



Technical Bulletin 1.4

GMA Updates:

Optional Processes for Review and Revision of Comprehensive Plans and Development Regulations under the Growth Management Act

Key Issue

According to a schedule established by RCW 36.70A.130(4), each city and county in Washington must take legislative action to review and, if needed, revise its comprehensive plan and development regulations to ensure they comply with the Growth Management Act (GMA). For cities and counties planning under the GMA for critical areas and natural resource lands only, this update process must be completed for their policies and development regulations regarding critical areas and natural resource lands. (See attached GMA map.)

Cities and counties may use a variety of public processes to fulfill this requirement. The needed level of review and revision also will vary, depending on local factors, such as when the jurisdiction adopted its most recent plan and regulations.

This bulletin from the Growth Management Services (GMS) program provides guidance, based on current statutes, for local governments to determine the appropriate public process and level of review and revision. Please also refer to the GMS publication *Frequently Asked Questions Regarding GMA Updates* for more specific information on some aspects of this process.

Discussion

Generally, local plans and regulations should be updated, as necessary, to reflect local needs, new data, and current laws. Many cities and counties consider amendments to comprehensive plans annually or biannually, and amend their development regulations on a continuing basis. However, local plans and regulations must be reviewed and, if needed, revised in a deliberate and comprehensive manner every seven years according to a schedule established by RCW 36.70A.130(4).

Deadlines

RCW 36.70A.130(4) sets the deadlines for each county and its cities to complete the first seven-year update:

- December 1, 2004 – Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish,

Thurston, and Whatcom counties

- December 1, 2005 – Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties
- December 1, 2006 – Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties
- December 1, 2007 – Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties

A jurisdiction can complete the update process prior to their deadline. The deadline for their next update would then become seven years from the deadline for the jurisdiction set in RCW 36.70A.130(4). For counties and cities with a December 1, 2004, deadline, the first seven-year update can occur no earlier than January 1, 2001 [RCW 36.70A.130(6)].

Three basic actions required

This deliberate, seven-year GMA Update process requires three basic actions by the local government:

- (1) establish a public participation program that identifies procedures and schedules for the review, evaluation, and possible revision process;
- (2) review relevant plans and regulations and analyze whether there is a need for revisions; and
- (3) take legislative action.

It is important that each of these actions be explicitly affirmed by the local government's legislative body as having been accomplished in accordance with RCW 36.70A.130, both to comply with the statute and to set time and subject matter limits for possible challenges.

Suggestions for determining the appropriate local process for carrying out each of these three actions are discussed below. Some example processes are included at the end of this bulletin.

1. Establishing a public participation program

Each city or county is required by RCW 36.70A.130(2)(a) to establish a public participation program that identifies procedures and schedules for comprehensive plan updates. (This requirement applies to all plan amendments, including the seven-year update process.)

In establishing a public participation program for its seven-year update process, a city or county must ensure the following:

- Notice of the update process is broadly and effectively disseminated (RCW 36.70A.035);
- The notice identifies the procedures and schedules by which updates will be considered, including both of the remaining actions needed to complete the seven-year update; and

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- The program provides for early and continuous public participation (RCW 36.70A.140).

One way for a county or city to complete this requirement would be to publish a complete public participation program or schedule at the beginning of the update process. However, it is not required that a city or county establish the entire schedule at the beginning of the process, as long as a public participation program is established, with effective notice provided, for the remaining actions needed to complete the seven-year update.

It is also important to note that jurisdictions can adjust the public participation program as needed to best meet the intent of the requirement for public participation. RCW 36.70A.140 notes 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.” For example, if an established public participation program included one public hearing on all actions having to do with the seven-year update process, the program could be adjusted later to provide additional public hearings to accommodate strong public interest.

2. Reviewing relevant plans and regulations and analyzing the need for revisions

Counties and cities not planning under RCW 36.70A.040 must review and evaluate their policies and development regulations governing critical areas and natural resource lands. Counties and cities planning under RCW 36.70A.040 must review and evaluate all comprehensive plan provisions and development regulations adopted under the GMA. The statute does not exempt any portion of a comprehensive plan or any development regulation 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 (see GMS’ *Technical Bulletins 1.2 and 1.3* for more guidance on this topic).

The purpose of each jurisdiction reviewing its comprehensive plan and development regulations is to determine whether they are in compliance with the GMA. To help with the analysis, the GMS program has developed a list of questions (*GMA Update: Issues to Consider When Reviewing Comprehensive Plans and Development Regulations*) that identifies key points of analysis for communities to consider. GMS also has produced two checklists (*Comprehensive Plan Checklist* and *Development Regulations Checklist*) to assist cities and counties in completing their reviews.

The review and analysis should include at least the following:

- Each jurisdiction should determine whether its plan and regulations are affected by any amendments made to the GMA after the jurisdiction adopted its comprehensive plan or development regulations (see the GMS publication, *GMA Amendments 1995 - 2003*).
- Local governments are encouraged to consider emerging local and regional needs, changes to state and federal laws, and their own progress toward meeting GMA goals. (See RCW 36.70A.020 for GMA goals.)
- Each local government should review the most recent population projections from

the Washington State Office of Financial Management (OFM) to ensure that its comprehensive plan provides for the jurisdiction's ability to accommodate its projected growth in population and employment consistent with county-wide planning policies.

- If a jurisdiction has a ruling in effect from either a growth management hearings board or a court of law finding non-compliance with the GMA, the jurisdiction should be sure to incorporate the ruling into its analysis.
- Any previous comment letters from the Washington State Department of Community, Trade and Economic Development (CTED) and other state agencies regarding consistency of a jurisdiction's plan and development regulations with the GMA also should be considered. (Copies of official agency comment letters may be obtained upon request from GMS.)
- Jurisdictions should consider whether the comprehensive plan 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. The GMA requires such consistency. [See RCW 36.70A.040(4) and 36.70A.070.]

The process used to complete the analysis **must** provide for the following:

- An appropriate public process that provides notice to the public and to affected and interested state agencies far enough in advance to allow them to comment on the results of the review and analysis (see *Example processes for seven-year GMA update* at the end of this bulletin).
- Legislative action by the legislative body of the city or county (adoption of a resolution or ordinance following notice and a public hearing, at a minimum) finding that the review and analysis were completed in accordance with RCW 36.70A.130 and documenting the assumptions, facts, analysis, and conclusions.

The findings for the legislative action should clearly state the conclusions reached regarding which, if any, plan provisions and/or regulations will be revised, and that the remaining comprehensive plan provisions and development regulations are currently in compliance with the GMA and do not need revision. The legislative action could be taken immediately upon completion of the review and analysis, or in conjunction with the legislative action for action #3 below (see *Example processes for seven-year GMA update* at the end of this bulletin).

Taking legislative action immediately upon the conclusion of the review and analysis starts the clock running on any appeal of the scope of review. Within 60 days after the legislative action, someone who has participated in the jurisdiction's review and evaluation process could bring a challenge before the growth management hearings board alleging that the jurisdiction is out of compliance with the GMA if it does not amend a specified section of its comprehensive plan or development regulations. However, such a challenge could not be brought after the 60-day appeal period has passed, such as during the amendment phase of the update program (basic action #3 below). Of course, the statute does not require the legislative action to be taken immediately after completion of the review and analysis, and any jurisdiction may choose instead to include a finding that the review and analysis was completed as part of its legislative action for #3 below.

3. Take legislative action

If the analysis has identified provisions of the existing plan to be revised, the jurisdiction must take the next step by developing substitute or revised language to meet GMA goals and requirements. Various technical assistance materials are available from CTED and other state agencies (see www.cted.wa.gov).

Because this is the final action cities and counties must take in fulfilling the seven-year update requirement of RCW 36.70A.130, there are a number of scenarios to consider (see *Example processes for seven-year GMA update* at the end of this bulletin):

- a) Some jurisdictions have already established a regular program for periodic amendments to their plan (e.g., on an annual or biannual basis). For these jurisdictions, the process of adopting revisions identified for the seven-year update should be combined with the annual or biannual amendment process. RCW 36.70A.130(2)(a) prohibits consideration of comprehensive plan amendments more frequently than once per year; therefore a city or county may not amend its plan under a seven-year update process and a separate annual or biannual process within the same year.
- b) For jurisdictions with limited resources and 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 seven-year update process. GMS recommends that the final legislative action taken upon completion of the entire seven-year update process clearly references all previously adopted amendments and includes a finding that, taken all together, these actions fulfill the requirements of RCW 36.70A.130. This final legislative action must occur prior to the deadline established for the jurisdiction in RCW 36.70A130(4).
- c) If all amendments to the comprehensive plan and development regulations to fulfill the seven-year update requirement are to be adopted simultaneously, they must be adopted by legislative action of the legislative body of the city or county (a resolution or ordinance following notice and a public hearing, at a minimum). The resolution or ordinance should include findings that refer to previous legislative actions that were part of the seven-year update process (e.g., resolutions to complete actions #1 and #2 above), and a finding that the jurisdiction has completed its seven-year update requirement under RCW 36.70A.130.
- d) If the final legislative action is being combined with the review and analysis action (#2 above), the ordinance or resolution should include specific findings that the review and analysis have been completed. The findings should include a description of the review and analysis that was conducted and which

comprehensive plan provisions and development regulations are currently in compliance with the GMA and do not need revision, and which plan provisions and/or regulations are being revised (see *Example processes for seven-year GMA update* at the end of this bulletin).

- e) If the review and analysis conclude that the city or county completely meets all GMA requirements and no amendments to the comprehensive plan or development regulations are necessary, it must still take legislative action. Its legislative body must adopt an ordinance or resolution including specific findings that the review and analysis have been completed and the plan and regulations do not need revision. It should also include a finding that the jurisdiction has completed its seven-year update requirement under RCW 36.70A.130.

Submittal of documents to CTED

Each jurisdiction must notify CTED of its intent to adopt amendments to its plan or regulations at least sixty days prior to final adoption, according to RCW 36.70A.106. All adopted plans and regulations, including amendments, must be transmitted to CTED. All adopted resolutions regarding the GMA Update also should be transmitted to CTED, so that CTED data can accurately reflect the jurisdiction's fulfillment of the update requirement. Transmittal will allow the state to know that the GMA update was completed by the jurisdiction in compliance with the RCW 36.70A.030. This will avoid possible delays in grants or other consequences because of a lack of accurate information.

Cities or counties that do not complete seven-year updates before the deadline

A jurisdiction that has not completed the three basic actions described above by the deadline set in RCW 36.70A.130(4) would be vulnerable to a "failure to act" petition to a growth management hearings board.

CTED cannot waive or extend a jurisdiction's update deadline. Cities and counties must complete the seven-year update requirement according to the established schedule to be considered in compliance with the GMA. Only those counties and cities in compliance with these schedules will be eligible to receive funds from the Public Works Trust Fund or the Centennial Clean Water account (RCW 36.70A.130(7)) or to receive preference for grants and loans subject to the provisions of RCW 43.155.050.

If a local government has made significant progress on its update, but is not able to adopt all needed revisions by their update deadline, it would be prudent to take steps to demonstrate good faith and progress. In such cases, CTED recommends the local jurisdiction (a) adopt, by the update deadline, a resolution that documents the local progress already made and containing a schedule for completing the update; and (b) continue moving ahead as quickly as possible to be in full compliance with the GMA. Following these interim steps does not relieve a local government of its update requirements or immunize it from a failure-to-act challenge, nor does it necessarily mean a local government will be eligible for state grants and loans.

Potential appeals of seven-year update actions to a growth management hearings board

A person or organization with legal standing could appeal a jurisdiction's resolution(s) or ordinance(s) adopted during the seven-year update process to a growth management hearings board. A petition for review by a hearings board potentially could be filed on each of the three basic actions needed to complete the seven-year update. However, a jurisdiction can considerably reduce its risk of appeal by completing each of the three 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.

As mentioned above, the jurisdiction has the option to take legislative action immediately upon completion of each individual step in the update process, or in a single, combined legislative action affirming all steps in the update process are complete. One advantage of taking separate legislative action immediately upon completion of each step in the update process is any appeal of each action must occur within sixty days of its adoption and publication. Therefore, it is possible for the jurisdiction to learn of any appeals—and perhaps resolve them—before proceeding with the next update action.

GMS is preparing example ordinances that may be useful to local governments in developing local ordinances for their legislative action(s). When completed, they will be posted on our website at www.cted.wa.gov/growth).


Contact

For more information, contact the GMS regional planner for your area at (360) 725-3000, or by mail at P.O. Box 42525, Olympia, Washington 98504-2525. GMA Update information is also posted on the following Web site: www.cted.wa.gov/growth.

Washington State Counties Planning under the GMA



 Counties Fully Planning under GMA

 Counties Planning for Critical Areas and Natural Resource Lands only under GMA

Example processes for seven-year GMA update

The examples below are summaries of some of the processes that could be used by jurisdictions to complete their seven-year update requirements under RCW 36.70A.130. Other processes could also be used. These are included here to provide assistance to local governments establishing their own local process.

A. Example with a single legislative action:

1. Establish and advertise public participation program.
2. Staff or consultant conducts review of entire comprehensive plan and development regulations and analysis of needed revisions based on GMA compliance.
3. Local government legislative body approves work program for revisions, if necessary, to comprehensive plan and development regulations.
4. Needed revisions are completed and adopted by ordinance or resolution of legislative body following public notice and hearing, at a minimum. Adopting ordinance or resolution includes findings detailing that the local government:
 - established its public participation program,
 - reviewed its entire comprehensive plan and development regulations,
 - determined which revisions to its plan and regulations were needed (and why other provisions of the plan and regulations did not need revision),
 - is adopting the needed revisions, and
 - has completed its seven-year update requirement under RCW 36.70A.130.

B. Example with legislative action immediately following each step:

1. Establish public participation program by adoption of resolution by legislative body.
2. Conduct review of entire comprehensive plan and development regulations and invite public input.
3. Analyze plan and regulations for needed revisions based on GMA compliance.
4. Advertise and conduct at least one public hearing asking for public comments on the results of the review and analysis of the plan and regulations. Public notice of the hearing states explicitly that the hearing will be the final opportunity for comment on what plan provisions and regulations should be revised.
5. Upon completion of the public hearing, legislative body adopts resolution finding that the local government has:
 - reviewed its entire comprehensive plan and development regulations,
 - provided public opportunity to comment on the review and suggest needed revisions of the plan and regulations,
 - determined which revisions to its plan and regulations were needed (and why other provisions of the plan and regulations did not need revision), and
 - established a work program for the needed revisions.
6. Needed revisions are completed and adopted by ordinance or resolution of legislative body. Ordinance or resolution includes findings detailing that the local government:
 - followed its established its public participation program,
 - is adopting the needed revisions, and
 - has completed its seven-year update requirement under RCW 36.70A.130.

C. Example with phased completion of revisions to comprehensive plan and development regulations:

1. Complete steps 1 – 3 of Example A or 1 – 5 of Example B above.
2. Work program details the schedule for completing needed revisions in phases, clearly stating each phase is part of the revisions needed for the required seven-year update and will be adopted separately.
3. As each revision or package of revisions is completed, it is adopted by ordinance or resolution of the legislative body. Ordinance or resolution includes findings that the local government has:
 - followed its established its public participation program and
 - is adopting the revisions as part of the seven-year update requirement under RCW 36.70A.130.
4. When adopting the final revisions, the legislative body adopts an ordinance or resolutions that includes the finding in the previous step, and also includes findings that reference all previous ordinances/resolutions adopting revisions, and that the local government has completed its seven-year update requirement under RCW 36.70A.130.