



Department of Commerce



## Southwest Planners Forum Critical Areas Workshop

*Heather Ballash, AICP*  
Senior Planner



Summer 2016  
Vancouver

### Presentation Overview



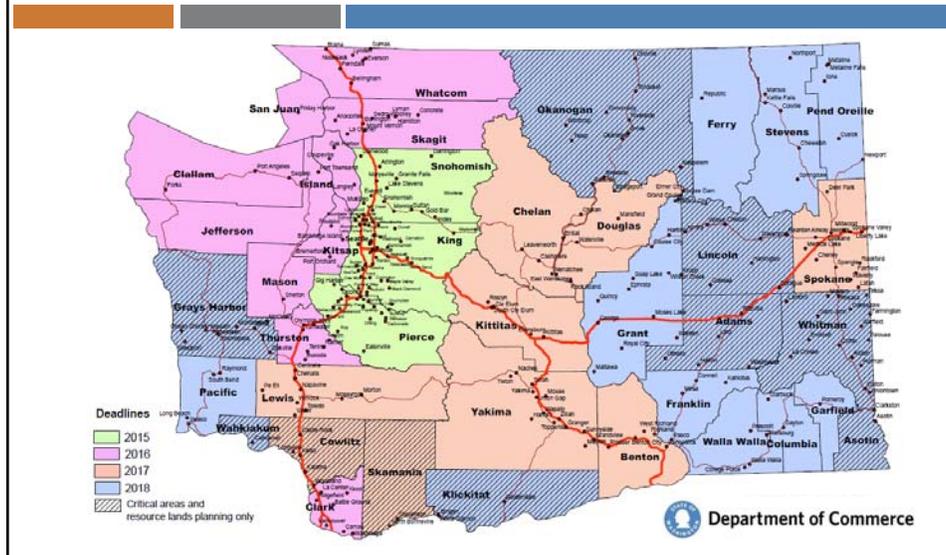
- Periodic Update Deadlines
- Documenting the Periodic Update
- Critical Area Guidance – Best Available Science WAC
- Voluntary Stewardship Program
- GMA & SMA Interface



Department of Commerce

## GMA Update Schedule: RCW 36.70A.130(5)

Updates due June 30th



## GMA Update Schedule: 24 Month Extension RCW 36.70A.130(6)(e) and (f)

- **Small and slow growing** 2016, 2017, and 2018 update jurisdictions
- **Counties: Population of less than 50,000** and population **increase by no more than 17%** in the ten years preceding the deadline
- **Cities: Population of no more than 5,000** and **population increase by no more than one hundred persons or 17%** in the ten years preceding the deadline

## GMA Update Schedule: 12 Month Grace Period

January	February	March
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6 7	1 2 3 4	1 2
8 9 10 11 12 13 14	5 6 7 8 9 10 11	3 4 5 6 7 8 9
15 16 17 18 19 20 21	12 13 14 15 16 17 18	10 11 12 13 14 15 16
22 23 24 25 26 27 28	19 20 21 22 23 24 25	17 18 19 20 21 22 23
29 30 31	26 27 28 29 30	24 25 26 27 28 29 30
April	May	June
S M T W T F S	S M T W T F S	S M T W T F S
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15 16 17 18 19 20 21	12 13 14 15 16 17 18	10 11 12 13 14 15 16
22 23 24 25 26 27 28	19 20 21 22 23 24 25	17 18 19 20 21 22 23
29 30 31	26 27 28 29 30	24 25 26 27 28 29 30 <b>W</b>
July	August	September
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6 7	1 2 3 4	1 2 3
8 9 10 11 12 13 14	5 6 7 8 9 10 11	3 4 5 6 7 8 9
15 16 17 18 19 20 21	12 13 14 15 16 17 18	10 11 12 13 14 15 16
22 23 24 25 26 27 28	19 20 21 22 23 24 25	17 18 19 20 21 22 23
29 30 31	26 27 28 29 30	24 25 26 27 28 29 30
October	November	December
S M T W T F S	S M T W T F S	S M T W T F S
1 2 3 4 5 6 7	1 2 3 4	1 2
8 9 10 11 12 13 14	5 6 7 8 9 10 11	3 4 5 6 7 8 9
15 16 17 18 19 20 21	12 13 14 15 16 17 18	10 11 12 13 14 15 16
22 23 24 25 26 27 28	19 20 21 22 23 24 25	17 18 19 20 21 22 23
29 30 31	26 27 28 29 30	24 25 26 27 28 29 30 <b>W</b>

**All Jurisdictions:** Grant and loan eligibility maintained for a period of 12 months after the update deadline for jurisdictions working on the development regulations that protect critical areas. RCW 36.70A.130 (7) **Cannot be used in combination with 24 month extension**



## Documenting the Periodic Update

- Include minimum legislative findings that ensure the public is notified that the update is taking place (*1000 Friends v. Whatcom County, WWGMHB*)
- Clear findings that a review and evaluation has occurred, and identify revisions, OR state revisions were not needed and the reasons why (*Evergreen Islands et al v. Anacortes, WWGMHB*)
- Clearly state that the update is complete (*Harader v. Winlock, WWGMHB*)



## Designating and Protecting Critical Areas

### RCW 36.70A.170

#### Five types of critical areas (RCW 36.70A.030(5)):

- Wetlands
- Fish and Wildlife Habitat Conservation Areas
- Frequently Flooded Areas
- Geologically Hazardous Areas
- Critical Aquifer Recharge Areas



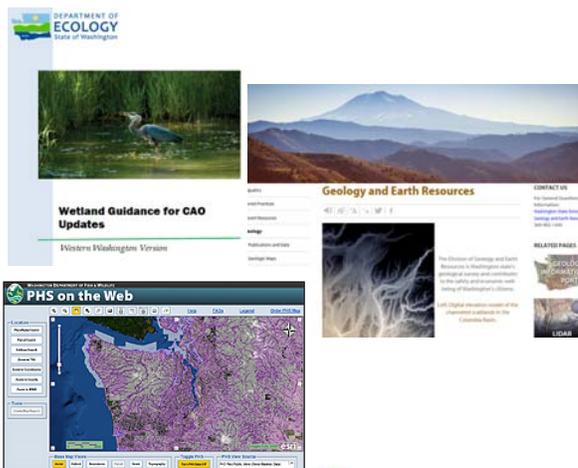
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## Including Best Available Science

### RCW 36.70A.172(1)

#### Resources

- Resource Agencies' web sites and guidebooks
- Commerce web site and guidance under revision
- Chapter 365-195 WAC



 Department of Commerce

## Criteria for Determining Best Available Science: WAC 365-195-905

### Criteria for determining Best Available Science

- Qualified Scientific Expert
- Characteristics of a Valid Scientific Process
  - Peer Review
  - Methods
  - Logical conclusions and reasonable inferences
  - Quantitative Analysis
  - Context
  - References



## Best Available Science in the Record WAC 365-195-915

Category and Type of Wetland	Creation or Re-establishment	Rehabilitation	Enhancement
Category I: Bog, Natural Heritage site	Not considered possible	Case by case	Case by case
Category I: Mature Forested	6:1	12:1	24:1
Category I: Based on functions	4:1	8:1	16:1
Category II	3:1	6:1	12:1
Category III	2:1	4:1	8:1
Category IV	1.5:1	3:1	6:1

- Specific policies and regulations which protect functions and values
- Relevant sources of best available science included
- Any non-scientific information



## Addressing Inadequate Scientific Information WAC 365-195-920

### Addressing Inadequate Scientific Information

- Precautionary or a no risk approach – development and land use activities are strictly limited until uncertainty is resolved

And

- As interim approach, an effective Adaptive Management Program – rely on scientific methods to evaluate how well regulatory and non-regulatory actions achieve their goals



## Departing from Best Available Science WAC 365-195-915

- Information in the record that supports its decision
- Rationale for departing from science-based recommendations
- Identify potential risks to the functions and values and additional measures to limit such risks



## Voluntary Stewardship Program RCW 36.70A.720

Watershed workplan requirements include:

- Creating goals and benchmarks for the protection and enhancement of critical areas
- Establishing baseline monitoring
- Conducting periodic evaluations, instituting adaptive management and providing written reports to the county and Conservation Commission



## Voluntary Stewardship Program RCW 36.70A.705

Application of Voluntary Stewardship Program:



- Applies only to lands where [Agricultural Activities](#) take place, as defined in RCW 90.58.065 – not limited to agricultural lands of long term commercial significance
- Standard critical area regulations still apply county wide to non-agriculturally related activities



## Voluntary Stewardship Program

- If a Watershed Work Plan fails (not approved, fails, or unfunded): [RCW 36.70A.735](#)
  - a. Develop, adopt, and implement a work plan to approved by Commerce to protect critical areas
  - b. Adopt the regulations of Clallam, Clark, King or Whatcom Counties
  - c. Adopt development regulations certified by Commerce as protective of critical areas.
  - d. Review and, if necessary, revise development regulations adopted under this chapter to protect critical areas as they relate to agricultural activities.



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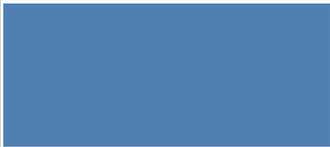
### Voluntary Stewardship Program Contact

**Scott Kuhta, AICP**  
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509-795-6884  
[scott.kuhta@commerce.wa.gov](mailto:scott.kuhta@commerce.wa.gov)

Voluntary Stewardship Program  
State Conservation Commission  
<http://scc.wa.gov/vsp/>

[www.commerce.wa.gov](http://www.commerce.wa.gov)





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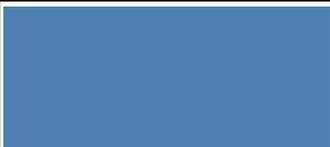
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[www.commerce.wa.gov](http://www.commerce.wa.gov)



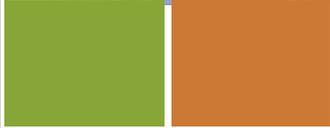
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**Southwest Planners Forum  
Critical Areas Workshop**

*Tim Gates*  
Shoreline Policy Lead

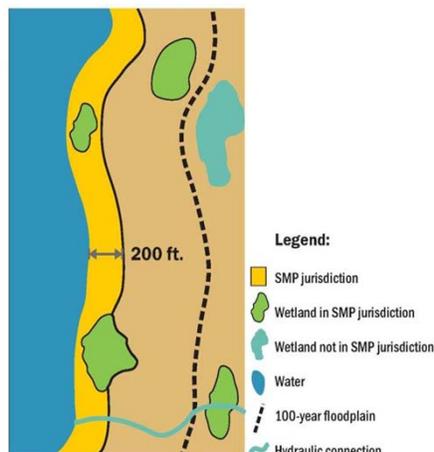


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## SMA: A state “overlay” on local planning

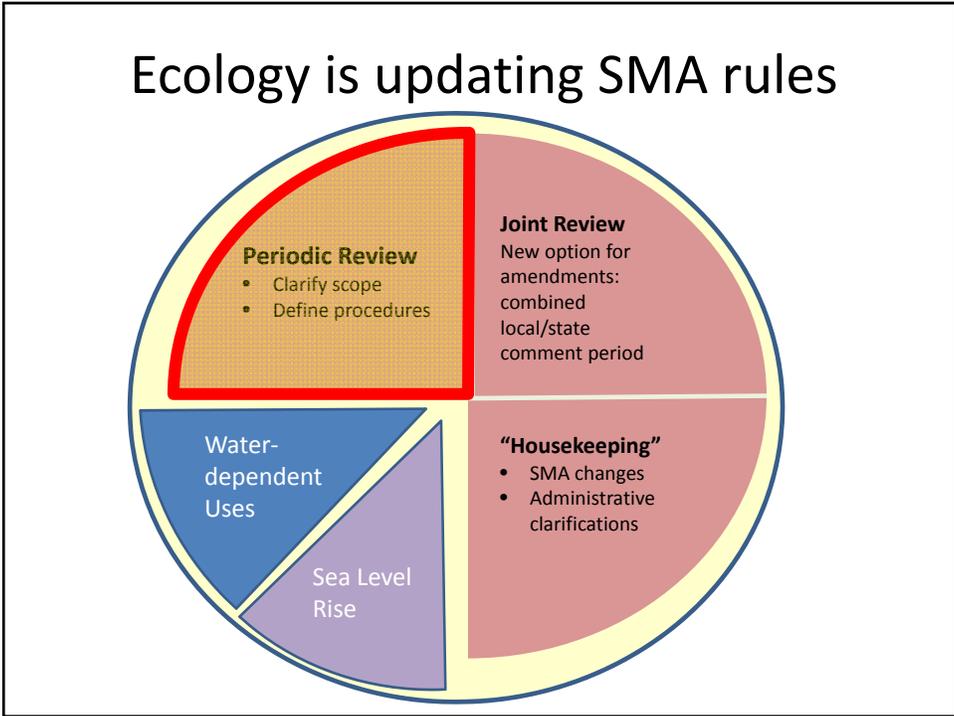
Minimum shoreline jurisdiction is defined by state law:

- Marine waters
- Lakes > 20 acres
- Larger streams (> 20cfs mean annual flow)
- “shorelands” 200’ landward from Ordinary High Water Mark
- Associated wetlands



## SMA & GMA Differences

- Procedures: State role in locally-issued permits
  - Substantial Development Permit – filed with Ecology
  - Conditional Use and Variance – Ecology final approval
  - CAO “Reasonable Use” = will likely require Variance in shoreline jurisdiction
- Substance: SMPs may include tailored CAO regs
  - More specific to existing conditions, based on state-funded characterization reports
  - More specific allowances for preferred uses (Water-Dependent Uses, Public Access, Single-Family)



### Periodic review: purpose

The Legislative mandate is to “review and *if necessary*, revise...”

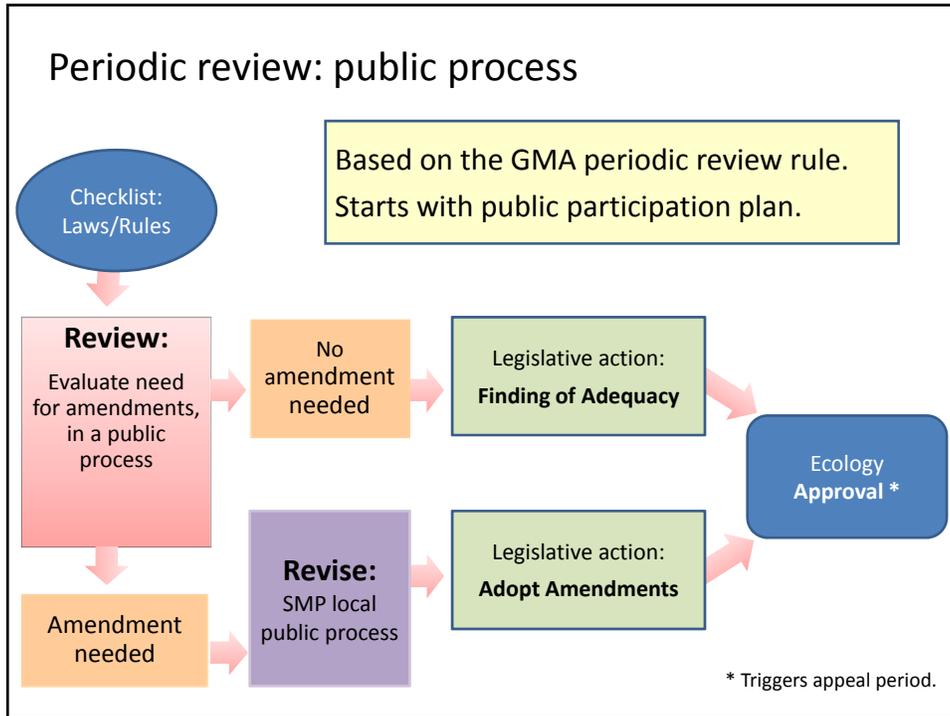
to assure the SMP:

**1) Complies with laws and Ecology rules** that were not in effect the last time the SMP was amended

**2) Remains consistent with the comprehensive plan and development regulations** adopted under the Growth Management Act

Preliminary draft clarifies:

- existing SMPs are presumed adequate.
- no requirement to re-do inventories.
- The rule also identifies optional elements.



### To comment on preliminary draft

Visit Ecology's [Website](#)

- Join the [Listserv](#)
- Download documents for review
- Use the online comment form

Comments due by **August 26, 2016**

Contact:  
 Michelle Wilcox  
 360-407-7676  
[smarulemaking@ecy.wa.gov](mailto:smarulemaking@ecy.wa.gov)






# VOLUNTARY STEWARDSHIP PROGRAM

FACT SHEET FOR CONSERVATION DISTRICTS (Oct. 2015)

This fact sheet is designed to help conservation districts in counties that have opted into the Voluntary Stewardship Program (VSP) determine what role(s) you want to play in the program.

## **BACKGROUND ON VSP**

**1990** – Washington Legislature passes Growth Management Act (GMA), which requires state and local governments to manage growth by identifying and protecting critical areas, designating urban growth areas, and preparing and implementing plans and regulations. Implementation of GMA requirements meets with years of conflict and lawsuits.

**2006** – State Supreme Court in the case of *Swinomish v. Skagit County* declares agricultural lands are not exempt from critical area protection requirements.

**2007** – In response to GMA conflicts, Washington Legislature charges Ruckelshaus Center—a collaborative, problem-solving center—to examine the conflict between protecting agricultural land and protecting critical areas under GMA.

**2010-11** – Based on recommendations of the Ruckelshaus Center, the legislature creates VSP at the Washington State Conservation Commission (SCC). VSP represents a voluntary, incentive-based approach that offers counties an alternative for meeting GMA requirements related to protecting critical areas and agricultural lands. No new state funding provided for VSP, and counties are not obligated to implement it until funding is made available.

**2012** – Counties given choice to opt-in to VSP or continue to meet GMA requirements as written under existing law. Twenty-eight of 39 counties opt-in to VSP.

**2013** – State funds made available for two pilot counties — Thurston and Chelan — to begin VSP planning process.

**2015** – State provides funding for 26 remaining VSP counties to begin planning process.

## **WHAT ARE CRITICAL AREAS?**

There are five critical areas identified in Washington's GMA:

1. Wetlands
2. Frequently flooded areas
3. Critical aquifer recharge areas
4. Geologically hazardous areas
5. Fish and wildlife habitat conservation areas (emphasis on anadromous fish)

More information is available on the Department of Commerce website: <http://www.commerce.wa.gov/Services/localgovernment/Growth-Management/Growth-Management-Planning-Topics/Critical-Areas-and-Best-Available-Science/Pages/default.aspx>



## WHAT CONSERVATION DISTRICTS SHOULD BE DOING NOW:

### 1 – Decide what role your conservation district would like to play.

The list below provides an overview of the entities involved in VSP and their roles. While some roles are predetermined in statute, those marked in **blue** indicate roles that your conservation district may want to play (subject to county approval). Your level of participation is scalable based on your district's capacity. At a minimum, it's recommended that your district is a member of the watershed workgroup.

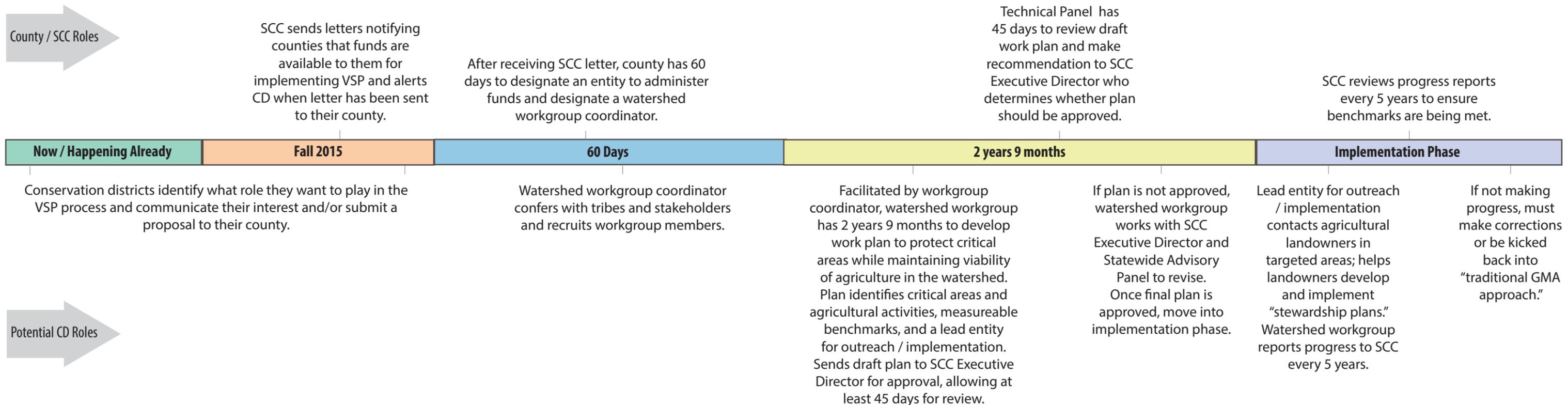
- **Washington State Conservation Commission (SCC):** Administers VSP statewide; Executive Director approves / rejects work plans submitted by watershed workgroups.
- **County:** Decides which entity will administer funds; designates watershed workgroup coordinator (counties may designate themselves for either or both of these roles).
- **Watershed Workgroup Coordinator:** Recruits members to participate on watershed workgroup in accordance with statute guidance on stakeholder representation; Facilitates watershed workgroup meetings and timely progress toward deliverables; May be designated as entity to administer funds.
- **Watershed Workgroup:** Develops local work plan; Identifies lead entity for outreach / implementation of the work plan; Provides progress reports to the SCC.

- **Lead Entity for Outreach / Implementation:** Proactively reaches out to agricultural landowners in targeted areas in accordance with approved work plan; Helps agricultural landowners develop "stewardship plans" (essentially farm plans) that include best management practices to help protect critical areas associated with their property and maintain viability of the landowner's operation.
- **Technical Panel:** Reviews draft work plans submitted by the watershed workgroup and makes recommendations to SCC Executive Director on whether to approve or reject the plan; Members represent directors (or director-designees) of the Washington Departments of Ecology, Fish and Wildlife, Agriculture, and the SCC.
- **State Advisory Panel:** Works with SCC Executive Director and watershed workgroup to revise draft work plans that are rejected; Panel's statutorily designated members include two representatives each from environmental interests, agriculture, and counties, and two tribal representatives are invited to participate.

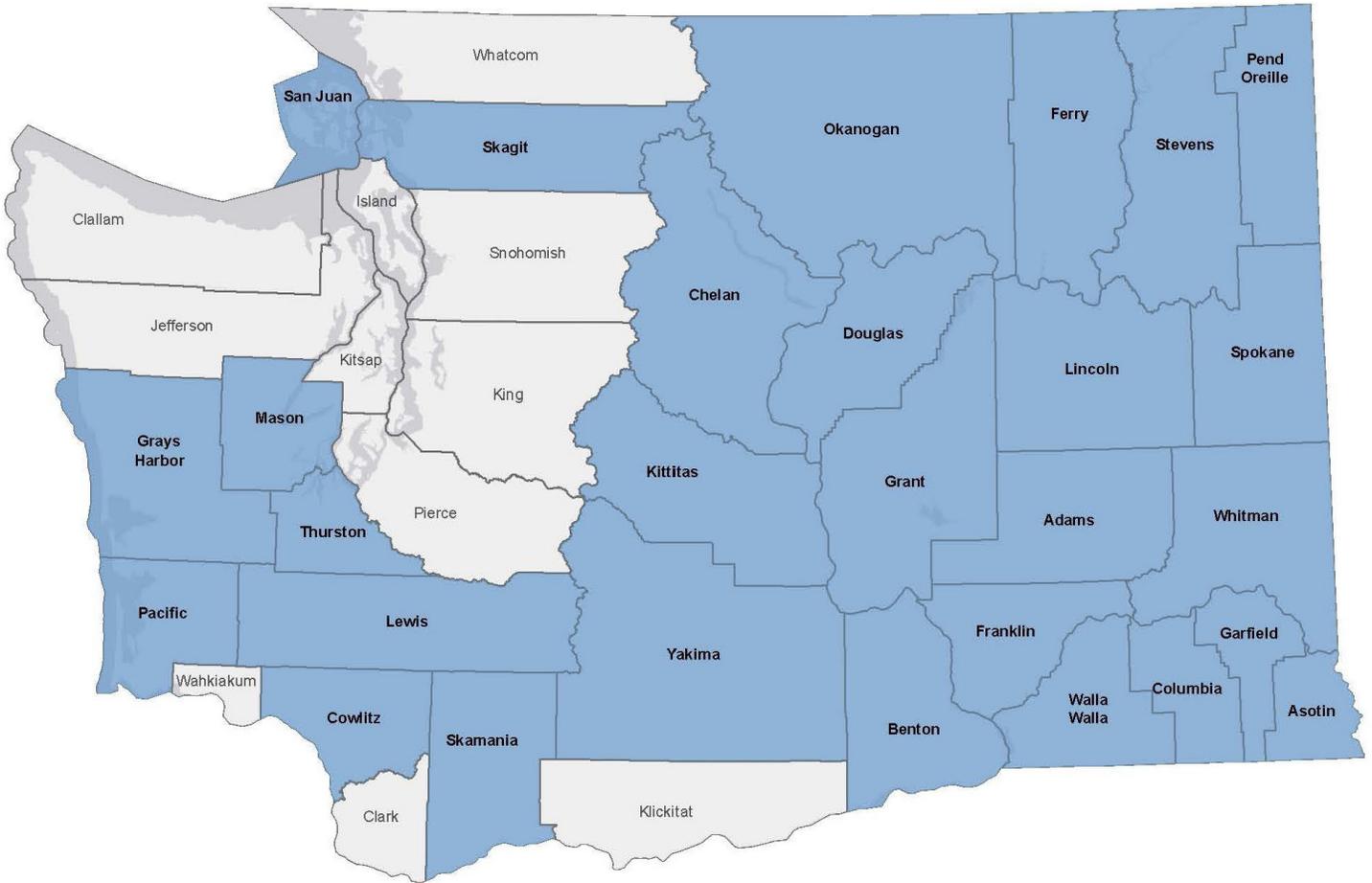
### 2 – Contact your county with a proposal

Once you've made a decision about the role(s) your district wants to play, contact your county with a clear proposal. Focus on the unique services and qualifications your district brings to the table. If you're interested in being the watershed workgroup coordinator or the lead entity for outreach / implementation, it's appropriate to submit a scope of work that includes what your services will cost. See this example of a letter and scope of work from Spokane Conservation District: [http://content.govdelivery.com/attachments/topic\\_files/WASCC/WAS-CC\\_45/2015/10/22/file\\_attachments/438795/SpokaneCD\\_CoProposal\\_\\_438795.pdf](http://content.govdelivery.com/attachments/topic_files/WASCC/WAS-CC_45/2015/10/22/file_attachments/438795/SpokaneCD_CoProposal__438795.pdf)

## VSP TIMELINE - OVERVIEW



## COUNTIES THAT OPTED-IN TO VSP (in blue):



## QUESTIONS?

### Contact:

- Ron Shultz, SCC Policy Coordinator  
Email: [rshultz@scc.wa.gov](mailto:rshultz@scc.wa.gov)  
Phone: 360-407-7507



Washington State  
Conservation  
Commission

### Web Resources:

- Growth Management RCW 36.70A:  
<http://apps.leg.wa.gov/Rcw/default.aspx?cite=36.70A>
- Voluntary Stewardship Program RCW 36.70A.705:  
<http://apps.leg.wa.gov/rcw/default.aspx?cite=36.70A.705>



**Department of Commerce**  
Innovation is in our nature.

# Keeping Your Comprehensive Plan and Development Regulations Current

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## *A Guide to the Periodic Update Process under the Growth Management Act*

Prepared by the Washington State Department of Commerce  
Local Government & Infrastructure Division  
Growth Management Services  
September 2012

## **Acronyms and terms used in this guide**

**CAO** - Critical Areas Ordinance

**CARL** – Critical Areas and Resource Lands

**Commerce** – Washington State Department of Commerce (*previously named the Department of Community, Trade and Economic Development or CTED prior to July 2009*)

**Comprehensive plan** - land use document that provides the framework and policy direction to manage where and how growth needs are met. Plan elements address land use, housing, capital facilities, utilities, rural/natural resources, transportation, economic development, environment, cultural resources, and other topics.

**Development regulations** - controls placed on development or land use activities by a county or city, such as codes for zoning, critical areas, planned unit developments, and subdivisions.

**GMA** – Growth Management Act, Chapter 36.70A, RCW

**GMS** – Growth Management Services, a unit in the Department of Commerce, Local Government Division that helps counties and cities implement the GMA.

**OFM** – Washington State Office of Financial Management

**Periodic update** – A regularly scheduled review and update of county and city comprehensive plans and development regulations. For most communities, the update takes place every eight years under a schedule established by the Legislature in the GMA.

**RCW** – Revised Code of Washington (laws adopted by the state Legislature)

**SMA** – Shoreline Management Act

**SMP** – Shoreline Master Program

**UGA** – Urban Growth Area

**WAC** – Washington Administrative Code (rules adopted by state agencies)

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# I. Introduction

The comprehensive plan is the centerpiece of local planning in Washington State. Like business plans, comprehensive plans provide the framework for how our communities will grow. And like business plans, they must evolve over time to be effective.

Many communities amend their comprehensive plan annually and regularly adopt changes to the development regulations that implement them. In addition to these regular amendments, the state Growth Management Act (GMA) requires counties and cities to periodically conduct a thorough review of their plan and regulations to bring them up to date with any relevant changes in the GMA and to respond to changes in land use and population growth.<sup>1</sup> This mandatory “periodic update” takes place for most communities at least once every eight years, though smaller, slower-growing communities<sup>2</sup> may take longer.

This guide explains when and how to go through the necessary steps in the periodic update process. The level of effort and timing of the update steps will vary depending on how recently your community has comprehensively updated its plan, the size of your community, and other factors.

This guide is intended as a user-friendly supplement to the GMA statutes and administrative rules that describe procedures that must be followed and substantive issues that must be addressed.

This guide may not be able to answer all your questions about the periodic update - the Washington Department of Commerce, Growth Management Services program may be able to help. To speak with your technical assistance team, call (360) 725-3055 west of the Cascades; or 509-434-4491 east of the Cascades. [Appendix A](#) includes the Growth Management Services staff assignments by region.

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## **Why we plan**

*“...all of us know that quality of life is not guaranteed. We maintain it through the hard work of our citizens, our businesses, and our state and local-elected officials who make the tough decisions every day to ensure that we have a healthy, natural environment, a strong, sustainable economy, competitive, high-performing schools, and safe and high-quality communities for all of us to enjoy.*

*All of this makes Washington competitive in the global economy. And if we eliminate even one of these regional values, we diminish ourselves and our communities.*

*Comprehensive plans give expression to the values and priorities of our communities. These plans provide a 20-to-50-year vision—a roadmap for how our communities want to look and to function. For rural towns, it may be to preserve and sustain their agricultural heritage, for another, prioritizing downtown redevelopment. It all adds up to a shared vision, tough decisions, and partnerships.”*

*- Governor Chris Gregoire, announcing Smart Communities Awards, 2007*

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<sup>1</sup> The GMA is codified under RCW 36.70A. The “periodic update” requirements are found in [RCW 36.70A.130](#)

<sup>2</sup> The criteria determining whether or not a city or county qualifies are described on page 5.

## Who must complete the periodic update?

Every county and city in the state is required to conduct a periodic update, though the obligation varies depending on whether the jurisdiction is fully or partially planning<sup>3</sup> (see sidebar).

**Fully planning** counties and cities must complete the periodic update for their entire comprehensive plan and development regulations.

**Partially planning** counties are required to periodically update their critical areas ordinance and resource lands provisions. Partially planning cities usually have no designated resource lands, so their periodic update is usually limited to their critical areas ordinance.

## When is the update due?

Under the GMA, the Legislature established a schedule for when the periodic update is required to be complete.<sup>4</sup> The map below reflects new deadlines adopted by the 2011 legislature.<sup>5</sup> Except for certain small, slow-growing communities, each county and its cities must complete the periodic update by June 30 of the years shown in Figure 1, and every eight years after that.

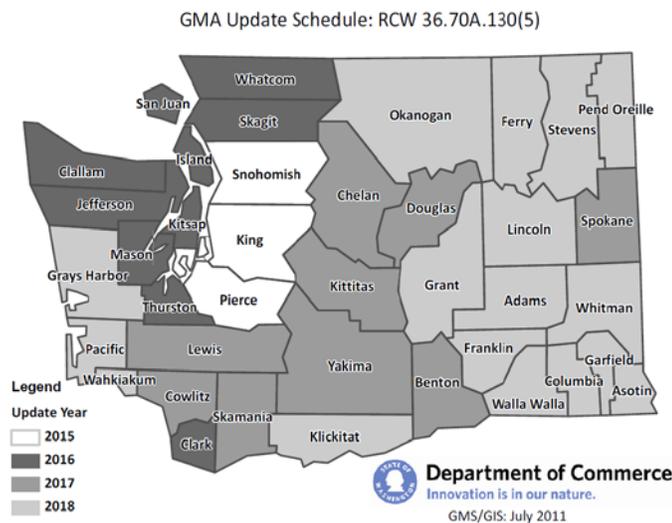


Figure 1: GMA Update Deadlines as amended in 2011 (see special cases below)

### **“Fully” or “partially” planning”**

**“Fully planning”** means that a city or county must meet all GMA requirements, including adoption of a comprehensive plan and a complete set of development regulations implementing the plan. Only the state’s fastest growing counties and cities are required to plan fully, though a number of counties have “opted-in” by choice.

**“Partially planning”** jurisdictions are the counties - and the cities within their boundaries - that do not meet GMA population and growth rate thresholds and have not chosen to fully plan under the Act. Partially planning counties are required to designate and protect critical areas and designate resource lands (CARL). Partially planning cities must designate and protect critical areas, and may designate mineral resource lands. Currently there are ten partially planning counties: Adams, Asotin, Cowlitz, Grays Harbor, Klickitat, Lincoln, Okanogan, Skamania, Wahkiakum, and Whitman Counties.

<sup>3</sup> Statute describing fully planning: [RCW 36.70A.040\(1\)](#); Statute describing “opting in”: [RCW 36.70A.040\(2\)](#)

<sup>4</sup> [RCW 36.70A.130\(5\)](#)

<sup>5</sup> See [ESHB 1478](#) and [RCW 36.70A.130\(5\)](#). Note: Jurisdictions should be aware of Section 4(6) of ESHB 1886, which was passed in 2011 and codified in RCW 36.70A.705 and 36.70A.710. This statute creates an additional periodic update of July 22, 2013, for Critical Areas Ordinances as they relate to agricultural activities for those counties that do not opt into the Voluntary Stewardship Program.

Smaller and slower growing cities and counties have an additional two years from the dates shown in Figure 1.

**What is a small or slow-growing jurisdiction?**

A **county** with a population of no more than 50,000 and a growth rate of less than 17% in the ten years preceding the deadline established in RCW 36.70A.130.

A **city** with a population of 5,000 or less and has had its population increase by the greater of either no more than one hundred persons or no more than seventeen percent in the ten years preceding the deadline established in RCW 36.70A.130.

**Growth rates** are measured using the ten-year period preceding the regular due date.

See RCW 36.70A.130 (6)(b) & (c)

Population is taken from the OFM annual population estimate, which is released on April 1 of each year. A county or city will not know for certain what their population is until three months before the statutory deadline. If a jurisdiction is close, or expects any large annexations close to the due date, the population information should be monitored closely.

## May a jurisdiction complete the update early?

A jurisdiction may complete the periodic update process before its deadline.<sup>6</sup> The deadline for its next periodic update would still remain eight years from the original deadline established in the GMA. For example, if a jurisdiction has an update deadline of June 30, 2015, but it completes its update in 2012, then it would not be subject to another required periodic update until 2023.

To help alleviate any confusion, Commerce recommends that the final legislative action taken upon completion of the periodic update process clearly note the early adoption and the due date of the next scheduled periodic update according to statute.

### Special cases: 2013 deadline

There are a few smaller, slower-growing jurisdictions in areas represented on the map with a 2018 deadline that also have a periodic update deadline of December **2013**. This is because amendments to state law postponed their earlier 2007 periodic update deadline [See RCW 36.70A.130(6)(b-d)].

The 2006 Legislature passed an optional three-year time extension for small or slow-growing jurisdictions in those areas (SB 6427). The 2010 Legislature passed another optional three-year extension for those areas (SB 6611).

Contact Commerce if you have any questions about whether your jurisdiction is one of these special cases.

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<sup>6</sup> [RCW 36.70A.130\(6\)\(a\)](#)

## II. The review and update process

There are four overall tasks counties and cities must take during the periodic update process. Tips for completing each of these tasks are included in the following sections.

<b>1. Establish a public participation program</b>	<b>2. Review relevant plans and regulations</b>	<b>3. Take legislative action.</b>	<b>4. Submit notice to state</b>
Develop a plan that includes a schedule for steps in the update process to ensure the public is aware of the process and knows how they can participate.	Evaluate whether there is a need to revise the urban growth area, comprehensive plan, or development regulations to ensure they are consistent with the GMA.	Adopt an ordinance or resolution finding that a review has occurred, and identifying revisions made or concluding that revisions were not needed.	Send formal notice of intent to adopt to the state at least 60 days prior to taking legislative action. Send a copy of the signed adopted ordinance or resolution 10 days after final action.

Before undertaking the update it is helpful for county or city staff to establish a **work program** that outlines the entire periodic update process. See sample work program in Appendix B.

### 1. Establish a public participation program

Counties and cities are required to establish a program that identifies procedures and schedules for the public to participate in the periodic update.<sup>7</sup> The program must provide for **early and continuous public participation**.<sup>8</sup> The program should clearly identify the scope of the review and identify when legislative action on the review and update component are proposed to occur. Counties and cities must ensure that **notice** of the update process is broadly and effectively disseminated.<sup>9</sup> See Appendix C for examples of public participation programs.

The best way for a county or city to complete this requirement is to publish a complete public participation program or schedule at the beginning of the update process. However, it is not required that a county or city establish the entire schedule at the beginning of the process, as long as a program is established and effective notice is provided for all update steps.

Local jurisdictions may want to formally adopt the public participation program by resolution or ordinance to formalize the update process and help to meet the GMA requirements for early and continuous public involvement. See sample ordinances in Appendix C.

<sup>7</sup> [RCW 36.70A.130\(2\)\(a\)](#)

<sup>8</sup> [RCW 36.70A.140](#)

<sup>9</sup> [RCW 36.70A.035](#)

A public participation plan can be adjusted over time if needed. The GMA provides that “errors in exact compliance with the established program and procedures shall not render the comprehensive land use plan or development regulations invalid if the spirit of the program and procedures is observed.”<sup>10</sup>

## 2. Review and revise comprehensive plans and development regulations

The Department of Commerce periodic update **checklists** should be the foundation of your review. These checklists (one for cities, one for counties) provide a concise summary of the GMA requirements. See Appendix D.

Filling out the checklists will help compare your local plan and regulations against the latest requirements, determine what needs to be reviewed in greater detail, and what may need to be added, deleted, and amended in plans and codes to maintain compliance with the act.<sup>11</sup>

Commerce **strongly recommends** use of the checklists in designing your work program to complete the periodic update.

Counties and cities may elect to adopt an ordinance or resolution after reviewing and analyzing what will be updated and determining the scope of changes needed. This is a formal way to let the public know early “what is on the table” as part of the update. It also may help to limit appeals. If there are no challenges to the scope of revisions within 60 days after the legislative action, challenges to the jurisdiction’s final ordinance will be limited to the subjects defined in the ordinance. See sample legislative actions establishing the scope of an update in Appendix C.

The statute does not exempt any portion of a comprehensive plan or any development regulations from being subject to review and evaluation. However, local governments may use common-sense factors in determining the *level* of review, taking into account when the plan and regulations were adopted and whether and how the GMA has been amended in the intervening time.

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<sup>10</sup> [RCW 36.70A.140](#)

<sup>11</sup> Commerce encourages local governments to complete a checklist as part of the application to receive periodic update funds from GMS (*funds are not currently available*). The checklist can also be used at the very end of the update process to document what changes are proposed for adoption.

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### **GMA periodic update:**

#### **Fully planning:**

*“Each comprehensive land use plan and development regulations shall be subject to **continuing review and evaluation** by the county or city that adopted them. [A] county or city shall take legislative action to **review and, if needed, revise** its comprehensive land use plan and development regulations **to ensure the plan and regulations comply** with [GMA] requirements.”*

#### **Partially planning:**

*[A] county or city not [fully-planning under GMA] shall take action to **review and, if needed, revise** its policies and development regulations regarding **critical areas and natural resource lands ... to ensure these policies and regulations comply** with [GMA] requirements ....”*

*- RCW 36.70A.130(1)(a & b)*

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## Mandatory items to review and revise (if needed)

The GMA calls out a number of specific items that **must** be reviewed as part of the periodic update.

### *Amendments to the GMA*

The primary purpose of the periodic update is to ensure local plans and regulations comply with all current requirements. Although the basic structure of the GMA has remained intact over the years, the state legislature has amended it frequently. The checklists highlight all requirements and indicate when the changes were adopted. In addition to the checklists, Commerce has prepared a summary of these amendments by year to help you zero in on what needs to be amended, based on when your plans and regulations were last amended. See Appendix E.

Partially planning jurisdictions only need to review and evaluate their policies and development regulations governing critical areas and natural resource lands. Fully planning jurisdictions will need to conduct a review and evaluation of all comprehensive plan provisions and development regulations. Jurisdictions often combine the annual comprehensive plan docket (annual amendments) with the periodic update review when both are considered in the same year. When doing so, it is crucial to emphasize that the amendment includes periodic update review in the public participation plan, in notices for public hearings and in the legislative action(s). Hearings Board cases have faulted jurisdictions for not informing the public about what actions are related specifically to the periodic update.

### *UGAs and population projections*

Urban growth areas (UGAs), which by definition include all cities, must allow development densities sufficient to accommodate the next twenty years of projected population and employment growth. If zoning regulations don't authorize the densities to accommodate this growth, jurisdictions need to increase allowed densities, expand the size of the UGA, or both.

All fully planning counties, in conjunction with cities, must review UGAs as part of the periodic update.<sup>12</sup>

The GMA requires that jurisdictions use twenty-year population projections from the Washington State Office of Financial Management (OFM). These projections are developed every five years.<sup>13</sup> The previous twenty-year population forecast from OFM was issued in 2007;<sup>14</sup> the most recent was issued in May 2012.

### ***Multi-County Planning Policies in Central Puget Sound***

*The [Puget Sound Regional Council \(PSRC\)](#) adopted new multi-county planning policies (MPPs) in 2008 as part of Vision 2040. These policies apply to King, Kitsap, Pierce, and Snohomish counties and the cities within them.*

*To implement the MPPs, these counties are amending their county-wide planning policies (CWPPs) by December 2010. Jurisdictions in those counties must ensure their comprehensive plans are consistent with both the MPPs and CWPPs.*

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<sup>12</sup> [RCW 36.70A.130\(3\)\(a\)](#)

<sup>13</sup> [RCW 43.62.035](#)

<sup>14</sup> <http://www.ofm.wa.gov/pop/gma/default.asp>

Jurisdictions in Clark, King, Kitsap, Pierce, Snohomish and Thurston counties will also need to review the results of the Buildable Lands report. This report is due one year prior to the due date of the periodic review.<sup>15</sup>

Any changes to UGAs must be consistent with adopted “County-Wide Planning Policies.” The policies, adopted by counties, set the general framework for coordinated land use planning between the county and its cities to ensure respective comprehensive plans are consistent with each other. Although it is not required, counties and cities may want to review these policies as part of their periodic update.

### *Critical areas ordinances*

One of the initial requirements of the GMA was to designate and protect critical areas. The GMA requires all counties and cities to review and evaluate these critical areas ordinances during the periodic update.<sup>16</sup> The GMA requires that “best available science” (BAS) be included in developing regulations to protect critical area functions and values. Meeting the BAS requirement was challenging for many jurisdictions in the initial round of periodic updates. The Department of Commerce and other state agencies, including the departments of Ecology and Fish and Wildlife, have published guidance for local communities on how to identify what constitutes BAS for critical areas protection and how local governments can include science in their policies and development regulations. These include model ordinances and lists of recommended habitats and species for protection. Counties and cities should consult these state agency recommendations for possible changes since their last periodic update. See Appendix F. In addition, they should include any other scientific information that may apply directly to their jurisdiction.

Until counties and cities have completed a comprehensive shoreline master program (SMP) update, uses or structures legally located within shoreline areas that were established or vested before the effective date of the CAO may continue as conforming uses. Cities and counties may authorize redevelopment or modification of these existing uses or structures provided they are consistent with the local SMP and will achieve no net loss of ecological functions.<sup>17</sup>

### *Mineral resource lands designations and development regulations*

Another significant requirement of the initial GMA was for all counties and cities to designate mineral lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals. Fully planning jurisdictions were also required to adopt regulations that conserve these lands.<sup>18</sup> The GMA requires that all jurisdictions review these mineral resource lands designations and requires fully planning jurisdictions to review their regulations. Counties and cities “shall take into consideration: (1) New information made

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<sup>15</sup> [RCW 36.70A.215](#)

<sup>16</sup> [RCW 36.70A.130\(1\)\(c\)](#) , [RCW 36.70A.172\(1\)](#)

<sup>17</sup> [RCW 36.70A.480\(3\)\(c\)](#), as amended by the 2010 legislature. Under [RCW 90.58.030](#), a “comprehensive SMP update” is defined as one that fully achieves requirements of Ecology’s SMP guidelines (WAC 173-26).

<sup>18</sup> [RCW 36.70A.170](#); [RCW 36.70A.040](#) and [36.70A.060](#)

available since the adoption or last review of its designations or development regulations, including data available from the Department of Natural Resources relating to mineral resource deposits; and (2) New or modified model development regulations for mineral resource lands prepared by the Department of Natural Resources, the Department of Commerce, or the Washington State Association of Counties.”<sup>19</sup> See Appendix G.

### **Recommended items to review and revise (if needed)**

Counties and cities should consider addressing the following in their periodic update. If any changes to a UGA are required, each of the following items should be reviewed and amended to reflect new population and urban area changes.

#### ***Land use element***

The Land Use Element describes the “big picture” of how a community chooses to balance the goals of the GMA. Key components of the land use plan are maps showing the future shape of the community and how its essential components will be distributed. Resource lands, critical areas, open space corridors, mixed use areas, residential, commercial, industrial, and major public and private facilities should all be addressed. Because the Land Use Element is tied to other elements in the comprehensive plan, many periodic updates include amendments to the Land Use Element. Recent amendments to the GMA now require communities to consider urban planning approaches that promote physical activity as part of the land use element wherever possible.<sup>20</sup> Examples of policies to promote physical activity can be accessed by clicking [here](#).

#### ***Capital facilities and transportation elements***

When a community is planning for population increases, this usually triggers the need for more or larger infrastructure, such as roads, utilities, and sewer and water facilities. Changes in anticipated circumstances and needs may be addressed by updating the Transportation Element, Utilities Element, and Capital Facilities Element.<sup>21</sup> This task requires that planning departments collaborate closely with public works staff or other service providers. Note that if as part of your evaluation you determine that funds will fall short for needed capital facilities, your community may need to consider changes to the Land Use Element.

#### ***Internal and external consistency***

Whenever a plan is being amended it is important to verify that it is “internally consistent” (e.g., that the Land Use and Transportation elements support each other) and that the development regulations are consistent with and implement the comprehensive plan.<sup>22</sup> Also verify that the comprehensive plan is “externally consistent,” as changes to comprehensive plans and development regulations in adjacent jurisdictions, special purpose districts, or state plans may

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<sup>19</sup> [RCW 36.70A.131](#)

<sup>20</sup> [RCW 36.70A.070\(1\)](#)

<sup>21</sup> [RCW 36.70A.070\(3\)](#)

<sup>22</sup> The GMA requires this consistency in RCWs [36.70A.040\(4\)](#) and [36.70A.070](#)

create an inconsistency with the county or city's comprehensive plan or development regulations.

### *Inventories*

Counties and cities should review existing inventories and analyze new inventory data that supports the comprehensive plan. The GMA specifically requires the following:

**Housing:** Inventory and analyze existing and projected housing needs, identifying the number of housing units necessary to serve projected growth.<sup>23</sup>

**Capital Facilities:** Inventory existing capital facilities owned by public entities, showing the locations and capacities of the capital facilities, and forecast future needs and proposed locations and capacities of expanded or new facilities.<sup>24</sup>

**Transportation:** An inventory of air, water and ground transportation facilities and services, including transit alignments and general aviation airport facilities, to define existing capital facilities and travel levels and a basis for future planning. This inventory must include state-owned transportation facilities within the city or county boundaries.<sup>25</sup>

Jurisdictions should also review basic assumptions underlying key calculations and conclusions in the existing comprehensive plan. If recent data demonstrates that existing assumptions are no longer appropriate for the remainder of the twenty-year plan, counties and cities should consider updating them as part of the periodic update. Counties and cities required to establish a review and evaluation program under the “buildable lands program” should use that information in the periodic update.<sup>26</sup> The GMA now requires Transportation Elements to include a pedestrian and bicycle component. Jurisdictions may also consider including multimodal transportation strategies concurrent with development. See Appendix I.

## 3. Take legislative action

“Legislative action” under the GMA means adoption of a resolution or ordinance by elected officials (city or county council/commission) indicating that the community has reviewed and evaluated the comprehensive plan and regulations and identifying the revisions made. Counties and cities must provide adequate notice and hold a public hearing before taking action.

A county or city may combine the periodic update with their regular (*e.g., annual*) program for amendments to their plan, since the GMA generally prohibits comprehensive plan amendments more frequently than once per year.<sup>27</sup>

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<sup>23</sup> [RCW 36.70A.070\(2\)](#)

<sup>24</sup> [RCW 36.70A.070\(3\)](#)

<sup>25</sup> [RCW 36.70A.070\(6\)](#)

<sup>26</sup> [RCW 36.70A.215](#)

<sup>27</sup> [RCW 36.70A.130\(2\)\(a\)](#)

The final legislative action will be to adopt any revisions to the comprehensive plan and/or development regulations, and conclude that the periodic update is complete. The ordinance or resolution must be explicitly approved by the local government’s legislative body as having been completed in accordance with GMA update requirements (citing specifically to RCW 36.70A.130), both to comply with the statute and to set time and subject matter limits for possible challenges. The resolution or ordinance should include findings that refer to any previous legislative actions that were part of the periodic update (e.g., resolutions adopting a public participation plan), and a finding that the jurisdiction has completed its periodic update requirement under the GMA.

If a city or county finds that it completely meets all GMA requirements and no amendments to the comprehensive plan or development regulations are needed, it must still take legislative action adopting findings to that effect. See sample final legislative actions in Appendix C.

### ***Phasing legislative action***

If a jurisdiction has significant amendments to their plans and regulations, it may be necessary to complete the amendments in several phases, perhaps over more than one year. In some cases, each of these amendments will be adopted through a separate ordinance or resolution by the jurisdiction’s legislative body. If this process is used, a public hearing should be conducted on each ordinance or resolution. It should be clearly identified in the public hearing notice and in the findings of each ordinance or resolution that the amendments are part of the periodic update process.

Commerce recommends that the final legislative action taken upon completion of the entire periodic update process clearly reference all previously adopted amendments, and includes a finding that, taken all together, these actions fulfill the requirements of the periodic update. For an example please see the Town of Yacolt resolution included in Appendix H.

## **4. Submit notice to state agencies**

### ***Send Notice of Intent to Adopt (at least 60 days before adoption)***

Under the GMA, cities and counties must notify Commerce of its “intent to adopt” plan or regulations at least sixty (60) days prior to final adoption.<sup>28</sup> This step is often referred to as “60-day notice.”<sup>29</sup> Commerce adds all submitted notices and materials to a database that all reviewing state agencies can access. Agencies may provide comments to the city or county on the proposed changes during the public review process prior to adoption.

### ***Send final plans and development regulations (10 days after adoption)***

Cities and counties must submit a complete and accurate copy of its comprehensive plan or development regulations adopted under the GMA to Commerce within ten days after final

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<sup>28</sup> [RCW 36.70A.106\(1\)](#)

<sup>29</sup> Some cities and counties combine this notice with their notice of determination required under the [State Environmental Policy Act](#)

adoption.<sup>30</sup> A copy of the signed adopting resolution or ordinance should be included, as well as indication of when the notice of adoption was published.

This is an important step as it not only finalizes the periodic update, but it also allows Commerce to update our database to signify that a specific jurisdiction has completed the periodic update. Commerce relies on this database when asked to verify that a jurisdiction is in compliance with the GMA.

### How to submit plans and regulations

Submitting GMA materials to the state is as easy as sending one e-mail with a cover sheet and relevant documents to [reviewteam@commerce.wa.gov](mailto:reviewteam@commerce.wa.gov). Directions are on the [Commerce Website](#). While electronic submittal is preferred, you may send materials by mail, either on a flash drive, compact disc, or paper, addressed to the Washington State Department of Commerce, Growth Management Services Review Team, PO Box 42525, 1011 Plum Street SE, Olympia, WA 98504-2525.

## III. Missed deadlines and appeals

Missing the periodic update deadline has immediate financial consequences. A county or city that has not completed the basic actions described above by the deadline set in the GMA will be ineligible to receive funds from the Public Works Trust Fund<sup>31</sup> or the Centennial Clean Water account<sup>32</sup> or to receive preference for other state grants and loans.<sup>33</sup>

A jurisdiction that has missed an update deadline is also vulnerable to a “failure to act” petition for review to a Growth Management Hearings Board (or for partially-planning jurisdictions, to Superior Court).

If a local government has made significant progress on its update, but hasn’t finished all needed revisions by their periodic update deadline, it would be prudent to take steps to demonstrate good faith and progress. Local jurisdictions may adopt a resolution that documents progress already made and sets a schedule for completing the update. See Appendix C for an example. While this will not relieve a local government of its update requirements, or make a local government eligible for state grants and loans, it may prevent a “failure-to-act” challenge, provided the update is completed under the new schedule.

### Appeals of an adopted update ordinance or resolution

Any person or organization with legal standing can appeal a resolution or ordinance adopted during the periodic update process. Challenges to actions taken by fully-planning jurisdictions must be filed with the Growth Management Hearings Boards within sixty days of publication of

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<sup>30</sup> [RCW 36.70A.106\(2\)](#)

<sup>31</sup> [RCW 43.155.070](#)

<sup>32</sup> [RCW 70.146.070](#)

<sup>33</sup> [RCW 36.70A.130\(7\)](#)

final adoption. Challenges to actions taken by partially-planning jurisdictions are filed in Superior Court.

A legal challenge could potentially be filed on any legislative action taken to complete the update. However, a jurisdiction can reduce its risk of appeal by completing each of the basic actions described above and taking legislative action that clearly documents the process followed for each action, as well as the findings and conclusions of each action.

## **IV. Grants for periodic updates**

The Department of Commerce administers a grant program for counties and cities with upcoming periodic update deadlines. The grant can be used to cover many activities related to updating comprehensive plans and development regulations, such as staff time, consultant contracts, and the cost of providing public notice, printing, and copying.

A set grant amount is typically reserved for each jurisdiction, when state funding allows, based on population and the level of required GMA responsibilities. If funding is approved by the Legislature, grants generally become available 18-24 months prior to each jurisdiction's periodic update deadline.

## V. Appendices\*

### A. GMS Planner Map with assignments

### B. Update “Work Program”

### C. Example Resolutions/Ordinances

Public Participation

Scope of Periodic Update Work Program

Final “legislative action” adoption completing update

Update work not complete, set schedule for completion

### D. Checklists

Periodic Update Checklist for Cities

Periodic Update Checklist for Counties

### E. Changes to GMA

Amendments to the GMA from 1995-2009

Amendments to GMA from 2003 – 2010

### F. Critical Areas

Critical Areas Checklist Questions Explained

Critical Areas Review for Best Available Science (BAS)

State Agency Resources for Local Governments Updating Critical Areas Ordinances

### G. Resource Lands

Resources for Designating and Conserving Agriculture, Forest, and Mineral Resource Lands

### H. Good Examples

Good examples of comprehensive plans and development regulations

### I. Other Planning Guidance and Resources

Department of Commerce GMS [Publications](#) List by Topics

WSDOT Minimum Requirements and Resources

Municipal Research Services Center planning [website](#)

\* These appendices are available on the Commerce GMS website at:

<http://www.commerce.wa.gov/Services/localgovernment/GrowthManagement/Growth-Management-Planning-Topics/Pages/GMA-Periodic-Update.aspx>

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*Laws, rules, legal decisions*

[The Growth Management Act and related statutes](#)

[Growth Management Act rules](#)

[Growth Management Hearings Boards](#)

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Department of Commerce  
Department of Ecology  
Department of Fish & Wildlife  
Department of Social & Health Services



Department of Transportation  
Department of Corrections  
Puget Sound Partnership  
Department of Health

December 16, 2010

Mr. Eric Johnson, Executive Director  
Washington State Association of Counties  
206 Tenth Avenue Southeast, Suite A  
Olympia, Washington 98501

Mr. Mike McCarty, Executive Director  
Association of Washington Cities  
1076 Franklin Street Southeast  
Olympia, Washington 98501-1346

RE: Updated Principles Governing State Agency Correspondence on Growth Management

Dear Mr. Johnson and Mr. McCarty:

In 2004, we worked with your associations to develop principles that guide our agencies' communication with local governments on local growth management plans and development regulations. Together with your associations' staff, we have recently reviewed these principles and agree that they have worked well to ensure that our participation in the planning process is timely, helpful, and effective. They have minimized conflicts arising from misunderstandings, and ensured that our agencies' written correspondence occurs in the proper context. Although differing interpretations and legitimate disagreements do occur occasionally, these principles provide a framework for resolving those disagreements efficiently and for ensuring that disagreements are focused on the substance of the issue itself. Our staff implement these principles and use them as a guide.

We refresh our commitment to the principles in the attachment, which have been updated slightly through cooperative discussions with your staff. The principles recognize the shared responsibility between state and local government for implementation of the Growth Management Act (GMA) and reflect our shared commitment to work together in this task.

Although state and local government resources are severely limited at this time, we recognize the vital partnership between state and local government in working together to develop good plans and make them a reality. Effective growth management plans facilitate decisions that foster economic development, protect the natural environment, manage the costs of providing needed public infrastructure, and ensure timely and fair permitting decisions. We hope that state agencies and local governments will continue

Mr. Eric Johnson, Executive Director  
Mr. Mike McCarty, Executive Director  
Page 2

to maintain a cooperative relationship to implement the goals of growth management and to realize a bright future for our state.

Sincerely,



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Rogers Weed, Director  
Washington State Department of Commerce



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Ted Sturdevant, Director  
Washington State Department of Ecology



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Phil Anderson, Director  
Washington Department of Fish and Wildlife



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Mary Selecky, Secretary  
Washington State Department of Health

Mr. Eric Johnson, Executive Director  
Mr. Mike McCarty, Executive Director  
Page 3



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Gerry O'Keefe, Acting Executive Director  
Puget Sound Partnership



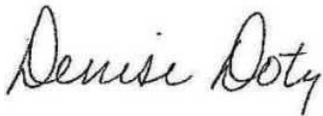
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Susan N. Dreyfus, Secretary  
Washington State Department of Social and Health Services



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Paula Hammond, Secretary  
Washington State Department of Transportation



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Denise Doty, Assistant Secretary  
Washington Department of Corrections

## Principles Governing State Agency Correspondence Under the Growth Management Act

State and local governments have a shared responsibility to provide public services and facilities, improve the quality of life, protect the public health, air and water quality, and protect fish and wildlife habitat for all Washington residents, present and future. Land use decisions and patterns of land development have a significant influence on these areas of responsibility. Under the GMA, it is primarily local governments who have responsibility for regulating land use and development, and for balancing the 14 goals of the GMA.

As a consequence, local government planning decisions, both individually and collectively, are matters of critical importance to state agencies. State agencies provide funding and technical resources to local governments and also comment on the effects of proposed local land use policies and regulations. State agencies are also responsible for developing and operating many facilities that residents of the state depend on and state agencies are required, under RCW 36.70A.103, to comply with local comprehensive plans.

This shared responsibility requires state and local governments to work together as partners during the updating of local plans and development regulations. WAC 365-196-710 calls on state agencies to use comment letters as one means of advising local governments of other laws that may be related to the local land use decision before them. WAC 365-196-735 also provides local governments a list of state and regional regulations that may affect their decisions. The following principles will establish expectations to guide collaborative input into local planning decisions.

### Principles Regarding State Agency - Local Government Coordination on GMA Actions:

1. Early notification and involvement is critical to effective participation and is essential to provide sufficient time for state agencies and local governments to follow the principles established.
2. Local governments will make every effort to seek out state agency participation as early in the process as possible. State agencies will make every effort to respond to such requests as early as possible. For significant issues, this should be in advance of a formal public participation process and will allow reasonable time for comments to be prepared and discussed prior to a formal planning commission recommendation.

3. Effective participation requires on-going involvement. State agencies and local governments will make every effort to maintain contact throughout the planning process. This should include at least one contact, preferably by phone, with local government staff or elected officials before drafting a written comment letter.
4. State agencies will share draft comments informally with local government staff or elected officials and be available to discuss the language in the letter prior to sending formal written comments.
5. Each state agency will approve procedures that ensure written correspondence on growth management issues reflects the official agency policy. Each state agency will designate a lead person for GMA issues. Local Governments, including local elected officials, who have a serious policy disagreement with an agency position may contact the agency GMA lead directly to resolve a policy disagreement prior to the state agency finalizing its written comments. Because state agencies are required to meet local government deadlines for comments and hearings, state agencies may request comment deadline extensions to allow time to discuss draft letters or for resolution of issues prior to final submittal of state agency comments.
6. Although state agencies have different mandates and interests, state agencies will make every attempt to resolve conflicts prior to finalizing comments to local governments. State agencies should attempt to contact appropriate staff at other state agencies to coordinate comments. When local governments identify apparent discrepancies in agency interpretations or policies, these should be immediately communicated to the state agency GMA leads and to the Department of Commerce so that they can be resolved.
7. State agency involvement in commenting on local government plans under the GMA is a technical assistance role and not a regulatory role. State agency written correspondence will not state that local plans are out of compliance with the GMA. State agencies may express concerns, but conclusory statements as to compliance will be avoided.
8. State agencies may provide guidance that urges local governments to exercise their discretion in ways that go beyond the minimum requirements of the law. State agencies should provide such guidance as early as possible in the local government's planning process. State agencies may also point to a particular means of meeting the requirements of the GMA without the implication that this is the only way to meet those requirements.

9. State agencies will clearly distinguish in their correspondence between legal requirements, guidance regarding best practice, matters of fact and matters of professional opinion.
10. State agency and local government written correspondence, including comment letters and e-mails, are public records. State agencies and local governments are required by the Public Records Act to provide a copy of such written correspondence in its possession to any person who requests it. State agencies and local governments will make every effort to notify each other as soon as possible when they have complied with such a request.
11. State agencies and local governments will review these principles as needed to ensure that they are meeting their intended purpose.