

Rightsizing Lot-Size Rules in Metropolitan New York City

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Executive Summary

In the aftermath of the Covid-19 pandemic, metropolitan New York City's housing affordability crisis has come roaring back. To address the housing shortage that underlies this affordability crisis, local and state policymakers should remove regulatory barriers to new housing development. One such barrier is minimum lot-size regulation, which forces homes to sit on lots larger than what the market might otherwise demand, thereby reducing overall housing production while raising prices for those housing units that are produced. At the local level, policymakers within metropolitan New York City should lower these minimums and allow developers to experiment with small lot infill and compact suburban subdivisions that might better suit consumer preferences; at the state level, New York State policymakers should adopt ceilings on the minimum lot sizes that local governments may impose, tying these rules more closely to valid health and safety considerations. Minimum lot-size reform would release significant new housing supply, easing price pressure while leveraging existing infrastructure.

Introduction

New York State is in the throes of two different population crises: one of decline, and one of stagnation. Nearly every county in upstate New York—outside metropolitan Albany—is actively undergoing depopulation.¹ And over the past decade, metropolitan New York City grew by a paltry 5.96%—a startlingly low figure when compared with peer metropolises like Washington, DC, and Seattle, which grew by 10.2% and 15.88%, respectively.² The former crisis is a function of an ongoing restructuring of the upstate economy; its causes are deep, and its solutions are complex. But the latter crisis straightforward is a policy choice, the inevitable result of regulations throwing up barriers to housing production.

New York City is not stagnant for a lack of interest or a decline in fortunes; on the contrary, the Big Apple continues to host the third-highest median rents in the country, even amid the ongoing Covid-induced slump.³ Within metropolitan New York City, approximately one in 10 households is rent-burdened—meaning that they pay more than a third of their income toward

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rent—while approximately one in 20 households is severely rent-burdened—meaning that they pay more than half their income toward rent. Meanwhile, median home prices in metropolitan New York City remain among the highest in the nation. For all the ink that has been spilled over the pandemic-induced death of the city, demand to live in New York City remains high and is returning to pre-pandemic levels.

Under normal conditions, we would expect high rents and skyrocketing home prices to stimulate the construction of new supply, as in any other market. But housing is different: in New York City and its suburbs, a complicated web of confusing, and often contradictory, land-use regulations makes new housing construction exceptionally difficult. There is now consensus that these rules are a key culprit in driving up housing costs.⁴ The nature of these rules varies: in many cities, minimum parking requirements may force the provision of costly or unworkable parking garages.⁵ In many inner suburbs, single-family zoning may make multifamily housing outright illegal.⁶ And in outer suburbs, minimum lot-size rules force single-family homes to sit on larger, more expensive, parcels.

While much has been written about minimum parking requirements and single-family zoning in the metropolitan New York City context, little has been written on minimum lot sizes.⁷ But these rules represent a key barrier to housing production, not only because they drive up lot sizes within greenfield developments but also because they block the subdivision of existing detached single-family homes into two or three detached single-family homes on smaller lots. Removing these barriers would allow developers in the former context to rightsize lots to better satisfy market demand while allowing homeowners in the latter context to voluntarily subdivide their properties and tap into the housing wealth they have accumulated.

The first section of this report surveys the literature on minimum lot sizes and the role they play in increasing housing costs. The second section examines the minimum lot-size rules that are potentially blocking housing in New York City and its suburbs. A third and final section considers local and state opportunities for reform and explores similar reform efforts that have been achieved or are in process in Houston and in various states. Minimum lot-size reform is hardly the most exciting policy area facing local and state policymakers, but if done right, it could alleviate the housing affordability crisis that is holding back America's most important city.

What Do We Know About Minimum Lot Sizes?

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Minimum lot-size requirements specify that all lots in a given area must be at or above a specified size. According to recent surveys by economists Joseph Gyourko, Jonathan Hartley, and Jacob Krimmel, minimum lot-size rules have become more common over the past two decades, to the point that they are now almost ubiquitous. They have also become more onerous, as existing minimum lot sizes have increased.⁸ These provisions apply to all land uses, yet their effect is most pronounced for owner-occupied single-family homes, each of which sits on its own lot. Minimum lot-size rules are the principal zoning regulation in two development contexts:

- First, when developers are subdividing a large, undeveloped lot—known within planning as a greenfield—into various smaller lots as part of a new subdivision. This usually occurs in suburban and rural contexts, where farms and natural areas are likely to be developed into residential neighborhoods.

- Second, when developers or homeowners are subdividing a modest lot into two or three smaller lots. This may involve the demolition of an existing structure, to be replaced by two or three new homes. This form of infill development is quite common in urban contexts where demand for housing is high and land-use regulations are accommodating.

Why care about minimum lot sizes? For starters, there is evidence that minimum lot sizes have a binding effect on development outcomes; that is, developers might like to plot smaller lots in response to market demand but are prohibited from doing so by minimum lot-size regulations. In a recent study, Salim Furth and I compared the distribution of lot sizes for lots hosting detached single-family homes with minimum lot-size rules across four Texas suburbs.⁹ If minimum lot sizes were *not* binding, we would expect to see a normal distribution; instead, we observe significant clustering right at the minimum—ranging from 6,500 to 9,000 square feet—in three of the four suburbs studied, suggesting that lot-size rules had a binding effect.¹⁰ While additional research is warranted, we can safely assume that if they are binding in pro-growth, land-abundant suburban contexts, they are likely binding in most U.S. contexts.¹¹

By forcing lot sizes to be larger than the market might otherwise require, minimum lot sizes both limit the production of housing and increase land consumption for each individual unit. To understand the effect that this might have on housing prices, consider two hypothetical examples:

- Imagine that a developer has acquired a vacant 50,000-square-foot lot in an outer suburb of Westchester County for \$500,000. Setting aside 20% of the lot for right-of-way and open space, she is left with 40,000 square feet of developable land. After studying the market, she finds robust demand for detached single-family homes on modest 5,000-square-foot lots; she thus plans to produce eight homes, with each homebuyer taking on an even share of the land costs, i.e., \$62,500. But a local minimum lot-size regulation imposed by the municipality prohibits the subdivision of lots smaller than 10,000 square feet. This has two implications: first, she can build only four homes, reducing the supply of new housing by half; and second, each homebuyer will now be forced to pay \$125,000 in land costs.
- Imagine a retired couple that owns an old detached single-family home on a 6,000-square-foot lot in an inner suburb in southeast Queens, valued at \$700,000. They would like to downsize. A Houston developer looking to break into the New York City market proposes to redevelop the lot into three homes, each occupying its own 2,000-square-foot lot and priced at \$500,000; naturally, he may be willing to pay more for the property. The couple's attorney informs them that they live in an R2A district, which imposes a minimum lot size of 3,800 square feet, ruling out subdivision and redevelopment as an option. Thus, the existing home remains unchanged, and the couple reluctantly sells it for the lower amount.

These hypotheticals have actors with different needs and motivations, who live in very different places within metropolitan New York. Yet they have one key aspect in common: minimum lot sizes result in fewer housing units, at higher prices. By mandating higher lot sizes, these rules limit the production of additional units; and by limiting the production of additional units, land costs must be distributed across fewer buyers, thereby raising housing prices. Such hypotheticals may seem individually small and inconsequential; but in the aggregate, such restrictions prohibit the construction of many hundreds of thousands of new homes across the region.

While research on minimum lot sizes is surprisingly limited—a constraint facing many areas of land-use policy—the empirical evidence largely supports this theoretical connection between minimum lot sizes and housing prices. In one study of metropolitan Boston, economists Jeffrey Zabel and Maurice Dalton identified price impacts associated with minimum lot-size restrictions as high as 20%, with spillover effects as high as 5% in neighboring municipalities.¹² A more recent survey, for Wake County, North Carolina, by economist Amrita Kulka finds

neighborhoods with higher minimum lot sizes to be associated with lots that are 19% larger and 7.5% higher home prices.¹³ As Kulka characterizes it, local policymakers may use minimum lot sizes to increase home prices by mandating an amenity: increased land consumption.

To the extent that minimum lot sizes empower local policymakers to set consumption floors on housing, they also allow local governments to exclude less affluent residents. In the U.S., this comes with an important racial dimension.¹⁴ As early as 1953, legal scholar Charles Haar observed the central role that minimum lot sizes played in driving exclusionary zoning in the New Jersey suburb of Wayne Township.¹⁵ By allowing local policymakers to raise housing prices through larger minimum lot sizes, they could effectively price certain classes and races out of the municipality altogether. While minimum lot sizes vary across the New York City region, they are consistent in their tendency to entrench economic and racial segregation.

While it is not the focus of this report, it should be noted that minimum lot sizes have other deleterious effects beyond affordability. First, minimum lot sizes suppress densities, potentially making transit infeasible.¹⁶ Transit-supporting densities will vary by local conditions, but one heuristic advanced by Institute of Transportation Engineers puts the minimum threshold for infrequent bus service at four or five dwelling units per acre.¹⁷ An increase in lot sizes from 10,000 to 20,000 square feet would thus make even the bare minimum of transit service infeasible by suppressing demand below sustainable levels. Increases at lower thresholds may likewise make more frequent forms of transit—such as bus rapid transit or light rail—infeasible.

Second, this additional “sprawl” increases the costs of public services and requires additional infrastructure.¹⁸ Unlike infill development (which leverages existing infrastructure and services) or compact development (which spreads required infrastructure and services across more units), large lot development requires extensive new infrastructure and services, without producing commensurate property-tax receipts.¹⁹ This may be appropriate in cases where new residents pay the marginal costs of the services and infrastructure that they require through exactions or impact fees; but in practice, these costs are often off-loaded onto the municipality as a whole.²⁰ Thus, beyond merely raising housing prices, minimum lot sizes also serve to stymie transit and overburden local municipalities.

Which Minimum Lot-Size Regulations Apply in Metropolitan New York City?

New York City might not, at first, seem like a place where minimum lot sizes have many consequences. But don't be fooled by Manhattan's skyscrapers—in Staten Island and neighboring New York State suburbs, densities quickly fall to typical U.S. urban levels; in the Big Apple's outer suburbs, densities are, in fact, quite low.²¹ A 2019 study of lot sizes found that the Mid-Atlantic region—which includes metropolitan New York City—had the second-highest median lot sizes in the country, or nearly 60% above the nationwide median.²² This is partly why metropolitan New York City is less dense than metropolitan Los Angeles, a region infamous for its sprawl;²³ while densities are consistently high across Greater Los Angeles, densities in Greater New York City start extremely high in Manhattan but rapidly fall, moving outward.

Minimum Lot Sizes in New York State Suburbs

Metropolitan New York City's large lot sizes are frequently mandated by local zoning. The phenomenon is most pronounced in the city's New York State suburbs, including those on Long Island and in counties as far north as Ulster and Dutchess. With hundreds of incorporated cities,

towns, and villages across eight counties—each enforcing a unique zoning code with potentially dozens of zones each—a comprehensive study of minimum lot sizes in metropolitan New York City is beyond the scope of this report.²⁴ However, by surveying a few examples in each of the three types of municipalities in the area—villages, towns, and cities—we can get a general sense of the state of minimum lot-size restrictions.

Villages are the smallest incorporated entity in New York State, typically encompassing a few hundred to a few thousand residents. In the suburban New York City context, many villages are composed of one or two subdivisions. An example is the village of Floral Park, a municipality of approximately 16,000 residents in Nassau County. The village consists of nearly identical 5,000-square-foot homes encircling a Long Island Rail Road (LIRR) station. Virtually all of Floral Park is subject to a minimum lot size of 4,000 square feet.²⁵ North of Floral Park, the village of Saddle Hill imposes a citywide minimum lot size of 13,000 square feet.²⁶ In both villages, these minimums broadly track onto existing conditions, such that any subdivisions of existing lots—and thus any housing production—are illegal.

This is hardly a Long Island–exclusive phenomenon. Dozens of other villages—often situated along the New York City border or adjacent to LIRR or Metro-North stations—behave similarly. In Westchester County, the village of Pelham Manor broadly imposes minimum lot sizes over 10,000 square feet.²⁷ In the neighboring village of Pelham, minimum lot sizes range from 5,000 to 10,000 square feet, depending on prevailing local lot-size conditions.²⁸ As in Floral Park, minimum lot sizes in Pelham Manor and Pelham roughly reflect existing lot-size conditions; in both cases, as with the minimum lot sizes in so many similarly situated villages, the purpose of the regulation is to block all subdivisions of existing lots. When combined with rules prohibiting multifamily housing, these rules thus serve to effectively prevent housing production.

Towns are slightly larger incorporated entities that envelop much larger geographic areas, including many villages. As such, the minimum lot sizes that towns impose normally vary. The town of Orangetown in Rockland County, for example, imposes minimum lot sizes ranging from 10,000 to 20,000 square feet in parts of the town.²⁹ Yet unlike villages, towns also control large amounts of unincorporated land, which is usually subject to even larger minimum lot sizes. In Orangetown, much of the town is an R-80 district with a minimum lot size of 80,000 square feet—or approximately two acres. Elsewhere in the town, an R-40 district sets a minimum lot size of 40,000 square feet—or approximately one acre. Similar conditions prevail in the town of Huntington in Suffolk County, where much of the town is subject to minimum lot sizes in excess of 40,000 square feet.³⁰

In cases where municipal sewer or water is not available, minimum lot sizes of 20,000 square feet—or one-half acre—are justifiable based on health and safety, as homes must use septic tanks and well water.³¹ Unfortunately, few towns make this distinction; worse yet, many impose minimum lot sizes far above what basic health and safety considerations would require, as in Orangetown and Huntington. A notable exception to the former shortcoming is the town of Philipstown in Putnam County, which modifies minimum lot sizes based on access to sewer and water.³² Yet this merely shifts the debate over new housing, providing opponents of new development with an incentive to lobby against needed sewer and water infrastructure.³³ The end result is that many towns in suburban New York City effectively enforce minimum lot sizes that ban all but the most expensive housing in the vast majority of their unincorporated areas.

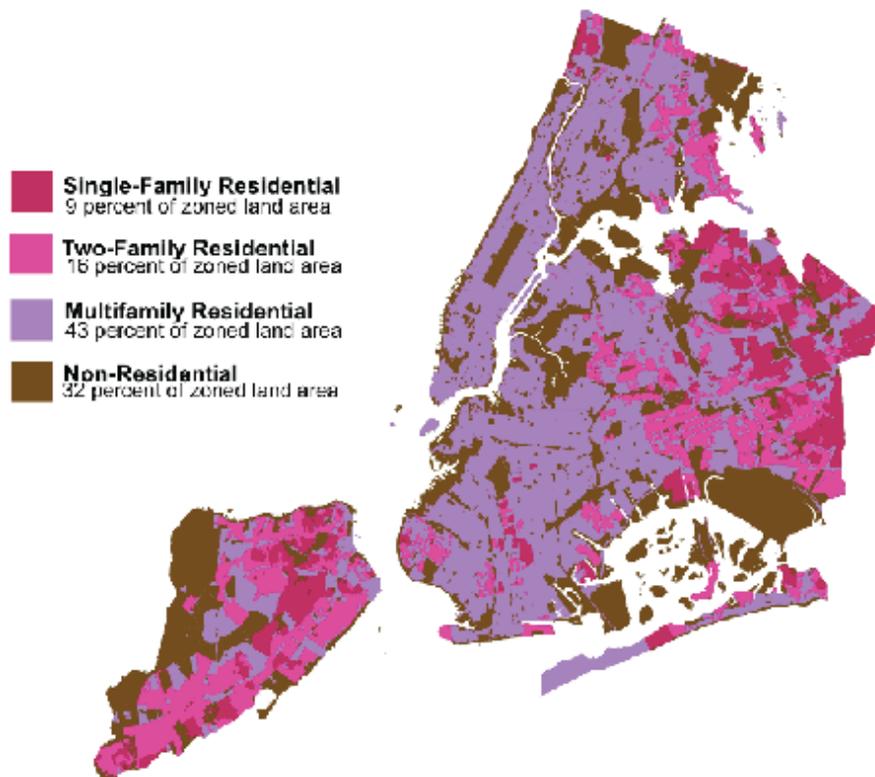
Cities generally constitute the largest form of municipality in New York State. New York City's suburban cities are mostly situated in Westchester County. From a minimum lot-size perspective, it might be useful to think of cities as a blend of villages and towns. Consider the city of New Rochelle: like a town, New Rochelle hosts various zoning districts, with minimum lot sizes ranging from 7,500 to 20,000 square feet. Yet like a village, these minimum lot sizes tend to be slightly smaller and closely tied to prevailing conditions; in New Rochelle, the vast majority of

lots in the city are subject to a minimum lot size of either 10,000 or 15,000 square feet.³⁴ Despite this variation, minimum lot sizes in cities like New Rochelle broadly serve the same purpose that they do in villages and towns: to block the production of new housing in areas zoned exclusively for single-family housing, and to the extent that housing is allowed, to increase its cost.

Minimum Lot Sizes in New York City

Even within New York City proper—a municipality not otherwise known for its single-family housing—minimum lot sizes stand as a major barrier to housing development. In areas where single-family housing is the de facto or de jure permitted form of development, minimum lot sizes are the operative restriction on new housing production. Most New Yorkers live in parts of the city where single-family homes are rare and single-family zoning is nonexistent. Yet city-wide, as depicted in FIGURE 1, 9% of areas zoned for residential uses in New York City are de jure restricted to single-family homes. A further 16% of residential-zoned areas are restricted to duplexes, yet depending on the massing and density provisions of the relevant zoning district, these districts occasionally operate as de facto single-family zones, such as in Low Density Growth Management Areas.³⁵ Breaking the city out by boroughs, single-family zoning restricts 17% of the residential area of Queens and 14% of Staten Island; duplex zones, which may or may not act as de facto single-family zones, cover an additional 20% and 35%, respectively.³⁶

Figure 1
Residential Zoning in New York City



The R1-1 district, New York City’s most restrictive residential zone, enforces a minimum lot size of 9,700 square feet, well above that of a typical detached single-family house in the city. This district is mapped in portions of the Bronx, Queens, and Staten Island.³⁷ R1-2A and R1-2 districts impose a lower minimum lot size of 5,700 square feet. These zones are mapped in pockets along the F train in Queens and the Q train in Brooklyn; both areas are affluent neighborhoods characterized by expensive homes on unusually large lots. R2 and R2A districts, which are mapped in eastern Queens, southern Brooklyn, and portions of Staten Island, impose a minimum of 3,800 square feet. The R2X district, an unusual district designed specifically for sections of Orthodox Jewish neighborhoods in Queens and Brooklyn characterized by large homes on modest lots, imposes a minimum lot size of 2,850 square feet.

Table 1
Minimum Lot Sizes in New York City

District	Permitted Use	Massing	Minimum Lot Size (Square Feet)	District	Permitted Use	Massing	Minimum Lot Size (Square Feet)
R1-1*	Single-family only	Detached	9,500	R4-1	Single- and two-family	Detached and Zero Lot Line	2,375
R1-2*	Single-family only	Detached	6,700	"	Single- and two-family	Semi-detached	1,700
R1-2A*	Single-family only	Detached	5,700	R4A	Single- and two-family	Detached	2,850
R2*	Single-family only	Detached	3,800	R4B	Single- and two-family	Detached and Zero Lot Line	2,375
R2A*	Single-family only	Detached	3,800	"	"	Semi-detached and Attached	1,700
R2X*	Single-family only	Detached	2,850	R5	Single- and two-family	Detached	3,800
R3-1	Single- and two-family	Detached	3,800	"	"	Semi-detached and Attached	1,700
"	"	Semi-detached	1,700	R5A	Single- and two-family	Detached	2,850
R3-2	Single- and two-family	Detached	3,800	"	Single- and two-family	Detached and Zero Lot Line	2,375
"	"	Semi-detached	1,700	R5B	Single- and two-family	Detached and Zero Lot Line	2,375
"	"	Attached	1,700	"	"	Semi-detached and Attached	1,700
R3A	Single- and two-family	Detached and Zero Lot Line	2,375	R5D	Single- and two-family	Detached	2,375
"	Single- and two-family	Detached	3,325	"	"	Zero Lot Line, Semi-detached, and Attached	1,700
R3X	Single- and two-family	Detached	3,325				
R4	Single- and two-family	Detached	3,800				
"	"	Semi-detached and Attached	1,700				

Within New York City’s duplex and low-rise multifamily zones, minimum lot sizes are set based on the type of housing (Table 1). Single-family houses are invariably subject to the highest minimum lot sizes. In R3-1, R3-2, R4, and R5 districts, detached single-family houses are subject to a minimum lot size of 3,800 square feet. If the single-family house is semidetached (meaning that it shares a wall) or is attached (such as a townhouse), minimum lot sizes drop to 1,700 square feet. The provisions of these older low-density residential zoning districts allowed certain forms of infill housing opposed by some incumbent residents. As a result, the city has mapped various contextual zones to adjust massing standards to reflect existing conditions and block infill redevelopment. In R3A, R4-1, R5B, and R5D districts, minimum lot sizes for detached single-family homes are set at 2,375 square feet. In R4A and R5A districts, this rises to 2,850 square feet. In R3X, minimum lot sizes further increase to 3,325 square feet.

What do these rules mean for housing production in New York City? As sewer and water infrastructure is installed citywide, these rules serve no health or safety function. The practical effect of minimum lot-size regulations in New York City is to produce less housing, at higher costs, in select neighborhoods. In the case of R1-1, R1-2A, and R1-2 districts, their function is to prevent the subdivision of some of the most expensive housing in the city, in neighborhoods such as Fieldston in the Bronx, Ocean Parkway in Brooklyn, and Jamaica Estates in Queens. Contextual districts such as R3A, R3X, R4A, and R5A, which were widely mapped in the 1990s and 2000s with the purpose of blocking the subdivision of large homes into two or three smaller homes,

work the same way.³⁸ With lower minimum lot sizes, many of the 5,000–10,000-square-foot lots that prevail in these districts could be subdivided, releasing new housing supply in many of New York City’s most affluent quarters.

To a lesser extent, the minimum lot sizes that prevail across the city’s non-single-family districts (R2, R3, R4, and R5) have the same effect, setting minimum lot sizes for detached single-family homes at just above 2,500 square feet, such that a typical 5,000-square-foot lot cannot be subdivided into two detached single-family houses. While these rules thus prohibit small-lot detached houses, they occasionally make exceptions for single-family homes with a party wall or townhouses. This is welcome relief, relative to the zoning districts discussed above. Yet even where lot-size relief is offered, the lower 1,700-square-foot minimum serves to cap the subdivision of a typical 5,000-square-foot lot into, at most, two new houses; if the minimum were merely 33 square feet lower, such a lot could be converted into three new attached or semidetached houses on 1,667-square-foot lots. For smaller lots where semidetached or attached housing is theoretically allowed, the prevailing lot size of 1,700 square feet may likewise prevent developers from finding creative ways to redevelop existing lots into more housing.

Reforming Minimum Lot Sizes

In light of the pressing housing shortage facing metropolitan New York City and the binding effect that current regulations have on production, minimum lot sizes stand as a compelling candidate for reform. But what can policymakers do? At the city, town, and village level, local policymakers should move to reduce or eliminate local minimum lot sizes to accommodate infill housing development. Reducing minimum lot sizes to 1,200 square feet—or a similarly low level at which minimum lot-size rules cease to be binding—would allow for the introduction of smaller, more affordable, homes in neighborhoods where existing built conditions are ill-suited to contemporary housing needs.³⁹ At the state level, policymakers should place guardrails around the local enforcement of minimum lot sizes. Establishing a statewide minimum lot size of one-half acre in areas without sewer and water infrastructure and 5,000 square feet in areas with such infrastructure would remove unjustifiable constraints on the housing that the state needs, without unduly restricting local zoning powers.

Easing the Burden of Local Minimum Lot-Size Regulations

Cities, towns, and villages in metropolitan New York City have the authority to unilaterally reduce minimum lot-size regulations. In the city’s New York State suburbs, merely reducing minimum lot sizes in areas with sewer or water infrastructure to 5,000 square feet would clear a path for reasonable density, without needlessly disrupting local quality of life. In areas without sewer or water infrastructure, reducing minimum lot sizes to one-half acre would respect health and safety considerations without needlessly restricting new housing production. In New York City, minimum lot sizes should be reduced to 1,200 square feet—or some other point at which they are unlikely to serve as a binding constraint—if not abolished altogether. In all contexts, the impetus to scale back or eliminate minimum lot-size rules is greatest in areas with convenient access to jobs, transit, and high-quality public services.

For New York City, in particular, the experience of minimum lot-size reform in Houston may serve as a useful model. In 1998, the Bayou City reduced minimum lot sizes within the I-610 loop—an area broadly encompassing urban Houston—from 5,000 to 1,400 square feet. This enabled the subdivision of standard 5,000-square-foot lots into two or three detached single-family homes on lots ranging from 1,400 to 2,500 square feet. To overcome political opposition among certain incumbent property owners, reformers allowed blocks to “opt out”

of lower minimum lot sizes pursuant to a local vote. This compromise has no doubt limited the scope of lot-size reform, in some respects. Yet Adam Millsap and I find that this reform nonetheless facilitated the production of more than 25,000 new homes in existing urban areas, easing cost pressure on existing housing while leveraging existing infrastructure.⁴⁰ In 2013, the reforms were scaled up to the city as a whole, and have played a key role in keeping single-family housing in Houston affordable amid unprecedented population and income growth. New York City would do well to follow Houston's model.

In undertaking lot-size reform, New York City should be careful to learn from the example of Los Angeles. In 2005, Los Angeles adopted the Small Lot Subdivision Ordinance to encourage infill housing development, allowing lots for detached townhouses as small as 600 square feet.⁴¹ But in practice, this reform suffered from several key shortcomings: first, small lot subdivision projects follow a unique permitting track, which adds significant delay.⁴² Second, massing and design standards are often ambiguous, and, where not ambiguous—such as with minimum parking requirements—they often make small lot developments physically infeasible. More broadly, the Los Angeles reform limited small lot subdivisions to multifamily and commercial areas, thereby funneling much of the new infill housing production into low-income multifamily areas while doing little to stimulate it in affluent single-family residential neighborhoods—the exact opposite of the Houston experience.⁴³ New York City should learn from Los Angeles's errors by permitting small lots on an as-of-right basis, setting clear and workable massing standards, and reducing lot sizes citywide.

Leading the Charge on State Preemption of Minimum Lot Sizes

Local governments in New York State already have the power to reduce minimum lot sizes. While rising housing prices and an increasingly well-organized YIMBY (“Yes in My Backyard”) movement may soon change this, the lack of action up to this point should motivate state legislators to act. Rather than waiting for hundreds of cities, towns, and villages to act, the state should proceed by setting a ceiling on the minimum lot sizes that local governments may impose. At a minimum, the state should establish a ceiling on minimum lot sizes of 5,000 square feet in areas with sewer and water infrastructure and one-half acre in areas without such infrastructure. Such a reform would clear a path for the production of the affordable single-family homes that metropolitan New York City needs.

New York State policymakers would not be the first to try to tackle the problem of excessive minimum lot sizes. Over the past year, S.237 in Vermont proposed limiting minimum lot sizes in areas served by sewer and water infrastructure to 5,400 square feet—or an eighth of an acre—while HB132 in neighboring New Hampshire proposed one-half acre as a potential upper limit.⁴⁴ In Oregon, SB 2655 proposed a statewide maximum minimum lot size of one acre.⁴⁵ While the New Hampshire and Oregon bills failed to pass and the Vermont bill was eventually watered down to remove the minimum lot-size provision, these bills represent the opening volley of state minimum lot-size reform efforts. At time of writing, the legislature of California recently passed SB-9, a bill that—if signed by the governor—will allow subdivisions of existing single-family homes into two new single-family houses on lots as small as 1,200 square feet.⁴⁶ New York State should lead, rather than follow, on minimum lot-size preemption, putting guardrails on the minimum lot sizes that local governments may impose.⁴⁷

Conclusion

New York City is in the grips of an ongoing affordable housing crisis, a crisis that comes down to an inability to produce sufficient housing. These supply shortages are a function of local zoning rules that make housing development prohibitively difficult. To the extent that minimum lot-size rules limit the production of housing and drive up the costs of those units that are produced, these rules play a key role in perpetuating the housing affordability crisis. This is true both in New York City and its suburbs. Thus, as local and state policymakers contend with this crisis, they should acknowledge the deleterious role played by minimum lot-size regulations. At the local level, policymakers should wind down minimum lot sizes; at the state level, legislators should establish guardrails to protect against the irresponsible use of lot-size regulations. The rising cost of housing of New York City is not inevitable—but reversing this fate means building housing for the many who aspire to call the Big Apple home, and that will entail reforming minimum lot-size regulations.

Endnotes

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- ¹⁷ Laurence Aurbach, “Fun with Density and Transit Statistics,” *Ped Shed* (blog), June 26, 2007.
- ¹⁸ Halifax Regional Planning, “Settlement Pattern and Form with Service Cost Analysis,” April 2005.
- ¹⁹ Robert Burchell et al., *Sprawl Costs Economic Impacts of Unchecked Development* (Washington, DC: Island, 2005).
- ²⁰ Charles Marohn famously dubbed this type of development a “growth Ponzi scheme.” See Charles Marohn, *Strong Towns: A Bottom-Up Revolution to Rebuild American Prosperity* (Hoboken, NJ: Wiley, 2019).
- ²¹ Data from U.S. Census Bureau.
- ²² Natalia Siniavskaia, “Lot Size Hits New Record Low in 2019,” *Eye on Housing* (blog), Oct. 5, 2020.
- ²³ U.S. Population Density Metro Area Rank, usa.com.
- ²⁴ Indeed, such a study may not be possible; many New York State towns and villages do not seem to have publicly available zoning maps and codes in digital formats.
- ²⁵ Village of Floral Park, Schedule of Regulations Part 1, R-1 District.
- ²⁶ Village of Saddle Rock, Village Code, Ch. 150–Zoning.
- ²⁷ Village of Pelham Manor, Village Code, § 210-45 Density; and Zoning Map.
- ²⁸ Village of Pelham, Village Code, Ch. 98, Art. VII, Residence B-1 District.
- ²⁹ Town of Orangetown, Zoning Map.
- ³⁰ Town of Huntington, Zoning Map.
- ³¹ Excessive density in such contexts risks the contamination of drinking water, a problem that could be solved with sewer and water infrastructure.
- ³² Town of Philipstown, Town Code, § 175-11 Density and Dimensional Regulations.
- ³³ Long Island Business News Staff, “Down the Drain,” *Long Island Business News*, July 21, 2006.
- ³⁴ City of New Rochelle, Zoning Map.
- ³⁵ E.g., R3X, R4A, and R5A are all theoretically duplex zones, but their unusually high dwelling-unit rules and high parking requirements may, in some contexts, make duplex development physically infeasible because these zones almost exclusively allow single-family homes; the Low Density Growth Management Areas provisions may have a similar effect.

- ³⁶ Single-family zoning is nonexistent in Manhattan and rare in the Bronx and Brooklyn, constituting 2% and 3% of residential areas, respectively.
- ³⁷ This and all subsequent information concerning minimum lot sizes can be found in the New York City Zoning Resolution.
- ³⁸ Stricter massing provisions in these low-density contextual districts were part of a broader compromise to facilitate zoning liberalization elsewhere in the city.
- ³⁹ This is the statewide minimum lot size envisioned by SB-9, which the California legislature recently passed.
- ⁴⁰ M. Nolan Gray and Adam A. Millsap, “Subdividing the Unzoned City: An Analysis of the Causes and Effects of Houston’s 1998 Subdivision Reform,” *Journal of Planning Education and Research* (July 2020).
- ⁴¹ Los Angeles Conservancy, “Small Lot Subdivision Ordinance.”
- ⁴² Dept. of Housing and Urban Development, Office of Policy Development and Research, “Los Angeles, California: Small Lot Ordinance,” case study.
- ⁴³ Josie Huang, “A Big Debate over Small Lot Homes,” 89.3KPC, Jan. 20, 2016; To draw further comparisons between Houston and Los Angeles: while Houston’s reforms yielded roughly 25,000 units as of 2016, Los Angeles’s reforms produced only about 2,500 units during roughly the same period.
- ⁴⁴ Vermont General Assembly, S.237; General Court of New Hampshire, HB132.
- ⁴⁵ 81st Oregon Legislative Assembly, HB 2655.
- ⁴⁶ California Legislative Information, SB-9.
- ⁴⁷ As part of statewide minimum lot-size reform, state legislators should concurrently prohibit any local massing standards that would make development at statewide maximum minimums physically infeasible.