

SENATE BILL REPORT

SB 5613

As of February 26, 2025

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: Senators Salomon, Trudeau, Lias and Nobles.

Brief History:

Committee Activity: Housing: 2/07/25, 2/19/25 [DPS-WM].
Ways & Means: 2/26/25.

Brief Summary of First Substitute Bill

- Requires the Department of Commerce (Commerce) to form a stakeholder work group to analyze development regulations that create barriers to housing types and suggest model codes that contain clear and objective standards.
- Requires Commerce to develop and publish a model code that may be adopted by cities and counties.
- Requires all development regulations in effect in a city or county to comply with clear and objective standards requirements by January 1, 2028.
- Allows a city or county to adopt an alternative approval process for applications and permits for residential development that are not clear and objective under certain conditions.
- Adds several petition types to those that the Growth Management Hearings Board may hear.

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.

SENATE COMMITTEE ON HOUSING

Majority Report: That Substitute Senate Bill No. 5613 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Bateman, Chair; Alvarado, Vice Chair; Goehner, Ranking Member; Gildon, Orwall, Salomon and Trudeau.

Staff: Benjamin Omdal (786-7442)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Trevor Press (786-7446)

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.

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 their comprehensive plans, counties and cities must consider various goals set forth in statute.

Growth Management Hearings Board. The Growth Management Hearings Board (GMHB) hears petitions and resolves disputes concerning the GMA. The GMHB is comprised of five members appointed by the Governor. Petitions are heard by three-member regional panels that generally include two members from the region where the case arose, and one member from a different region.

The GMHB may hear and determine petitions alleging that a state agency or planning jurisdiction is not in compliance with the GMA. The GMHB may issue a final order finding compliance or it may remand for plans and regulations to be brought into compliance. If a plan or regulation is found to be not in compliance, the GMHB must remand it back to the affected state agency, county, or city.

Summary of Bill (First Substitute): Stakeholder Work Group. The Department of Commerce (Commerce) shall form a stakeholder work group (work group) to analyze development regulations that create barriers to housing types and suggest model codes that contain clear and objective standards.

The work group shall 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 shall help guide implementation of the clear and objective standards, and a model code for residential development that Commerce must adopt under the act.

Clear and Objective Standards. Except under certain conditions, a city or county planning under the GMA may adopt and apply only clear and objective standards regulating residential development. The standards:

- may include, but are not limited to, one or more provisions regulating the density, height, bulk, or scale of a development; and
- may not have the effect, either in themselves or cumulatively, of discouraging development through unreasonable cost or delay.

A planning city or county may adopt and apply an alternative approval process for applications and permits based on approval criteria regulating appearance or aesthetics that are not clear and objective if:

- the applicant retains the option of proceeding under the 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 authorize a density of less than the density authorized in the comprehensive plan and that would be authorized under the clear and objective standards process.

These limitations shall not infringe on the prerogative of a city or county to set approval standards under which a particular housing type is permitted outright, impose special conditions upon approval of a specific development proposal, or establish approval procedures. In addition, the clear and objective requirements do not apply to standards regulating residential development outside of urban growth areas.

By January 1, 2028, all development regulations in effect in a city or county must comply with clear and objective standards requirements. A city or county is deemed to have met these requirements if:

- the city or county adopts standards in compliance with the clear and objective standards requirements; or
- the city or county adopts the model code produced by Commerce, submits any relevant standards to Commerce for approval, and receives approval from Commerce.

If Commerce determines that the adopted provisions do not meet the requirements of the model code, Commerce shall notify the city or county of the deficiencies identified and

proposed amendments to correct any deficiencies. Upon amendment of any provisions deemed to not meet the requirements of the model code, the city or county may resubmit the amended provisions to Commerce for approval.

Definitions under the Growth Management Act. Certain definitions are modified with respect to the GMA.

The definition of "development regulations" is modified to require that those adopted under the GMA must be clear and objective design and development standards. In determining whether a development regulation is clear and objective the regulation must be interpreted in a manner that does not inhibit or prohibit either development of middle housing or accessory dwelling or achievement of minimum density requirements under the GMA.

"Clear and objective design and development standards" is defined as locally adopted development regulations 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 both the permit applicant and public officials prior to submittal.

Department of Commerce Model Code. Commerce must develop and publish a model code that meets city and county clear and objective planning requirements. The clear and objective standards in the model code should focus on development regulations and processes, give applicants predictability, and encourage uniformity across jurisdictions. The model code is not required to include critical areas regulations.

Within 90 days of the publication of the model code, a planning city or county planning under this chapter may bring a petition alleging that the model code adopted by Commerce does not comply with the clear and objective requirements of the act.

Growth Management Hearings Board Petitions. Petitions challenging the following are added to the list of petitions the GMHB may hear:

- that a clear and objective model standard, condition, or procedure adopted by a city or county is not consistent with requirements of the act;
- that a clear and objective model ordinance adopted by a county or city is not consistent with Commerce's model ordinance; and
- within 90 days of adoption by Commerce, that the model code adopted under the act does not comply with clear and objective requirements.

In making a determination on whether a model ordinance is in compliance with the GMA, the GMHB must give substantial weight to Commerce's expertise.

EFFECT OF CHANGES MADE BY HOUSING COMMITTEE (First Substitute):

- Requires all development regulations in effect in a city or county to comply with clear and objective standards requirements by January 1, 2028.

- Allows a city or county to meet clear and objective requirements through adoption of regulations in compliance with the requirements or by adopting a model code produced by the Department of Commerce and subsequent approval from Commerce.
- Amends the definition of "clear and objective design and development standards" to mean locally adopted development regulations 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 both the permit applicant and public officials prior to submittal.
- Allows a city or county to bring a petition to the GMHB alleging that the model code produced by Commerce does not comply with clear and objective requirements.
- Adds alleging that a clear and objective standard adopted by a city or county is not consistent with clear and objective requirements to the list of petitions that the GMHB may hear.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Housing): *The committee recommended a different version of the bill than what was heard.* PRO: We should have development regulations that are clear, understandable, and predictable. The bill is an attempt to be fair and balanced, but we need to get moving on housing and it is not working out the way it is right now. Clear and objective standards help speed up the process of building affordable housing. The bill creates predictability and accountability, as well as uniform standards and application. The bill creates an alternative approval process and creates a conversation. Clear and objective standards will work better for everyone: city planners, builders, and the public. Regulations often become subjective, causing years of review for one single family home. We should not be left guessing about what regulations mean. Absent clarification and guidance from local jurisdictions, vague regulations cause frustration and delay.

OTHER: The bill seems to require the model ordinance be adopted by rule, which would force a one-size-fits-all approach across the state.

Persons Testifying (Housing): PRO: Senator Jesse Salomon, Prime Sponsor; Bill Stauffacher, Building Industry Association of Washington; Alex Hur, Master Builders Association of King and Snohomish Counties; Dean Williams; Ezra Hammer; Dan Bertolet, Sightline Institute.

OTHER: Curtis Steinhauer, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying (Housing): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: Senate Bill 5613 aims to create a more efficient and predictable housing development process by ensuring clear and objective standards for regulations. This bill addresses the vagueness and subjectivity that often lead to delays, legal challenges, and rising costs in housing projects. By clarifying standards, this bill will reduce delays, ultimately helping to increase housing production in Washington, which is urgently needed. It also aligns with past legislative reforms, such as House Bill 1293, and draws from successful models, including those in Oregon. Clear standards will benefit everyone involved—regulators, builders, and the general public—by minimizing unnecessary disputes and speeding up housing development. Local governments and homebuilders need these reforms to bring greater certainty and transparency to the development process.

CON: Some cities, like Tacoma, expressed concerns about the bill due to the impact it would have on local ordinances. Tacoma, for example, has already made substantial investments to comply with previous legislation, and this bill would require them to revisit and redo their work at considerable expense. Furthermore, the bill's changes to design review standards in sections two and three differ from previous legislation, which could disrupt the progress that cities have already made. These adjustments are seen as an unnecessary mandate change mid-course, causing additional strain and cost for local governments.

OTHER: Preventing delays and reducing subjectivity in housing regulations is crucial for increasing affordability. Additionally, the City of Bellingham expressed support for the bill, citing the city's challenges with rising housing prices and wealth gaps. They also requested to be part of the stakeholder group to help shape the regulatory framework. The Association of Washington Cities, while generally in favor of reducing subjectivity, also pointed out the challenges of making land use approval criteria clear and objective, referencing past litigation in Oregon as an example of the complexities involved.

Persons Testifying (Ways & Means): PRO: Dylan Sluder, Master Builders Association of King and Snohomish Counties; Blake Lyon, Director of Planning and Community Development for the City of Bellingham, WA; Andrea Smiley, Building Industry Association of Washington; Dan Bertolet, Sightline Institute.

OTHER: Briahna Murray, City of Tacoma; Carl Schroeder, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.