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Is There Too Much Regulation?

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By Harvey M. Jacobs

This is the second in an occasional series on environmental issues from emeritus University of Wisconsin Prof. Harvey Jacobs. The first was titled [Searching for a Responsible Localism](#), and posted on February 2nd.

Conservatives complain that liberals never met an issue they didn't want to regulate. This complaint applies to issues large and small – minimum wages, working hours, shop floor conditions, driving speeds, motorcycle helmets, ages of consent, soda

sizes, hunting and fishing seasons and bag limits, how I can use my own land, and on and on and on.

Conservatives say that liberals don't trust people to make sound decisions in their own self interest. Liberals say that conservatives miss the forest for the trees – that is, that what may be logical for an individual to do may not result in the best interest of the community or society at large. Thus the need for regulation.



Regulation of individually owned land and natural resources, whether in the city or the country, is not a new phenomenon, but is actually deep in American history. In colonial times American local governments passed regulations for the location of slaughter houses and bakeries, for example, and even mandated crop rotations.

But there have been three periods of particularly explosive land use and environmental regulation: at the beginning of the 20th century, after WWII, and in the period around Earth Day in 1970.



Cayuga River (Ohio) burning

At the beginning of the 20th century American cities were booming. From 1850 to 1890 Chicago went from under 30,000 to over 1 million inhabitants, and then grew to 3 million people by the 1920s. This was the era of tenements, slums, and locked, poorly ventilated, fire prone, and dangerous work places, as well as contaminated foodstuffs (the infamous Chicago stockyards Upton Sinclair wrote about in *The Jungle*). This level of growth and the intensity of land use led cities to adopt all kinds of public health and land use regulations. It was clear to many that individual land owners were seeking to maximize return on their properties often to the detriment of residents and workers. It was from this realization that zoning was born in 1916.

The post war period saw America suburbanize. Scores of formally rural communities adopted regulations, principally zoning, to bring order to the

landscape, and to protect the investments of developers and the throngs of new home owners (and often to exclude racial and religious groups).

And the 1960s was a period of burning rivers, polluted skies, and disappearing species, which appeared to drive home the message that a logic of individual decision-making didn't add up to what was best for society. The response – more regulations that shaped how land owners (individuals and corporations) used their privately owned land.

Resistance to regulation often comes from an idealized memory of frontier America, when we believe people could do as they pleased with their land. Even in 1900 America was still a rural nation, with most families making their living from the land. But in 2021 America is an urban

nation (for nearly 85% of us). It was

parallel to this change that regulation grew.



Post war advocates for suburban zoning

But do we need as much regulation as we have?

Conservatives think we have all learned our lesson; landowners will now act appropriately and we can repeal many land use and environmental regulations. But it is liberals who want to act conservatively; that is, they don't want to take the chance that conservatives might be wrong and we could find ourselves where we were in the 1960s or the early 1900s. Liberals want to leave regulations in place, and yes, perhaps even add more.

Is there too much regulation? Conservatives are correct – the answer to this question is about how much you trust yourself, your neighbor, and others. Most of us trust ourselves to be sound land stewards. But can I trust you to do what is best for me and my land? There is no sweeping answer to the question of whether there is too much regulation. Instead we need to argue it through one land and natural resource issue – one proposed regulation – at a time. A cumbersome process, but ultimately one that builds our democratic character.

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