HOUSE BILL REPORT
E2SSB 5613

As Reported by House Committee On:
Housing
Appropriations

Title: An act relating to the development of clear and objective standards, conditions, and procedures for residential development.

Brief Description: Concerning the development of clear and objective standards, conditions, and procedures for residential development.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Salomon, Trudeau, Liias and Nobles).

Brief History:
Committee Activity:
Housing: 3/20/25, 3/26/25 [DPA];
Appropriations: 4/5/25, 4/7/25 [DPA(APP w/o HOUS)].

Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)

- Directs the Department of Commerce (Commerce) to develop and publish model code provisions that contain clear and objective standards.
- Requires a fully planning city or county to adopt and apply only clear and objective development regulations and design standards for residential development by January 1, 2029.
- Allows a city or county to adopt an alternative approval process for residential development based on criteria that are not clear and objective, if certain conditions are met.

HOUSE COMMITTEE ON HOUSING

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass as amended. Signed by 15 members: Representatives Peterson, Chair; Hill, Vice Chair; Richards, Vice Chair; Jacobsen, Assistant Ranking Minority Member; Manjarrez, Assistant Ranking Minority Member; Barkis, Connors, Dufault, Entenman, Gregerson, Lekanoff, Reed, Thomas, Timmons and Zahn.

Minority Report: Without recommendation. Signed by 2 members: Representatives Low, Ranking Minority Member; Engell.

Staff: Serena Dolly (786-7150).

Background:

Growth Management Act.
The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. The GMA establishes land use designation and environmental protection requirements for all Washington counties and cities. The GMA also establishes a significantly wider array of planning duties for 28 counties, and the cities within those counties, that are obligated to satisfy all planning requirements of the GMA. These jurisdictions are sometimes said to be fully planning under the GMA.

The GMA directs fully planning jurisdictions to adopt internally consistent comprehensive land use plans. Comprehensive plans are implemented through locally adopted development regulations, and both the plans and the local regulations are subject to review and revision requirements prescribed in the GMA. When developing comprehensive plans, counties and cities must consider various goals set forth in statute.

Summary of Amended Bill:

Stakeholder Work Group.
The Department of Commerce (Commerce) must form a stakeholder work group to:
- analyze development regulations that create barriers to housing types;
- suggest model code provisions that contain clear and objective standards; and
- guide implementation of the clear and objective standards and model code provisions for residential development.

The work group must consist of members representing:
- cities;
- counties;
- the building industry;
- the construction trades;
- the planning profession;
- the architecture profession; and
- organizations advocating for sustainable land use.

The work group must focus on development regulations and processes, working to give applicants predictability and to encourage uniformity across jurisdictions.

Model Code.
By June 30, 2027, Commerce must develop and publish model code provisions for residential development.

Clear and Objective Requirements.
By January 1, 2029, a fully planning city or county must adopt and apply only clear and objective development regulations and design standards for residential development within an urban growth area, except development regulations for a conditional use.

Clear and objective development regulations are locally adopted development regulations, including design standards, that:
- involve no personal or subjective judgment by a public official; and
- are ascertainable by reference to measurable written or graphic criteria available and knowable to the permit applicant, the public, and public officials.

Clear and objective design standards are locally adopted design standards that:
- include one or more ascertainable guidelines, standards, or criteria by which an applicant can determine whether a given building and site design is permissible; and
- do not result in a reduction in density, height, bulk, or scale below the generally applicable development regulations in the zone.

A city or county may adopt an alternative approval process for residential building permits based on approval criteria that are not clear and objective if:
- an applicant has the option to choose an approval process that meets the clear and objective requirements; and
- the approval criteria for the alternative approval process complies with the GMA and does not result in a residential density less than what would otherwise be allowed.

A city or county may:
- set approval standards under which a particular housing type is permitted outright;
- impose special conditions for approval of a specific development proposal; and
- establish approval procedures.

A city or county is deemed to have met the clear and objective requirements if:
- the city or county adopts development regulations in compliance with the clear and objective requirements; or
- the city or county adopts the model code provisions, submits its development regulations to Commerce, and receives approval from Commerce.

Growth Management Act Appeals.

The Growth Management Hearings Board may review a petition alleging that:

- development regulations adopted by a city or county, which are not based on the model code provisions and have not been submitted to Commerce for approval, are not consistent with the clear and objective requirements;
- the clear and objective model provisions adopted by a city or county are not consistent with Commerce's model code provisions; and
- Commerce's written determination that changes to the city's or county's ordinances or regulations comply with the clear and objective standards is clearly erroneous.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill clarifies that the clear and objective requirements apply only to regulations for residential development, not all development.

The amended bill excludes development regulations for a conditional use from the clear and objective regulation requirements.

The amended bill requires Commerce to develop and publish model code provisions, instead of a model code.

The engrossed second substitute bill required the model ordinance to focus on development regulations and processes, give applicants predictability, and encourage uniformity across jurisdictions. The amended bill instead requires the stakeholder work group to focus on those issues.

The amended bill specifies that a city or county may meet the requirements by adopting regulations that comply with, rather than being substantially similar to, the clear and objective regulation requirements.

The amended bill clarifies that design standards are included in the type of development regulations that must be clear and objective.

The amended bill removes limitations and requirements for nonobjective criteria, such as design guidelines, used in any process established as an alternative to the approval process based on clear and objective development regulations and design standards.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 13, 2025.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Developers are often faced with local development regulations that are unclear, subjective, and difficult to understand. As the state moves from a system designed to limit and slow housing production to a system that enhances housing production, having clear and objective development regulations becomes more important. Clear and objective standards are crucial to ensuring that the marketplace is predictable. The bill has been thoughtfully modified to minimize litigation through stakeholder involvement and the development of a model code. The bill seeks to give cities options but also a safe harbor.

(Opposed) None.

(Other) While it sounds like local codes are so confusing and conflicting that building is not occurring, construction is happening around the state. The construction industry is near its highest peak ever. Local governments create development regulations that fit their communities under the processes in the GMA. The spirit of the GMA is to give local communities the ability to tailor their development regulations to their specific community context. This bill creates a one size fits all approach to these regulations that is likely unachievable. The requirement for objective development regulations may make it impossible for local governments to comply with certain environmental and land use review processes that are sometimes required by federal law. Development regulations related to conditional uses should be exempt. Some of the language in the bill needs to be clarified.

Persons Testifying: (In support) Senator Jesse Salomon, prime sponsor; Joseph Tovar; Andrea Smiley, Building Industry Association of Washington; and Alex Hur, Master Builders Association of King and Snohomish Counties.

(Other) Curtis Steinhauer, Washington State Association of Counties; and Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: TaraLyn Fray; and Sandra Mochizuki.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Housing. Signed by 23 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Couture, Ranking Minority Member; Penner, Assistant Ranking Minority Member; Berg, Bergquist, Burnett, Caldier, Callan, Cortes, Doglio, Fitzgibbon, Leavitt, Lekanoff, Peterson, Pollet, Ryu, Springer, Stonier, Street, Thai and Tharinger.

Minority Report: Do not pass. Signed by 5 members: Representatives Corry, Dye, Keaton, Marshall and Rude.

Minority Report: Without recommendation. Signed by 3 members: Representatives Connors, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Manjarrez.

Staff: Jackie Kauble (786-7125).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Housing:

The Appropriations Committee recommends removing the creation and responsibilities of the work group and adding a null and void clause, making the bill null and void unless funded in the budget.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) There is support for the effort to make standards for housing more streamlined, and reorienting standards to make it easier to work with counties and cities on building projects. Subjective standards have been a barrier to building affordable and market rate housing for a long time, and this helps change that.

(Opposed) None.

(Other) Feedback from counties have been incorporated in the bill to address large policy concerns. Each session there are several pieces of legislation that require counties to update development regulations, as is the case with this bill. The new requirements of this bill will not take effect until 2029, which is outside the normal cycle of the Growth Management Act for the majority of counties. A null and void clause should be added to ensure that the bill only takes effect if there is funding to implement it.

Persons Testifying: (In support) Adán Espino, Habitat for Humanity of WA.

(Other) Curtis Steinhauer, Washington Association of Counties.

Persons Signed In To Testify But Not Testifying: None.