BRIEFLY NOTED

Homebuilding and Free Parking

BY IKE BRANNON AND EMMET BOWLING

In the last few years, a growing contingent of advocates who loosely organize under the "Yes In My Backyard" (YIMBY) banner have had some success in removing legislative and regulatory barriers to building new housing in famously restrictive places like Minneapolis, California, and Massachusetts. Other communities are considering such legislation as well, a welcome development in a nation desperate to add housing and lower home prices.

One of these YIMBY reforms entails easing or removing parking requirements for new development in urban areas that force developers to include enough parking for every resident to own a car. In places near mass transit, such requirements can add greatly to the cost of construction while reducing the number of units that can be built, even though many would-be residents presumably want to use transit instead of personal vehicles.

Subsidizing car ownership / But parking plays a greater role in urban development than most YIMBY or other pro-housing forces acknowledge. In dense neighborhoods well-served by mass transit, most opposition to new housing comes from car owners who park their cars on the street by their home for almost nothing. They fear that any new housing will increase the demand for on-street parking and make their ability to find a space significantly more difficult. As long as dense cities allow residents to have free or nearly free on-street parking, the street-parker part of the anti-construction coalition will stay in place, making it more costly and time-consuming to build housing in such places.

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In Washington, DC, the cost of a city-issued residential parking permit is just $50 a year. In the city's densest neighborhoods—such as the tony enclaves of Georgetown and Dupont Circle or trendy Adams Morgan—this cost is orders of magnitude below the cost of a private parking spot, which can exceed $3,000 a year. The difference between the market cost of parking and on-street parking is, in essence, a subsidy for car owners, a policy that is at odds with oft-stated concerns about equity and reducing greenhouse gas emissions, and the District has spent a considerable amount of money in pursuit of the latter goal.

DC's implicit subsidy for car owners has a predictable outcome: more people buy cars than would otherwise be the case. Many people who would otherwise content themselves with mass transit and ride-sharing services like Lyft and Uber calculate that leaving a cheap car parked on the street is worthwhile even if they rarely drive it. As a result, the city's streets are replete with cars that are not regularly driven. A 2023 census of automobiles parked on the street in two dense residential neighborhoods conducted by members of Parking Reform, a nonprofit focused on reforming parking laws, discovered that fully 30 percent did not move during the six-week interval of its surveys. One van had been parked in the same spot for *over two decades* without being driven. A Freedom of Information Act request from 2019 revealed that in Adams Morgan, four residents each owned and parked over a dozen automobiles on the street.

In fact, a large proportion of cars on the street are never driven; they are effectively used as storage containers. Government officials are aware of this and have chosen to accommodate the owners. For instance, in neighborhoods where this is common, they have abolished street-sweeping, meaning the cars need not be moved periodically. Other city policies that facilitate cars as storage containers include:

- Cars older than 15 years that are driven less than 1,000 miles a year can be registered as historic vehicles, which exempts them from needing to pass emissions standards.
- Cars used as storage vehicles do not need auto insurance coverage.
- Traffic safety officers are prohibited from ticketing vehicles parked on the street that do not have insurance, which makes a car-cum-storage-container even more affordable.

DC also allows people to renew their drivers licenses without paying any outstanding tickets. The rationale for this is that people who depend on their car for work should not be denied their ability to travel to and from work, and denying license renewal would be particularly harmful to Black residents. Given that the city is amply served by mass transit and a majority of Black households do not own an automobile, this reasoning is dubious. The District has over $1 billion in unpaid tickets for parking and speeding violations.

Increased demand for street parking / Predictably, the city's car subsidy results in many more people trying to park on the street than there are available spaces. Rather than adjust the price so the market can clear, the District tries to accommodate car owners by finding more parking.

For instance, DC law explicitly pro-

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hibits parking within 40 feet of an intersection to help drivers see pedestrians more easily. The law also prohibits parking within 80 feet of a bus stop to make it easier for buses to enter and leave. But both provisions have been set aside in dense neighborhoods and downtown to accommodate more parked cars. The city also allows parking on most of its major roads used by commuters, such as Massachusetts Avenue and Connecticut Avenue, which greatly exacerbates congestion throughout the day.

DC also uses political redistricting to accommodate car owners. The city awards parking permits by city ward, each of which encompasses several neighborhoods, and parking considerations greatly influence how the city draws the eight wards. For instance, denizens of Ward 6, which includes Capitol Hill, lobby to ensure their ward extends to the edge of downtown so they can park on downtown streets for free. Residents of Kalorama, a wealthy neighborhood replete with large, detached homes and ample parking, agitate to make sure it is not in the same ward as Adams Morgan, a dense neighborhood immediately to its east with a significant parking shortage. Instead, the overflow of cars from Adams Morgan ends up in Mount Pleasant, a neighborhood to its north that is the home of many Latino immigrants who lack both cars and the political power to keep out parked cars from other neighborhoods.

If we were starting from a blank slate, no one would ever suggest we make residential parking virtually free.

Opposition to new housing / The parking shortage also inspires opposition from many neighborhood associations that ostensibly exist for the overall betterment of their area but inevitably focus on issues that can affect parking availability. These groups work to stop the creation of bike lanes and end permits for sidewalk and street dining that can reduce the number of parking spots, but their efforts are most notable in opposing new housing developments that would bring new residents—including people with cars that they might park on the street.

Virtually every new housing development in DC's densest neighborhoods is met with a flurry of lawsuits from the members of these groups. These activists have proven adept at using DC's historic preservation laws to enshrine parking lots, gas stations, and empty lots as "historic" and thus ineligible to be developed. When that fails, they pivot to whatever dilatory tactic they think will slow construction, hoping to increase developers' costs and delay the day that new residents and their cars arrive.

Parking dictating housing policy / The policy of effectively subsidizing car owners who live in dense neighborhoods served by mass transit is an accident of history: If we were starting from a blank slate, no one would ever suggest we make residential parking virtually free. But because these subsidies have been in place for a lifetime, a switch to charging people something close to market price for parking would be politically contentious and is not something politicians are anxious to do—especially since many of them store their own cars on the street.

DC has spent millions to increase affordable housing. But such subsidies are meaningless if the city's government continues to accommodate wealthy car owners who want to park their cars on city streets at little or no cost to them. R

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Rationales for New Regulation

BY KEITH B. BELTON

By any measure, US federal regulation is big business. Year after year, hundreds of thousands of employees at 70-plus regulatory agencies churn out thousands of new rules. Since 1970, the number of restrictions in the *Code of Federal Regulation* (*CFR*) has increased, on average, 3.2 percent per year. Touching all aspects of American life, the *CFR* surpassed one million restrictions in 2016, and shows no signs of stopping.

With this level of continuous activity, it may seem paradoxical to say that there is a threshold standard—necessity—that every new regulation is supposed to adhere to. And yet, there is. Executive Order 12866, issued by President Bill Clinton in 1993 and affirmed by every president since, describes the two-step philosophy applicable to all federal regulation: first, a regulation must be necessary and, second, it should be crafted in a manner that maximizes net benefits.

From time to time, US presidents bemoan unnecessary rules and try to do something about it. In his 1980 Economic Message to Congress, Jimmy Carter stated, "I have vigorously promoted a basic approach to regulatory reform: unnecessary regulation, however rooted in tradition, should be dismantled and the role of competition expanded." In a 1981 address to Congress, Ronald Reagan vowed, "We will eliminate those regulations that are unproductive and unnecessary by executive order where possible and cooperate fully with you on those that require legislation." George H.W. Bush wrote in a 1992 memorandum to agency heads, "We must be constantly vigilant to avoid unnecessary regulation and red tape." In a 1995 speech on regulatory reform, Clinton said: "We do need to reduce paperwork and unnecessary regulation. I think government can discard volume after volume of rules." George W. Bush initiated a program to eliminate unnecessary mandates on the manufacturing sector. Barack Obama vowed in a 1992 *Wall Street Journal* op-ed to get rid of "absurd and unnecessary paperwork requirements.... We're looking at the system as a whole to make sure we avoid excessive, inconsistent and redundant regulation." Donald Trump considered himself a deregulator and required the elimination of two existing regulations for every new regulation.

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Rationales for regulation / In essence, each of those presidents vowed to limit regulation to no more than what is necessary. But what does it mean for a regulation to be necessary? According to EO 12866, a new rule is necessary if it is "required by law, necessary to interpret a law, or made necessary by a compelling public need, such as material failures of private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people." The EO also lists 10 principles for federal regulation, with the first three related to the rationale for a new rule: identify the problem the regulation is intended to address and the significance of the problem, determine whether existing regulations contributed to the problem, and identify and assess alternatives to direct regulation.

This standard allows us to identify the rationale for any new rule simply by examining the administrative record. What is the problem the regulation is intended to address? Is it required by statute or necessary to interpret a statute? Is it necessary to address a market failure? Is it necessary to address some other compelling public need? Is it necessary to correct a flaw with an existing regulation? Have alternatives to regulation been considered?

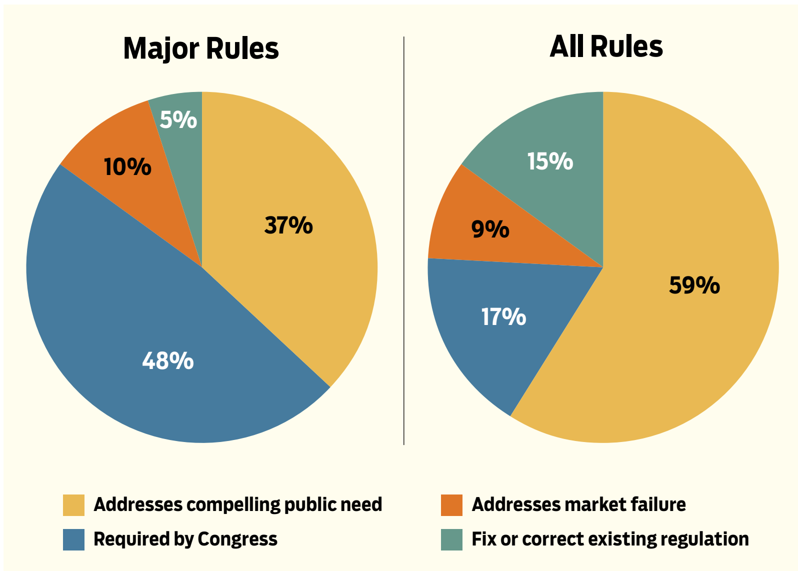
To answer those questions, we took a random sample of 340 of the 3,168 rules promulgated in calendar year 2022 and classified them by rationale. Our analysis is accurate to within 5 percent. We also classified all 80 rules designated as "major" by the Office of Information and Regulatory Affairs (e.g., having an estimated annual economic impact of at least $100 million). We developed criteria to ensure consistency in our classifications, such as choosing "required by Congress" when another rationale (e.g., "addresses market failure") was equally plausible. Because this analysis is based on a single year, 2022, it may not be accurate for other years or for a longer period; however, we have no reason to believe that 2022 would be significantly different from other years. The results of this exercise are shown in Figure 1.

Insights / Several conclusions can be drawn from this analysis:

- **Agencies consistently specify the underlying policy problem.** In every rule we reviewed, the underlying policy problem is clear from a reading of the preamble to the final rule. For example, Customs and Border Protection issued a rule to restrict imports of certain archeological material per an international agreement between the United States and Albania protecting cultural property. The Environmental Protection Agency added certain chemicals to its Toxic Release Inventory (which requires companies to report emissions) because Congress directed it to do so in the National Defense Authorization Act. The Coast Guard

Figure 1

Rationale for Federal Regulation, 2022



restricted boating in a small section of the Ohio River on August 28, 2022, to allow swimmers to participate in the Great Ohio River Swim in Cincinnati.

- **Congress plays a minor role in initiating new rules.** By definition, a statutory requirement for an agency to issue a rule leaves regulators with no discretion: they must comply. In such cases, it is Congress that determines the necessity of a new rule. For example, the Fish and Wildlife Service listed the Panama City Crayfish as a threatened species and designated its critical habitat, the Federal Aviation Administration issued an airworthiness directive to require replacement of a bent control rod within the gust lock system on certain British Aerospace aircraft, and the Nuclear Regulatory Commission increased civil penalty amounts to account for inflation. Overall, Congress was directly responsible for 17 percent of all new rules promulgated in 2022.
- **Regulators play the major role in initiating new rules.** By far the most common rationale is a desire by regulators to address a compelling public need, a catch-all category where no single objective rises to prominence. For example, the Coast Guard issued rules to restrict boat traffic to allow fireworks displays over navigable waters on the Fourth of July. The Bureau of Industry and Security added to its export control list certain software used for automated geospatial imagery classification based on a determination by the Commerce, Defense, and State Departments that it would provide a military or intelligence advantage to the United States. In total, regulators used their discretionary authority in 59 percent of all rules issued in 2022.
- **Some rules are intended to make markets more efficient**. A market failure arises when markets cannot ensure an efficient outcome, potentially justifying government intervention. Market failures include externalities (when market transactions cause harm to people who are not buyers or sellers), asymmetric information (e.g., when sellers have important and relevant information not disclosed to buyers), and market power (e.g., a monopoly). In addition, so-called public goods (goods that are both non-excludable and non-rivalrous, such as national security) will be underprovided absent collective action, warranting government provision. Examples include the Interior Department setting limits on fishing or hunting to manage natural resources (public good), the EPA setting limits on air or water pollution (externality), and the Federal Trade Commission ensuring that consumers are adequately informed (asymmetric information). Overall, 9 percent of new rules address a market failure.
- **Some rules are intended to correct or update an existing regulation.** For 15 percent of all final rules, the purpose is to update or correct an error in an existing regulation. Such rules can be considered necessary. For example, in 2022, the Food and Drug Administration amended its medical device regulations to include an up-to-date mailing address, the FAA fixed a typographical error in a previous airworthiness directive, and the EPA removed Maine from the Ozone Transport Region based on Maine's progress in reducing smog.
- **Regulators rarely acknowledge that they considered alternatives to regulation.** Although EO 12866 instructs agencies to consider alternatives to direct regulation, we found scant evidence of this in our sample of final rules. An exception was the Consumer Product Safety Commission (CPSC), which issued a rule limiting the pull strength of some magnets to reduce the risk of harm if they were ingested by small children. In the preamble to the final rule, the CPSC describes several existing voluntary standards it considered and rejected before choosing to issue the rule. However, in only 1 percent of final rules does an agency acknowledge it considered alternatives to regulation. To be fair, we did not review proposed rules, in which an agency could have described alternatives it considered and rejected before later issuing a final rule.

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Congress and major rules / We went into this exercise intending to discern if major rules—the most impactful rules—are any different from other rules. Figure 1 compares the results for all rules versus major rules. One difference stands out. Whereas Congress played a minor role in directing regulators to issue a rule generally, it is in the driver's seat for major rules: nearly half of major rules are required by statute or made necessary to interpret a statute.

This finding may soon become important. The current lineup of the US Supreme Court, where conservatives hold a 6–3 majority, is already influencing the administrative state. And there is more to come. In its current term, SCOTUS is expected to rule on cases where the discretion of regulators is front and center: the non-delegation doctrine, the major questions doctrine, and *Chevron* deference. Its decisions could have decades-long ramifications on the rationale for new rules. R

The Political Housing Business Cycle

BY NICHOLAS THIELMAN

The White House recently published a factsheet on the Biden administration's plans to address housing affordability. The factsheet contains a variety of proposals intended to lower the costs of acquiring a home and increasing the supply of housing. It includes a two-year program that would provide a $5,000 tax credit to first-time homebuyers and assistance programs for downpayments and closing costs. Moreover, the administration proposed that the Federal Home Loan Banks increase their funding of programs that finance the acquisition, construction, and rehabilitation of affordable rental and for-sale homes as well as help low- and moderate-income homeowners purchase or rehabilitate homes. This comes on the heels of the Federal Housing Finance Agency raising the conforming loan limits for Fannie Mae and Freddie Mac, and the Federal Housing Administration lowering the premium charged for insuring mortgages.

Housing and elections / It is no accident that all these actions are happening in an election year. For much of the past winter and spring, polls showed Joe Biden trailing Donald Trump in their race for the White House. It's likely Biden's administration sees housing policy as a way to improve his odds of reelection this November. However, while these policies may temporarily reduce the cost of buying a home for those who use the programs, in the long run they will tend to *raise* the market price of housing by increasing demand, thereby exacerbating the current affordability crisis.

This kind of electioneering is not unique to Biden. All elected officials face short time horizons. Their behavior while in office is constrained by the proximity of the next election cycle and the understanding that, if they want to be reelected, their policies must be seen as returning enough value to their constituents to outcompete any would-be competitors for their office. This tends to incentivize policies that generate gains in the near-term while shifting costs to the long-term (preferably after the official in question is out of office). These policies include transfer payments, targeting swing districts for government spending, and engaging in various forms of macroeconomic manipulation. Historically, such manipulation has caused "political business cycles" by stimulating the economy in the run-up to a presidential election. The gains of the expansion in economic activity are felt prior to an election, while the costs (typically higher inflation, larger deficits, and debt) are felt subsequently. Voters tend to look at their pocketbooks when deciding who to vote for, so the short run gains pay off in terms of improved vote margins for the incumbent. The costs, however, come to bear only after the election.

Increasing the supply of mortgage credit is another way the administration could attempt to gain an advantage in the upcoming election. The United States's uniquely politicized housing finance system, dominated by government-sponsored enterprises (GSEs), is well suited to such economic manipulation for political profit. Created to act as secondary markets for mortgages, these institutions enjoy legal and fiscal advantages that permit them to borrow at interest rates close to those paid by the Treasury in credit markets. The GSEs have utilized this subsidy to both massively expand the size of their operations and to pursue the objectives of their political sponsors.

From the standpoint of presidents, it is rational to attempt to sway the outcomes of elections via housing credit policy. Homeownership remains one of the primary drivers of household wealth, meaning that households stand to capture a sizeable chunk of the gains from home price appreciation attendant to credit expansions. Likewise, borrowers who previously found the cost of taking out a mortgage prohibitive are now "priced in" via the loosening of credit terms. Lastly, movement in the housing sector influences the rest of the economy, meaning that stimulating housing construction can have temporary positive ripple effects in the rest of the economy.

Voters have been shown to react to

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shifts in housing credit supply. They increase their support for incumbents during boom periods and punish incumbents (or their party) for contractions in credit supply. Research suggests that if the contraction in mortgage credit supply had been less severe in 2008, John McCain, running to succeed fellow Republican George W. Bush as president, would likely have won several key swing states (particularly North Carolina) and improved his margins in others. Moreover, it has been shown that incumbent administrations have used their influence over the housing GSEs to counteract declines in popularity among voters. As a result, there has been a recurrent pattern of housing construction being artificially stimulated in the months leading up to a presidential election.

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Ignoring the real problem / Of course, the cost of these election-year games is borne by future homebuyers. Present-day issues with housing affordability primarily stem from too little supply rather than insufficient access to financing. Several studies have shown that local land use regulations have raised the cost of constructing new homes to meet shifts in demand. In the face of restricted supply, successive cycles of subsidized housing demand have done nothing except inflate the average home price. As the prices of homes appreciate, prospective buyers are faced with the prospect of having to take on ever larger debt burdens to afford even a modest home. Indeed, the American Enterprise Institute's Home Price Appreciation Index shows that the prices of low-value homes have appreciated the most since 2012. For low-income borrowers, these policies have a double effect: higher prices for homes that would otherwise be affordable to them and greater debt burdens. Considering low-income households tend to face higher income and job insecurity, a mortgage can pose a substantial financial risk.

If policymakers are serious about addressing housing affordability, their efforts should be focused on deregulating the supply side of the market as opposed to proffering further subsidies for demand. Indeed, the best policy would be to take government out of housing finance entirely. The congressional charters of Fannie, Freddie, and the Federal Home Loan Banks should all be repealed, removing the various distortions these institutions create and removing the temptation for incumbents to engage in off-budget vote buying in election years. R

READINGS

- Acharya, Viral V., 2012, "Governments as Shadow Banks: The Looming Threat to Financial Stability," *Texas Law Review* 90(7): 1745–1774 (2012).
- Antoniades, Alexis, and Charles W. Calomiris, 2020, "Mortgage Market Credit Conditions and U.S. Presidential Elections," *European Journal of Political Economy* 64: 101909, September.
- Buchanan, James M., 1977, *Democracy in Deficit: The Political Legacy of Lord Keynes*, Vol. 8, *The Collected Works of James M. Buchanan*, 20 vol., Academic Press.
- Choi, C.Y., David Quigley, and Xiaojun Wang, 2023, "The Impacts of Local Housing Markets in the U.S. Presidential Elections: Via the Collateral Channel," working paper, Aug. 18.
- Gyourko, Joseph, Jonathan S. Hartley, and Jacob Krimmel, 2021, "The Local Residential Land Use Regulatory Environment across U.S. Housing Markets: Evidence from a New Wharton Index," *Journal of Urban Economics* 124(C): 103337.
- Kosar, Kevin R., 2008, "Government-Sponsored Enterprises (GSEs): An Institutional Overview," Congressional Research Service Report for Congress, Sept. 9.
- Ladewig, Jeffrey W., 2008, "Housing Starts and the Political Business Cycle," *American Politics Research* 36(5): 776–798.
- Lepers, Etienne, 2023, "Surfing the Credit Wave: Government Popularity as Driver of Credit Cycles," *European Journal of Political Economy*, forthcoming.
- McCartney, W. Ben, 2021, "Does Housing Finance Affect the Political Process? Evidence from Voter Turnout During a Housing Crisis," *Review of Financial Studies* 34(2): 949–984.
- Michel, Norbert, and John Ligon, 2013, "Fannie and Freddie: What Record of Success?" Heritage Foundation, Nov. 7.
- Molloy, Raven, 2020, "The Effect of Housing Supply Regulation on Housing Affordability: A Review," *Regional Science and Urban Economics* 80(3).
- Morgenson, Gretchen, and Joshua Rosner, 2011, *Reckless Endangerment*, Times Books.
- Nordhaus, William D., 1975, "The Political Business Cycle," *Review of Economic Studies* 42(2): 169–190.
- Ren, Zhou, and Lixing Wang, 2022, "The Political Origin of the Credit Cycle," working paper, Oct. 3.
- The White House, 2024, "FACT SHEET: President Biden Announces Plan to Lower Housing Costs for Working Families," March 7.
- Wagner, Richard E., 1977, "Economic Manipulation for Political Profit: Macroeconomic Consequences and Constitutional Implications," *Kyklos: International Review for Social Sciences* 30(3): 395–410.