

Growth Management Act (GMA)

Introduction

The Growth Management Act is an extensive framework that requires local governments to do comprehensive planning to accommodate the needs of the growing population. The GMA was enacted in 1990, 1st ex. s. c 17 § 1, and is codified at RCW 36.70A.010-.902. Counties with populations of less than 50,000 had an option in 1990 to opt out of the full GMA planning process. There are 29 counties and 218 cities that fully plan under the act.

The GMA requires all cities and counties in the state to:

- Designate and protect wetlands, frequently flooded areas, and other critical areas
- Designate farm lands, forest lands, and other natural resource areas
- Determine that new residential subdivisions have appropriate provisions for public services and facilities.

Requirements for Fully-Planning Counties

The basic steps that local governments fully planning under the GMA must follow are:

- Agree on county-wide planning policies to guide regional issues, for example, public facilities, and affordable housing
- Plan for urban growth within the urban growth areas that are adopted by each county, based on forecasts provided by the state Office of Financial Management (OFM)
- Adopt comprehensive plans with chapters addressing eight mandatory elements
- Identify lands useful for public purposes and essential public facilities, such as airports, educational facilities, and utility and transportation corridors
- Adopt development regulations that carry out GMA comprehensive plans.

GMA Goals

GMA plans and regulations are to be guided by 14 goals:

- Focus urban growth in urban areas
- Reduce sprawl
- Provide efficient transportation
- Encourage affordable housing
- Encourage sustainable economic development
- Protect property rights
- Process permits in a timely and fair manner
- Maintain and enhance natural resource-based industries
- Retain open space and habitat areas and develop recreation opportunities
- Protect the environment
- Encourage citizen participation and regional coordination
- Ensure adequate public facilities and services
- Preserve important historic resources
- Manage shorelines wisely.

Comprehensive Plans and Regulations

The comprehensive plans are to provide for 20 years of growth and development needs based on forecasts from OFM. They can be amended once a year. State agencies are required to comply with local comprehensive plans. Newly incorporated cities have four years from the date of incorporation to adopt plans. Local comprehensive plans are to include chapters addressing (1) land use (2) utilities (3) housing (4) transportation (5) capital facilities (6) rural (for counties only) (7) parks and recreation and (8) economic development. Plans must be put in action by development regulations, such as zoning and concurrency ordinances.

The developed plans and regulations are submitted to the Department of Community, Trade, and Economic Development (CTED) for review. However, the department does not certify the plans or approve the regulations. The agency, or other state agencies, can appeal locally adopted plans to the Growth Management Hearings Boards with the permission of the governor. Plans are presumed valid upon adoption unless a board finds non-compliance with the GMA.

Growth Management Hearings Boards

Three hearings boards resolve disputes about whether a local government is in compliance with the GMA and the Shorelines Master Program. Members of each board are appointed by the governor to six-year terms.

A board may send a plan or regulation back to the local government for changes. In exceptional cases, where the board finds that a plan or regulation would interfere significantly with the fulfillment of GMA goals, the board may invalidate all or part of a plan or regulation. A local government may amend its plan or regulation to come into compliance.

If the government fails to comply with the act, community members that had participated in the planning process can bring cases to the boards to establish the non-compliance. If the board determines noncompliance, the governor is given the option to sanction the local government by withholding certain tax revenues that would normally go to the jurisdiction.

The unstated penalty to the local government comes from paying for litigation, and many interest groups are using the GMHB litigation process to achieve their policy objectives. For example, Futurewise has filed hundreds of lawsuits to further their objectives, which has resulted in many new legal precedents that curtail or increase the cost of development.

Recent Developments

In 2008, legal authority for counties and cities to incorporate measures to reduce green-house gases in their comprehensive plans was added to the GMA. A task force was created to advise CTED to produce recommendations for methodologies, legislative changes, and other activities that will assist governments in addressing climate change. CTED's report is due December 1, 2008.

In 2007, due to contentious debate among farmers, local governments, native communities, and the environmental community regarding how critical areas should be handled on farm lands, the Legislature stopped any updates on critical area ordinances applying to agricultural land from May 1, 2007 to July 1, 2010 so that these groups are given the opportunity to reach agreement and develop changes or approaches that can be presented to Legislative committees in 2010. The William D. Ruckelshause Center is to conduct fact-finding and group discussions to facilitate the negotiations.

In Swinomish Indian Tribal Community v. WWGMHB, 161 Wn.2d 415 (2007), the Washington Supreme Court: (a) upheld Skagit County's decision not to enact a set buffer width abutting streams and merely require that "farmers are to conduct ongoing agricultural activities so as not to cause harm or degradation to the existing functional values of critical areas;" (b) held there is a clear distinction between the words protect and enhance, and there is no requirement under the GMA for property owners to replant areas that were "long ago plucked up" so farmers do not have to restore or enhance buffers; and (c) held that the GMA does not require the county to follow best available science so long as it is included in the hearing record and a reasonable justification for a departure is part of the hearing record.

In Futurewise v. CPSGMHB, 141 Wn.App. 202 (2007), the Court of Appeals upheld Pierce County's comprehensive plan which defined parcels of land smaller than five acres as not agricultural lands of long-term significance that must be conserved under the GMA.

In Gold Star Resorts, Inc. v. Futurewise, 140 Wn.App. 378, 397 (2007), the Court of Appeals confirmed that an acceptable rural density is one unit per five acres, but more significantly, stated that the boards do not have the authority to adopt bright-line rules of what is or is not valid under the GMA.

In Kitsap County v. CPSGMHB, 138 Wn.App. 863, 868 (2007), the Court of Appeals found that there were inconsistencies among the county's actual growth and its planning policies and comprehensive plan (i.e. allowing too much actual growth in rural areas and not enough in urban areas) so the county had to take steps to make growth consistent with the comprehensive plan.