



HousingWorks  
AUSTIN

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Dear CodeNEXT Team,

HousingWorks Austin is a nonprofit organization that provides research, education, and advocacy on the topic of household affordability in Austin. With increasing pressures on affordability, and limited tools to address this daunting challenge, CodeNEXT provides a unique opportunity to embed affordability throughout the City of Austin. At the same time, HousingWorks recognizes that affordability is a complicated and interconnected system and that the land development code (and the Affordable Housing Bonus Program) is only one component of that system.

The text of draft 2 of the code and the accompanying maps were released in mid-September, with the public engagement concluding on October 31. HousingWorks Austin previously submitted comments on draft 1 of the code on July 14, 2017 and our comments on draft 2 further that work. Comments that were not addressed or still require attention are reiterated

To provide more substantive comments, it will be crucial for us (and the community as a whole) to have more details on the methodology and calibration involved in developing the affordable housing incentives. As stated in our previous comments, HousingWorks recommends that staff and/or consultants provide this information in order for us to better analyze the Affordable Housing Bonus Program.

Additionally, HousingWorks recommends that a cohesive process be adopted in regard to reviewing draft 3 of the code. It is important that the text and map are released together so that the community has the opportunity to review both and make informed decisions.

As we approach draft 2 of the code, HousingWorks Austin’s over-arching questions are still as follows:

- Does CodeNEXT increase the diversity of housing types available, including “missing middle” (e.g., duplex, triplex, fourplex, ADUs, etc.) and alternative forms of housing, such as cooperatives?
- Will CodeNEXT further the goal of providing legally restricted affordable housing in all parts of town, including “high opportunity areas”?
- Are the proposed incentive tools sufficient to result in increased legally restricted affordable housing?
- Are increased entitlements commensurate with community benefits, particularly legally restricted affordable housing?
- Does CodeNEXT create a development review system that is simpler to understand and administer?
- How does CodeNEXT help us strategically preserve market affordable housing, while increasing the overall supply of housing?
- Will CodeNEXT help our community affirmatively further fair housing goals, rather than perpetuating historical patterns of racial/ethnic and economic segregation?

We are encouraged by a variety of aspects of the proposed affordable housing incentives program from draft 2, including the following:

- Source of Income Protection across all density bonuses, thereby ensuring that lower-income households have access to affordable housing across the City of Austin.
- Alignment and simplification of affordability incentive requirements across the City of Austin.
- 60% MFI (rental) and 80% MFI (owner) income targeting, which is lower than some previous programs.
- Increased reach of the density bonus area and expansion to more areas of the city although we still need to understand whether increased entitlements are commensurate with community benefits.
- A projected increase in housing capacity in very high and moderate opportunity areas.
- Density bonus provisions for both commercial and residential development.
- Proportional bedroom count provisions that can potentially yield affordable units for families, although this requires further analysis.
- Legally-restricted affordable units mirror the unit mix of the non-affordable units and have access to the same amenities.
- Greater than triple anticipated yield for affordable units over current density bonus program.

In reviewing the draft 2 text, HousingWorks has identified the following issues and/or concerns:

**Housing Choice.** The draft 2 text allows accessory dwelling units (ADU) to be built in additional parts of the city. However, the draft added significant constraints, including a change in parking requirements from current code. HousingWorks recommends studying the potential of accessory dwelling units to add to the number of income restricted units in the city. As previously recommended, Modeling will help to identify the tradeoffs inherent with regulations and restrictions.

There are no explicit opportunities for creating alternative housing types within the same form (e.g., “internal ADUs” or cooperatives). Currently, CodeNEXT allows for “accessory apartments” within a principal structure that is reserved for a senior or person with a disability (see 23-4E-6040). Can we assess broadening this restriction, analyzing both the advantages and disadvantages? Does the restriction create a fair housing concern?

As stated previously, there are questions regarding the feasibility of the density bonus program and SMART Housing incentives on smaller-scale development. Is the program designed for a variety of housing types, including small-scale infill development and family- friendly housing? Or is it best suited for large-scale rental development? To the degree that density bonus programs apply to affordable infill development and/or smaller scale development, are the incentives properly calibrated? Does the calculation of the required units produce the maximum number of feasible affordable units?

Furthermore, HousingWorks recommends that affirmative marketing is considered for affordable units created under the density bonus program. Such measures would ensure that qualified community members are aware of this housing choice and know how to access it.

**Geographic Dispersion of Affordable Housing.** Draft 2 allows for increased opportunities for legally-restricted affordable housing West of Mopac and in “high-opportunity areas”. However, there is still a concern that if deed restrictions limit opportunities for legally-restricted housing, how does the City of Austin plan to address this from a fair housing perspective? Are there also opportunities for legally-restricted affordability in lower density designations? Is the definition of “high-opportunity areas” in draft 2 adequate to ensure that we meet our dispersion goals?

Onsite affordability is one mechanism to ensure geographic dispersion of affordable housing. CodeNEXT should minimize exceptions to on-site affordability while raising the bar for off-site or fee-in-lieu options. Alternatives to on-site affordability should result in meeting goals for deeply affordable units.

**Tools to Incentivize Affordable Residential Development.** The incentive tools need to be assessed more fully to ensure that they are effective and responsive to changing market conditions. The estimated affordable housing yield should be corroborated, with a detailed breakdown by zoning category.

As previously recommended, companion policies to the code must be introduced that go beyond the code and help achieve the goals of the Strategic Housing Blueprint. Neighborhood planning must be enhanced and updated to work towards affordability goals. The updated SMART Housing incentives do not appear to provide sufficient incentive in exchange for affordability. Could fee waivers include “any current and future fees and/or assessments”? Could developments meeting SMART housing requirements receive expedited review without a fee? Could the city offer infrastructure cost sharing in exchange for affordability?

**Entitlements/Density.** There are concerns that some of the zones increase entitlements without requiring any community benefits. When incorporating current density bonus programs into the new code it is important to ensure that increased entitlements are commensurate with community benefits. At the same time, there are concerns that additional entitlements conferred through the affordable housing incentives do not result in sufficient legally-restricted on-site affordability. The community needs to better understand the methodology and calibration involved in developing the affordable housing incentives.

While CodeNEXT maps have attempted to reflect the current zoning on the ground, are we perpetuating the zoning restrictions in the current code that have diminished our ability to address fair housing concerns and have exacerbated our historical patterns of racial/ethnic and economic segregation?

**Development Process Improvement.** Ensuring an expeditious and predictable development process can ease the pressure on housing supply and contribute to greater affordability. Developments that are designated SMART Housing should be able to access expedited review on a sliding scale, based on their level of affordability.

**Preservation of Affordable Housing.** As previously stated, the impact of gentrification and displacement on low-income communities is a pressing challenge. Preservation of affordable housing across the city is one tool to meet the challenge. In addition to looking for opportunities to preserve market affordable housing within the land development code, CodeNEXT will require parallel policy actions to ensure low-income residents can remain in their neighborhoods and have access to high opportunity areas. HousingWorks looks forward to an analysis by the City of Austin Equity Office (along with other stakeholders) regarding the impact of CodeNEXT on low-income communities and communities of color.

Thank you for your consideration of our comments. We look forward to reviewing the third draft and working to increase affordability throughout the City of Austin.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Ferguson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Frances Ferguson  
President, Board of Director