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## Local Government Committee

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### E2SSB 6026

**Brief Description:** Concerning residential development in commercial and mixed-use zones.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Alvarado, Bateman, Conway, Frame, Lias, Nobles and Shewmake; by request of Governor Ferguson).

**Brief Summary of Engrossed Second Substitute Bill**

- Prohibits local governments from excluding residential development from commercial and mixed-use zones and from requiring ground floor commercial and mixed-use requirements in such zones, with certain exceptions, and preempts contrary local government regulations as of June 10, 2027.

**Hearing Date:** 2/20/26

**Staff:** Kellen Wright (786-7134).

**Background:**

The Growth Management Act.

The Growth Management Act (GMA) requires that certain counties, and the cities within those counties, engage in planning for future population growth. A county may be subject to the planning requirements of the GMA because of the county's population and population growth rate around the time of the GMA's inception in the 1990s, because of the county's population growth rate over a subsequent 10-year period, or because the county opted-in to the GMA planning requirements. Altogether, 18 counties are required to plan, 10 have chosen to plan, and 11 are not subject to the full GMA planning requirements.

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*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.*

Whether a county is automatically required to plan under the GMA or voluntarily chooses to, the planning requirements are largely the same, and the comprehensive plan is the centerpiece of the process. The comprehensive plan must address goals designated by the Legislature and set out the policies and standards that are meant to guide the city or county's actions and decisions in the future. The comprehensive plan is implemented through development regulations. Development regulations are development and land use controls, and include zoning ordinances that limit or regulate the use of land in different areas of the jurisdiction.

Comprehensive plans are required to be reviewed and revised at least every 10 years. Counties, and the cities within those counties, are separated into four groups for the purposes of comprehensive plan update deadlines, with the deadlines for each group staggered over four years. Certain counties and cities that meet designated population thresholds must also provide an implementation progress report five years after updating their comprehensive plan. The report must cover the jurisdiction's implementation of changes to the housing element and the impact of those changes in the jurisdiction, permit processing timelines in the jurisdiction, progress toward achieving green house gas and vehicle miles traveled reductions, and, if the jurisdiction has yet to take any specific action needed to implement the most recent comprehensive plan update, the identification of such actions and a work plan to take the necessary actions within two years of the implementation progress report.

A county's or city's comprehensive plan may not allow development near a military installation that is incompatible with the continued use of the military installation.

Once a county becomes subject to the GMA, it must create one or more urban growth areas within the county. These are areas in which urban growth is encouraged, while, outside of designated urban growth areas, it is prohibited. Urban growth is that which makes such intensive use of the land for buildings, structures, and other impermeable surfaces that it cannot be used primarily for agricultural, natural resource, or rural uses. Generally, urban government services such as sewer systems, public transit, street cleaning, and other services associated with urban areas may only be provided within urban growth areas. Each city must be included in an urban growth area.

Cities planning under the GMA must also allow for increased residential density within a certain distance of a bus station or rail station. The areas subject to these density requirements are known as station areas.

All counties and cities, not only those fully planning under the GMA, must designate critical areas. These include wetlands, fish and wildlife habitat conservation areas, areas with a recharging effect on aquifers used for potable water, and geologically hazardous areas. Counties and cities must adopt development regulations to protect these critical areas.

#### Other Land Use Designations and Regulations.

Counties and cities (local governments) can also regulate property in order to preserve its historic

character. Generally, this means that the local government will limit or prevent alterations to a property that has been designated as a historic landmark, or which is located in a historic district.

If a general aviation airport operated for the benefit of the general public is located in a local government's jurisdiction, the local government is required to discourage the siting of incompatible uses adjacent to the airport through its development regulations. The regulations may only be adopted after consultation with, among others, airport owners, operators, and pilots.

The Department of Ecology adopts shoreline management guidelines to protect the shorelines of the state. Shorelines include the state's shoreline with the Pacific Ocean, Puget Sound, and rivers and lakes above a certain size. Local governments use the guidelines to develop shoreline master programs to regulate the use of shorelines.

A local government may establish a parking and business improvement area. The area is established through a petition from business and residential operators to the legislative authority of the local government. The area may be funded by assessments on business, multifamily residential, and mixed-use operations in the area. This revenue can be used in the designated area for parking facilities, decoration of public places, providing sponsorship or promotion of public events, providing public music, providing professional management, planning, and promotion services for the area, providing maintenance and security in public areas, and providing transportation services.

The Department of Archeology and Historic Preservation manages the Washington Main Street Program. This program provides technical assistance and funding to local governments with a population of less than 190,000 that undertake downtown, commercial district revitalization, or main street programs designated by the department.

Local government may designate tax increment financing areas. These are areas in which a local government can receive an increased amount of property tax revenue, with the additional amount based on the change in property tax assessments due to public improvements made by the local government. The local government must use the increased revenue to pay for the costs of the public improvements.

#### Rural Counties.

A rural county is a county with a population density of fewer than 100 people per square mile, or a county that is smaller than 225 square miles.

#### **Summary of Bill:**

Any city planning under the GMA with a population of 30,000 or more, and any county planning under the GMA that is not a rural county, generally may not exclude residential development in areas zoned for commercial or mixed-use development.

These counties and cities also generally may not require mixed-use or ground floor commercial or retail as a condition of permitting the development of residential housing, or a conditional use or special use permit, or departing from development regulations related to the location, siting, orientation or design of residential or mixed-use development in an area zoned for commercial or mixed use.

There are exceptions from both general prohibitions. A county or city may exclude residential development in an area zoned for commercial or mixed-use development if any portion of the lot is:

- in an industrial zone area;
- within 3,200 feet of an oil or gas refinery;
- would require the demolition of a designated historic landmark;
- outside of an urban growth area, or not contiguous with the city that is subject to the prohibition;
- located near a general aviation airport or a military installation;
- in an area subject to tax increment financing;
- located on a waterfront lot on a shoreline in which all multifamily or mixed-use development is prohibited by a shoreline master program; or
- located in a critical area, except for certain aquifer recharge areas.

A county or city may require mixed-use or ground floor commercial:

- if the building is listed on the state or national register of historic places as of June 10, 2026;
- if the building is located in a business and parking improvement area or a commercial area designated as a main street area by the Department of Archeology and Historic Preservation;
- in station areas, unless the project is for publicly subsidized affordable housing that is exempt from property taxation;
- in up to 20 percent of the area zoned for commercial or mixed-used, exclusive of station areas, within the local government's jurisdiction, unless the project is for publicly subsidized affordable housing that is exempt from property taxation; or
- in more than 20 percent of the area zoned for commercial or mixed-used, exclusive of station areas, within the local government's jurisdiction if the local government provides height incentives to allow development up to 85 feet, unless the project is for publicly subsidized affordable housing that is exempt from property taxation.

Local governments can also qualify for a blanket exemption from the prohibition on mixed-use and ground floor commercial requirements. In order to qualify for this exemption, the jurisdiction must adopt regulations that balance the need for housing with ground floor commercial within one year of the due date of the earlier of the local government's next comprehensive plan update or its next implementation progress report. The regulations must either incentivize ground floor commercial uses within mixed-use and commercial development, or reduce the requirements for ground floor commercial use. The regulations must be based on an empirical study prepared by an expert in real estate economics. The study must be submitted

by the Department of Commerce and must demonstrate the balance of housing and ground floor commercial use requirements. The study must, at a minimum:

- review ground floor commercial use policies in all zones that authorize mixed-use development to balance housing with ground floor commercial needs, including for grocery stores, pharmacies, child care, and other uses;
- identify mixed-use and commercial zones where sufficient ground floor commercial space is available; and
- identify incentives for mixed-use developments that require ground floor commercial use.

Unless a specific or blanket exemption applies, the general prohibitions on the exclusion of residential development from commercial and mixed-use zones, and on ground floor commercial and mixed-use requirements in such zones, supersede, preempt, and invalidate any contrary local governments regulations on June 10, 2027.

**Appropriation:** None.

**Fiscal Note:** Available.

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