

# Housing Codes, Homelessness, and Affordable Housing

by John Palmer  
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## SUMMARY

- Homelessness is a growing problem in Canada; 235,000 people have been homeless at one time or another during any given recent year. Furthermore, at any one time perhaps as many as 5,000 or more are homeless.
- While there are many causes of homelessness and as many suggested programs for dealing with it, this paper addresses one small issue: housing and building codes and how they contribute to the problem by reducing the supply of available housing units.
- Much of the housing that low-income people can find is substandard in that it doesn't meet modern fire and other safety codes. Because it doesn't meet housing codes, it is often shut down and taken off the market. This well-

intentioned policy has the unfortunate effect of reducing the supply of housing for low-income people, forcing them into worse alternatives such as remaining in abusive situations, staying in temporary shelters, living under bridges, forming illegal campsites, sleeping in doorways, etc.

- Faced with this array of choices, many homeless people would prefer the risks of living in housing that isn't up to code than the risks of living on the streets or other unsafe situations, but when risky, sub-standard places are shut down, some people choose to live on the streets.
- While other programs are working to reduce homelessness in other ways, this paper suggests that reducing the stringency of many housing codes would also help reduce homelessness and increase the supply of affordable housing.

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## Introduction

Homelessness and affordable housing are important economic issues for at least two reasons. First, homelessness and the lack of affordable housing detract from the health, happiness, and economic prospects of the affected population. Second, as homelessness and affordable housing have increased in importance, they have diverted resources from other important issues; city councillors and municipal employees must devote more of their time to these issues, leaving them less time for other important municipal concerns (or, more generally, diverting their efforts into the public sector and away from the private sector of the economy).<sup>1</sup>

Homelessness is a growing problem in Canada; 235,000 people have been homeless at one time or another during any given recent year (Gaetz et al., 2016). Furthermore, at any one time perhaps as many as 5,000 or more are homeless, and if the people living in shelters are counted among the homeless, there are as many as 25,000 to 35,000 people who are homeless on any given night (Employment and Social Development Canada, 2019). Addressing the first point above, when people are homeless or unable to find affordable housing, they are less happy and have less of a feeling that society cares about them. Homelessness makes it more difficult for people to connect with employment opportunities, and even when they do, they have health and hygiene issues to overcome. Addressing the second point above, larger municipalities have entire departments dedicated to dealing with homelessness and af-

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<sup>1</sup> In the jargon of economics, there is an “opportunity cost” to dealing with homelessness and affordable housing.

fordable housing; the human resources alone dedicated to these urban problems have valuable alternative uses in society, and these alternatives must be considered when evaluating the problems caused by people lacking shelter.

There are likely many different causes of homelessness. Leading candidates include addiction problems, mental health problems, unemployment, spousal abandonment, despair, chronic illness, and social malaise. These problems are important and require continual work.<sup>2</sup>

But within the context of these problems, this paper suggests that there is another issue that contributes to homelessness and the lack of affordable housing. This problem arises not because people don’t care about homelessness or affordable housing and not because people don’t care about others who are less well-off, but because the tradeoffs between regulations and the supply of housing are often overlooked.

Over the past century, people who care about the squalid living conditions of low-income families and individuals have gradually persuaded governments to enact and enforce rigid housing codes. These codes have been designed to improve the fire safety of buildings, the privacy of tenants, the cleanliness and hygiene of the buildings, and accessibility to the buildings.<sup>3</sup> These codes often go beyond issues of safety and spill into middle-class judgements about how people ought to live; they include

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<sup>2</sup> A comprehensive source on homelessness is Rech (2019). For a very useful mnemonic on the sources and causes of homelessness, as well as the futility of much of the effort directed toward dealing with it, see Derbyshire (2019).

<sup>3</sup> For a history of building codes in this country, see Canada (2020).

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such things as minimum parking requirements or minimum room sizes.

While some housing codes may seem to be easily justifiable, they impose costs that can undermine the provision of low-income housing or push certain types of housing arrangements into the “informal” economy. This result has become common among several lower cost housing arrangements such as secondary suites (e.g., basement suites) or rooming houses (otherwise referred to as multi-tenant houses (MTH) or single room occupancy (SRO) residences). Regulations that drive these types of housing out of the market can have serious consequences for people looking to get a toehold in the local labour market or people who have fallen on hard times. The unintended consequences of housing regulations can mean that people who could afford to pay a modest amount for housing may not have a legal way to do so, and either end up in an illegal living situation or worse—on the streets. One of the most basic steps in reducing the level of homelessness is ensuring that governments aren’t actively forcing people out onto the streets for well-intentioned but ultimately wrong-headed reasons.

## The more general economic picture

When stricter housing codes are enacted and enforced, the costs go up for everyone supplying housing, regardless of the type of housing, whether it is single-family dwellings, high-end luxury apartments, or inexpensive rooming houses. These higher costs lead to a reduction in supply as some building owners repurpose their buildings and take them off the market, or builders and developers put up fewer of those types of housing units.

In very simple economics terms, higher costs lead to a reduction in supply, indicated by the

shift to the left of the supply curve (see figure 1). (As is common in economics, the “curves” in these graphs are drawn as straight lines to simplify them.) More importantly, they are drawn under the assumption of *ceteris paribus*.<sup>4</sup> Of course, economists know that other things change all the time, sometimes dramatically. We make this assumption here just to single out the effect of strengthening housing codes.

The solid blue line in figure 1 is the supply curve if there are weak housing codes.<sup>5</sup> It shows that if the price were high, more housing units would be supplied; i.e., people would build more of this type of housing if the prices

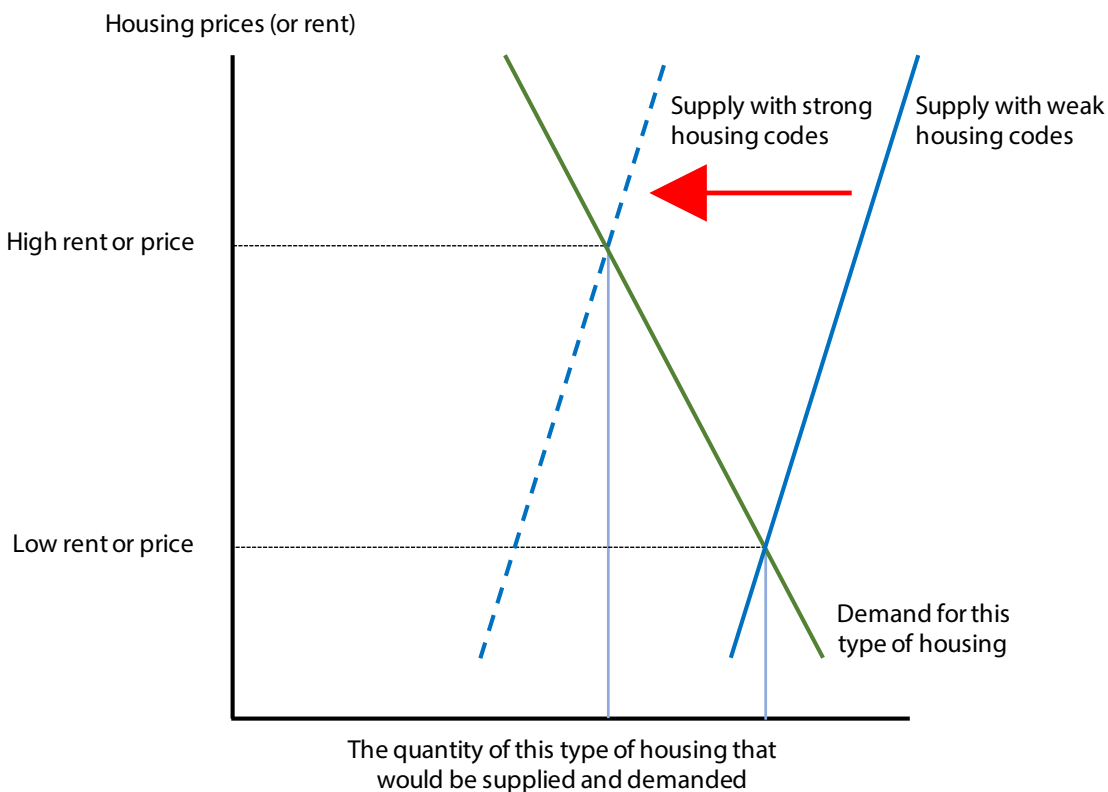
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<sup>4</sup> *Ceteris paribus* is a Latin phrase commonly used in economics that translates to “other things being equal.” But of course other things don’t remain equal when housing codes are changed. However, the supply curve shown in figure 1 can be thought of as the relationship between the quantity of housing units supplied, both legal and illegal, at various hypothetical prices. As the supply of legal housing dwindles, the prices in the overall market rise (as shown), but those higher prices induce some potential landlords to bring some illegal housing onto the market. This effect is shown by the positive slope of the supply curve in Figure 1, indicating that as prices or rents go up, the quantity supplied also goes up. The increase in the quantity supplied of illegal housing comes about only because of the higher price, and that higher price comes about only because of the reduction in overall supply; i.e., the increase in the supply of illegal housing will never offset the reduction in the supply of legal housing. Technically, this means we assume the supply of housing, legal or illegal, is not infinitely elastic, i.e., the supply curve is not horizontal.

<sup>5</sup> It is also important to distinguish between a lack of regulation and a lack of standards. Weak codes or an absence of codes does not mean that standards would not exist. For instance, private certifications could emerge, as well as norms. So deregulating building codes does not mean there would be no commonly agreed upon safety standards.

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Figure 1: The Supply and Demand of Any One Particular Quality of Housing



were high than they would if the prices were low. In the case of low-cost housing, for example, when the price is high, more people will be inclined to put apartments in their basements, attics, or garages. Similarly, that high price might also lead developers to build new units on land that is not being put to its highest-valued and best use (e.g., a surface parking lot that could reap more revenue as a multi-tenant house under less restrictive regulations).

The dashed blue line is the supply curve if there strong housing codes are in place. For any given rent or price of this particular housing, people will only supply a smaller quantity because of the higher costs of complying with housing codes. This fact is shown by having the supply curve shift to the left for every possible price.

The supply curves themselves don't tell how much of this housing will be supplied or what the rent will be; they merely trace out a hypothetical relationship between different possible rents and the resulting quantities that would be supplied.

Demand is also important. The green, downward-sloping line represents the demand for this type of housing, showing the quantities of it people would like at different rents or prices, again assuming *ceteris paribus*. At high prices people want fewer units than at lower prices.

It is the intersection of Supply and Demand that determines the price (or rent) and the quantity of it that will actually ended up being exchanged. When housing codes are weak,

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there will be greater supply, housing prices will be lower, and there will be more housing of this type transacted. When housing codes are strong, there will be less housing supplied, housing prices will be higher, and fewer units will be on the market<sup>6</sup> (though the reduction might be mitigated by units being rented out on the black market).<sup>7</sup>

Landlords have incentives to maintain certain standards in the properties that they seek to rent. So even in the absence of building codes, one should expect some level of quality in most units. Building codes are meant to create a minimum level of quality.

But for low-cost housing, strict building codes will increase the cost of housing while decreasing availability. This is very important in the case of very low-cost housing such as basement suites and rooming houses, where even modest additional costs can price prospective residents and landlords out of the legitimate, legal market.

The conclusion to be drawn from this basic analysis is simply that stronger housing codes, by increasing the costs of housing, lead to less affordable housing on the market and at the low end actually take low-cost housing off the market, driving some people into homelessness.<sup>8</sup>

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<sup>6</sup> The quality of housing is one of the things that would shift the curves and complicate the analysis.

<sup>7</sup> Illegal units complicate the stylized supply curve above. After all, it is conceivable that a large number of prospective landlords will simply offer their units illegally through word of mouth. This would mitigate the shift in the supply curve, though it would still be directionally correct.

<sup>8</sup> For those wishing a refresher on the fundamentals of Supply and Demand analysis, see any economics textbook, e.g., *The Economic Way of Thinking*, Chapters 3-6.

## Caring: Risks and trade-offs

Many lower cost forms of housing such as rooming houses provoke strong, negative reactions from well-meaning people who often argue that people shouldn't have to live in those conditions. Their argument is that society needs to make rules about the type of housing that can be offered to protect the poor from unsafe conditions.<sup>9</sup> However, as we argue above, overly rigid building codes can add higher costs that aren't necessarily compensated by commensurate quality and safety improvements.<sup>10</sup> This can result in people being pushed from comparatively safe housing onto the streets or into shelters. Alternatively, it may result in people being pushed from legal to illegal housing situations. Given the risk that landlords take in renting out units illegally and the lack of recourse tenants have when they are in illegal housing, it could be the case that tenants end up paying similar rents but for less safe housing.<sup>11</sup> That is one of the many potential un-

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<sup>9</sup> It is also possible that some home owners support more stringent building codes precisely because they would make it less likely for low-cost housing and rooming houses to exist. This is a dynamic that Bruce Yandle described in *Bootleggers and Baptists* (1983) where well-meaning people with pro-social rationales for prohibition have an alignment of interests with people who are simply acting in their own self-interest (e.g., Baptists not wanting people to drink, and bootleggers not wanting competition from legal business entities).

<sup>10</sup> Regulations can lead to improvements in housing quality, which could translate into an improved quality of life. However, the costs can outweigh the benefits.

<sup>11</sup> Landlords renting units on the black market may require higher rents in order to justify the decision to rent illegally. Otherwise they simply might refuse to rent out the unit. For instance, a landlord may decide there is a price at which he will rent out his

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intended consequences of regulations aimed at improving the welfare of tenants.

Living in housing that isn't up to code involves an increase in the risks taken to live there. Residents of substandard housing face increased risks from fire, poor hygiene options, and threats to personal safety. At the same time, judging from the experiences many people have in such housing, they would prefer living with those risks to the risks of homelessness or the risks involved with living in shelters. For instance, a unit lacking a separate entranceway or minimum area of square footage might be considered substandard in some contexts, but taking that unit off of the market clearly leaves prospective tenants worse off.

It would be ideal if the homeless didn't have to choose between moving from shelter to shelter and living on the streets, but for some people the imposition of stricter housing codes contributes to their having to make that very choice. Many people would seem to prefer the risk of living in a rooming house that isn't up to modern code to the risk of living in shelters, in doorways, or in rogue campsites.

Being homeless is risky in many ways, and so is living in a rooming house.<sup>12</sup> But this misses the point that there are many different levels and

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basement, but below that it's simply not worth taking the risk of being caught running an illegal suite compared to the benefit of using the basement for storage or recreation. This might reduce the supply of illegal suites, and push up the price. Alternatively, prices might be dampened by the fact that landlords have fewer tenants to choose from since they can't advertise illegal suites widely and have to rely on word of mouth advertising.

<sup>12</sup> See, for example, a recent incident involving a young woman who died in a fire at an illegal rooming house (Nicholson and Ho, 2019) The salient point

types of risks. For instance, rooming houses that are truly dangerous might have an elevated risk of fire, an increased risk of cohabiting with potentially dangerous or criminal tenants, poor heating or cooling, etc. However, it's important to weigh these rooming-house risks against likely alternatives. The risks of being unsheltered are numerous and plain to see: violence, bad weather, lack of a mailing address (which can make it more difficult to secure and maintain employment). Moreover, the mental health effects on people who lack a stable home and who have to move from shelter to the street to shelter are immense.

So, while rooming houses not up to the levels expected of new rental housing might seem unappealing to well-meaning people who are genuinely concerned for the homeless or other people in precarious situations, it's important to remember that some options are less bad than others. There is a trade-off along a multi-dimensional continuum between the expected probability and the expected sizes of various harms that can be suffered in different living situations. Different people will reasonably make different choices.

The problem is that we don't give individuals the choice. We think we are helping them by enacting and enforcing stricter housing codes, but in fact we are removing a low-cost option from them and forcing them either to pay more or to live in shelters or abusive situations, or otherwise be homeless. We force them to live under one set of risks when they might prefer a different set.

The framework we present here is relevant to all types of housing. But for our present pur-

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here is that the woman chose to live in an unsafe, illegal rooming house rather than live on the streets.

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poses, we'll focus specifically on very low-cost housing. The next two sections will consider this issue in the context of rooming houses in Toronto and secondary suites in Calgary.<sup>13</sup>

## Case in point: Toronto

As Canada's largest city and one of its most expensive housing markets, Toronto is a useful case study for rooming houses.

Rooming houses (also referred to as Single Room Occupancy (SROs) or Multi Tenant Houses (MTHs)) have become a political issue since the 1998 amalgamation of six municipalities created the current City of Toronto and rules around rooming houses were never harmonized throughout the new city. Three of the formerly independent municipalities (Toronto, Etobicoke, and York) allow for regulated rooming houses, while the other three (Scarborough, North York, East York) do not. Of course, while rooming houses are not permitted within the boundaries of those latter three constituent parts of the city, they still exist, albeit informally and usually illegally, with the attendant problems that occur in any illegal market.<sup>14</sup>

The City of Toronto recently commissioned a report that recommended harmonizing regu-

lations of multi-tenant houses across the city (Toronto, 2020). However, its city council remains divided on the issue, so a decision on whether to implement the report's recommendations has been deferred (Carter, 2021).

The various documents presented to the City from staff and external consultants provide information that highlights the issues noted above. As a starting point, estimates of monthly rental rates for rooming house units range from \$400 to \$700—well below the \$1148 cited for an average studio apartment (Maytree, 2020). For an entry-level worker trying to get a foothold in the labour market or a newcomer to Canada, such low rents can be enormously helpful even (or especially) if they are temporary arrangements.

However, while these rooming houses come with lower rents, they also come with greater risks. The report from the Maytree Foundation submitted to the city found that just over 10 percent of all fire fatalities over the past decade were associated with rooming houses (Maytree, 2020). While this number seems high, the report goes on to provide specific and surprisingly small numbers: “In total, 14 MTH [multi-tenant houses] were involved in 15 fire fatalities and four serious injuries. All 14 MTH were unlicensed. Seven were located in neighbourhoods where their use is not permitted.” This highlights one of the risks of pushing units outside of the legal system.

Between 2017 and 2019, Toronto Fire Services carried out 2,208 inspections of rooming houses and found 3,855 violations (Maytree, 2020). While most involved violations of zoning by-laws, 92 were violations that were deemed an “immediate threat to life,” however that is defined (Maytree, 2020). The point is that while the number of safety violations has been small,

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<sup>13</sup> It is possible that demand from different types of tenants occupying different types of units might be slightly more elastic. For instance, if the typical low-cost housing resident is a student whose education is partly funded by parents, it could be the case that they are more able to absorb additional costs than someone who has fallen on hard times. This might make demand in some cities more or less elastic depending on demographic factors such as the proportion of university students.

<sup>14</sup> For example, see the classic article by Boulding (1947), and the many economic treatises about black markets that appear in the economics literature.

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there certainly are greater risks associated with rooming houses than one would likely encounter in a new, purpose-built rental apartment, for instance.

There are also externalities to consider when the number of rooming houses increases. While it is difficult to quantify inconveniences to neighbours, increased noise from these houses relative to lower occupancy housing or potentially more cars taking up unassigned parking spaces can be nuisances. Of course, these issues can be addressed directly when the dwelling in question is operating legally. But if this type of housing is pushed underground, it can lead to greater levels of disrepair.

Insisting that multi-tenant homes be legalized and regulated does not guarantee they will all operate within the legal framework. The Maytree report notes that costs to achieve regulatory compliance could amount to between \$94 and \$227 per tenant per month (Maytree, 2020). As Maytree notes, the costs involved can potentially drive operators underground, thus highlighting the trade-off between safety and affordability noted above when it comes to very low cost housing.

Getting the balance right between safety regulations and affordability is crucial to ensuring that people in precarious situations have access to low-cost housing; imposing costlier regulations and housing codes will only serve to increase rents and reduce the supply of affordable housing at the lower end of the market.

## Case in point: Calgary

Another city grappling with lost-cost housing issues is Calgary. Secondary suites (primarily basement suites) are common in Calgary, but are typically not legally inhabited.

In 2018 the city moved to make secondary suites legal in most neighbourhoods, provided that the units were brought up to code and registered. While the move has been applauded by many, success thus far has been limited. One reason is that the costs imposed on landlords by the building codes were judged to be too stringent; in other words, they added costs to tenants in excess of what they were willing to pay for code compliance.

According to a commonly cited estimate, the city of Calgary had 16,000 illegal basement suites before the regulatory changes (Potkins, 2018). The city introduced a two-year amnesty period during which owners of illegal secondary suites would be allowed to register their units so long as they were code compliant. However, as of April 2020, only 1600 suites had been added to the registry during the amnesty period (Dippel, 2020). As of that time there were still an estimated 13,000 illegal suites and a total of 2600 registered secondary suites.<sup>15</sup>

There are many reasons why a landlord might not register a previously illegal suite: The house could be sold and the new owner might not want a downstairs resident, the current owner may simply no longer want tenants, a family member might move into the basement, and so forth. Another reason is that the cost of reaching code compliance simply may not be worth the trouble. If the cost of complying with the code is sufficiently high, some owners and their tenants will be willing to operate outside of the legal framework since the owners don't believe they can recoup the additional costs, in large part because tenants are not willing to pay higher rents for safer accommodations.

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<sup>15</sup> The period to register secondary suites has been extended to December 2021 due in large part to COVID-19 (Calgary, 2021).



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It may also be the case that renovating the suite to the standards required to meet the code are impractical. For instance, to be compliant, suites need to have a direct exit outdoors. While one can see how that might be desirable, some people are simply willing to share a common entrance for the right price. Other regulations are nearly impossible to comply with. For instance, there are minimum height regulations for basement suites. While it could potentially be possible to alter the height of a basement suite, it is hard to imagine it being economical. Raising the structure a few inches above the foundation is possible and is sometimes done; also, digging the basement floor out to meet the height requirement is possible and sometimes done. However, both processes involve major expenses and would be undertaken by a potential landlord only in anticipation of receiving considerably higher rents. It isn't hard to see how someone might prefer living with a ceiling less than 78 inches high to living on the streets or to paying higher rents to live in a unit that satisfies this section of the code.

While there are many considerations when it comes to the adequacy of living quarters, Calgary provides another example of a case where the perfect may be the enemy of the good. Safety regulations make sense, but they should be set with an eye to the alternatives. Less than ideal but still relatively safe and affordable housing is typically far better than no housing at all.

It is difficult to be against safety. But regulations have specific requirements, these requirements may not lead to substantial gains in safety, and tenants may not perceive those gains or find them worth their cost.

## Conclusion

Housing advocates often call for uniform building codes that apply to low rental housing. Their aims are laudable—to improve the lot of some of the most economically vulnerable members of our communities. But specific measures in these codes are often introduced in a piecemeal fashion, without regard to their systemic effects. This can and has led to unintended and adverse consequences: low-cost rental housing has become scarcer. This increased scarcity can have the effect of shutting people out of the low rent housing system entirely, which is to say, rendering them homeless. This was not the intention of advocates calling for the implementation of these building codes. But it is a consequence of the measures that they advocated. The use of supply and demand analysis applied to the low rental housing market helps explain how good intentions translate into bad outcomes.

To address the problems of homelessness and affordable housing, we must always keep in mind that housing codes lead to increased costs and reduce the supply of housing, thereby making housing less affordable and driving at least some people into some form of homelessness.

As we have seen in the cases of multi-tenant housing in Toronto and secondary suites in Calgary, building codes can affect not only whether units are provided, but whether those that are provided are done so legally, or informally. Overzealous regulations can have the perverse effect of keeping low-cost housing units in the black market, meaning that they are potentially not subject to any regulations at all.

Both the costs and benefits of regulations need to be weighed carefully. Failure to do so can, in many cases, lead to well-intentioned rules that do more harm than good.

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