning regulations prevent citizens from using their own property in a manner best suited to their needs, and to the extent that they prevent the building of gentle and sustainable density, they contribute to the housing crisis. Zoning laws that ban anything other than single-family homes drive up prices by artificially limiting the supply of housing. In fact, approximately 75 percent of all residential property in America is

¹ Institute for Justice – Zoning Justice Project: <https://ij.org/issues/zoning-justice/>

² “The Zoning Trap: How Local Planners Decide How We Live”, <https://ij.org/issues/zoning-justice/history-of-zoning/>

³ “Zoning Police and NIMBYs Want To Keep People Homeless”, A. Bargil and D. James, Reason, <https://reason.com/2024/07/19/zoning-police-and-nimbys-want-to-keep-people-homeless/>

⁴ “With Winter Coming, the Institute for Justice Sues Kalispell, Montana, to Keep Warming Shelter Open”, <https://ij.org/case/flathead-warming-center/>



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currently zoned to prohibit the construction of relatively affordable housing (such as duplexes, triplexes and quadplexes) where it is most needed, contributing to skyrocketing rents and home ownership slipping beyond the reach of average earners.⁵

Minimum lot size reduction is an important element of broader zoning reform

Excessive minimum lot size requirements have the effect of artificially restricting the housing supply, making it more difficult for families of all income levels to afford homes. Many cities mandate a minimum lot size so large that it effectively blocks new, affordable home construction – making giant “McMansions” the only economically viable home type in many neighborhoods.

By requiring unnecessarily large lots, these restrictions drive up land costs and limit the number of homes that can be built in a given area. This reduces housing availability, increasing competition for a limited number of homes and pushing prices higher. Minimum lot size regulations also contribute to urban sprawl, forcing development outward and leading to higher infrastructure costs for municipalities, as they must extend roads, utilities, and emergency services over a larger area.

HB 459 addresses these challenges by ensuring that local zoning ordinances do not impose arbitrary lot size requirements that go beyond what is necessary to protect health and safety. By allowing more reasonable lot sizes, this bill will help expand the housing supply, thereby making homes more affordable for working families, young professionals, and seniors looking to downsize. When there are more housing options available, prospective homeowners and renters alike benefit from a market that better meets their specific needs and budgets.

Reducing excessive minimum lot sizes also allows for a more efficient use of land, which can lead to more walkable neighborhoods with greater access to local businesses, schools, and public services. Instead of forcing families into larger lots than they need or can afford, HB 459 provides flexibility for homebuilders to construct housing that aligns with modern market demands. The result is a housing landscape that is more diverse, more affordable, and more adaptable to changing economic conditions.

Beyond affordability and efficient land use, HB 459 restores an essential element of property rights. Restrictive zoning laws dictate how property owners may use their land, often without clear justification rooted in health or safety concerns. By preventing municipalities from enforcing lot size requirements unrooted in empirical evidence, this bill ensures that property owners will have greater freedom to develop and utilize their land in ways that meet their needs, and those of the community.

⁵ Testimony: In Residential Zoning Policy, Congress Must Tear Down the Walls We Don't See, <https://tcf.org/content/commentary/testimony-residential-zoning-policy-congress-must-tear-walls-dont-see/>



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Conclusion

The housing crisis is not neatly confined to the boundaries of any one city or metro area. It is a statewide and national issue, and therefore cannot be solved at the local level. Indeed, municipalities – often responding to the outsized voices of a small but vocal minority – are incentivized to fall back on arguments about the importance of “local control” to impede the rights of property owners, while hoping that other localities will permit the housebuilding which they refuse. This is unsustainable and threatens the future growth and economic vitality of New Hampshire.

In every other sector of our economy, consumer demand is met with an array of consumer choices at different price points. Housing should be no different, and the marketplace of housing supply should be unshackled to allow for an array of housing options that will meet the diverse needs of New Hampshire citizens. For these reasons, the Institute for Justice encourages the Committee to support HB 459.

Sincerely,

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