

The main themes expressed in GMA goals include the:

1. concentration of population growth in urban centers to allow for more efficient provision of public services, reduce sprawl, and conserve natural resource lands and open space,
2. encouragement of affordable housing and sustainable economic development, and protection of environmentally critical areas and historic and archaeological resources, and
3. pursuit of these goals while respecting private property rights, processing permits in a timely and fair manner, and encouraging the involvement of citizens and other communities in the planning process.

The legislature finds that while this chapter requires local planning to take place within a framework of state goals and requirements, the ultimate burden and responsibility for planning, harmonizing the planning goals of this chapter, and implementing a county's or city's future rests with that community.

RCW 36.70A.3201

THE CONCURRENCY GOAL: Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

RCW 36.70A.020(12)

“What the GMA's concurrency principle guarantees is “truth in planning.” That is: local governments must disclose the amount and quality of the services they will provide, how and where they will be provided, how much they will cost, and how they will be funded.”

BACC. v. Clark County, 04-2-0038c, WWGMHB (2005).

The legislature chose to emphasize local discretion over state control in the crafting of the GMA. Local land use plans and regulations do not require state approval, with the exception of the Shoreline Master Program which must be approved by the Washington State Department of Ecology. Instead, Washington law presumes plans and regulations are valid upon adoption. Petitions challenging a jurisdiction's compliance with the GMA are heard by one of three regional growth management hearings boards, allowing for greater sensitivity to the local context of the issue.

The 12th goal of the GMA, often referred to as the concurrency goal, is intended to ensure adequate public facilities and services are provided for new development, without decreasing service levels below locally established minimum standards. Public facilities include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools. Public services include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services. These facilities and services are typically described in the capital facilities element of a local comprehensive plan.

The growth management hearings boards have further clarified Goal 12 to convey certain duties to local governments. Public facilities and services must be:

1. listed in the capital facilities element,
2. associated with locally-established minimum standards,¹
3. connected to a clear and specific funding strategy,²
4. classified based on whether or not they are “necessary to support development,” and
5. if they are necessary to support development, regulated by a concurrency or adequacy mechanism that triggers a policy or regulatory reassessment if the minimum standard is not met.³

If a local government finds a necessary public facility or service is inadequate they must reduce the minimum standards, revise the land use element, change the phasing or timing of new development, or find ways to better provide facilities and services by reducing their consumption, lowering their average costs, or increasing their revenues.

1. *McVittie, et al. v. Snohomish County*, 99-3-0016c, CPSGMHB (February 9, 2000).

2. *Taxpayers for Responsible Government v. City of Oak Harbor*, 96-2-0002, WWGMHB (July 16, 1996).

3. *McVittie, et al. v. Snohomish County*, 99-3-0016c, CPSGMHB (February 9, 2000).

The Transportation Concurrency Requirement

Transportation facilities are subject to a statutorily defined concurrency requirement not specified for other public facilities and services. First, local governments are required to set level of service (LOS) standards, or minimum benchmarks of performance, for transportation facilities and services. The measures used to establish LOS standards vary by jurisdiction and may be based on the volume of traffic compared to the capacity of the facility, travel time, or a multi-variable performance indicator accounting for factors such as road conditions or safety hazards. The standards may be measured for a single intersection, road segment, traffic corridor, or traffic zone. LOS standards are often translated from numeric values to letter grades, with an “A” representing freely flowing traffic and an “F” indicating traffic at a standstill.

Once the LOS standard is established, the local government must adopt an ordinance to deny proposed developments if they cause the levels of service to decrease below the standard, unless transportation improvements or strategies to accommodate the impacts of development are made “concurrent” with development. Under the GMA, “concurrent with development” means improvements or strategies are in place at the time of development, or there is a financial commitment to complete the improvements or strategies within six years. In order to accommodate the impacts of the development, local governments may change the phasing or timing of new development, provide transportation facilities or services to serve the new development, reduce the LOS standard, or revise the land use element.

A common misconception is that concurrency guarantees some uniform minimum level of governmental services. The state has not specified any such minimums. Local governments have the authority and responsibility to set acceptable levels of service for their communities resulting in a wide variety of methodologies and standards. This discretion is constrained by the growth management hearings board finding that local governments cannot avoid the concurrency requirement entirely by manipulating the standards to allow uncontrolled development despite identified deficiencies.⁴ Neither can local governments avoid the concurrency requirement by crafting exemptions of any kind.⁵

Planning for State-Owned Transportation Facilities

When initially enacted, the transportation concurrency requirement was silent on the treatment of state-owned facilities. The ensuing confusion and inconsistency led the 1998 Washington State Legislature to amend the Act in two significant ways. First, it required local governments to include in their plans:

- an inventory of state-owned transportation facilities within their boundaries,
- an estimate of traffic impacts to state-owned facilities resulting from their land use assumptions,
- a list of state transportation system improvements needed to meet demand, and
- the adopted level of service standards for state-owned highways.⁶

Second, it required the Transportation Commission to establish, and the legislature to adopt a list of Highways of Statewide Significance (HSS). Highways of Statewide Significance must be planned for in the statewide multimodal plan, given higher priority for correcting identified deficiencies, and considered essential public faci-

TRANSPORTATION CONCURRENCY REQUIREMENT: After adoption of the comprehensive plan...local jurisdictions must adopt and enforce ordinances which prohibit development approval if the development causes the level of service on a locally owned transportation facility to decline below the standards adopted in the transportation element of the comprehensive plan, unless transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development... For the purposes of this subsection “concurrent with the development” shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

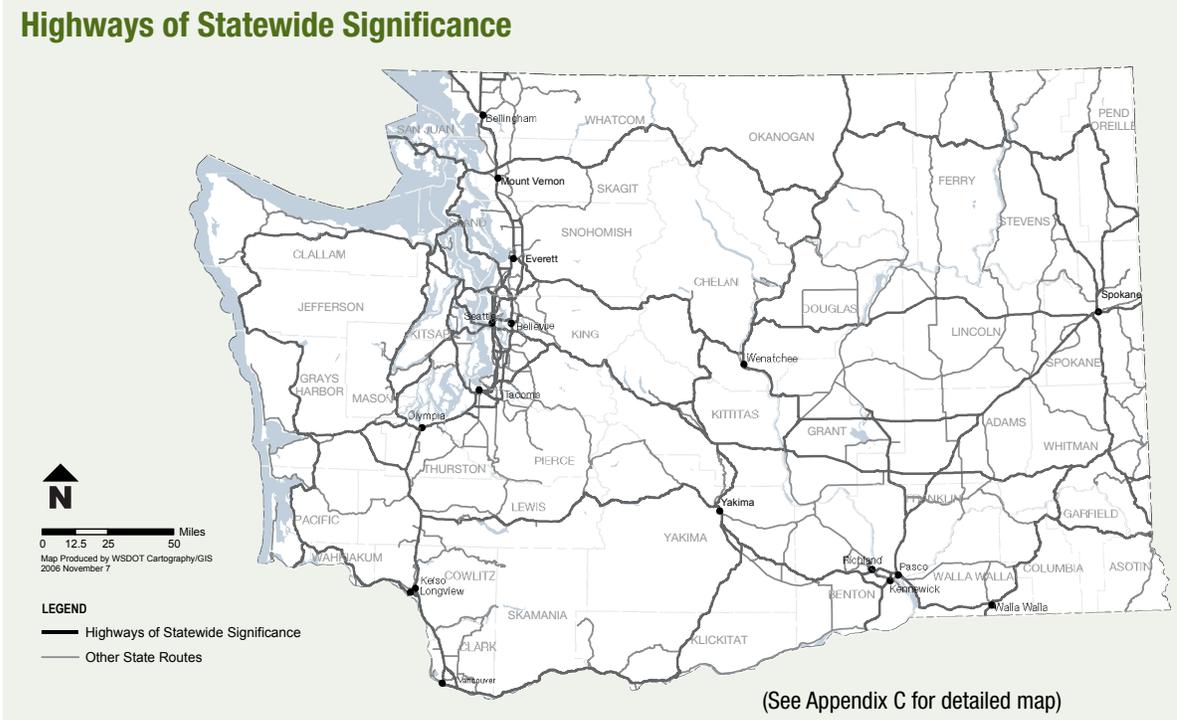
RCW 36.70A.070(6)

4. *Eugene Butler et al. v. Lewis County*, 99-2-0027c, WWGMHB (June 20, 2000).

5. *Bennett et al. v. City of Bellevue*, 49852-5-1, 119 Wn. App. 405 (December 15, 2003).

6. RCW 36.70A.070(6)

ties for siting purposes. The legislature has declared approximately half of the state’s highway system to be of statewide significance. HSS routes include the interstate highway system, interregional state principal arterials, and major ferry routes. The remaining state-owned transportation facilities are not of statewide significance (non-HSS) and include collector routes, principal arterials that are not interregional, and minor ferry routes.



The Washington State Department of Transportation (WSDOT) has the authority to make final decisions on the level of service standards for highways and ferry routes of statewide significance, after consulting with local governments.⁷ Level of service standards for other state-owned facilities are jointly set by WSDOT and the Regional Transportation Planning Organizations (RTPOs). RTPOs are voluntary associations of local governments authorized by the GMA to coordinate transportation planning on a regional level. The purpose of including level of service standards for state-owned facilities in local land use plans is to monitor system performance, evaluate improvement strategies, and facilitate state and local coordination.⁸

The 1998 amendment specifically exempted transportation facilities and services of statewide significance from the concurrency requirement, except in Island and San Juan counties. The legislature did not specifically address concurrency for state-owned facilities that are not of statewide significance.

7. RCW 47.06.140

8. RCW 36.70A.070(6)(a)(iii)(C)

LOS Authority and Concurrency Vary by Transportation Facility

Facility	Level of Service	Concurrency
Local Transportation Systems	LOS set by locals through the local planning process.	Concurrency required under GMA for local transportation facilities.
State Highways and Ferries	LOS set jointly by RTPO and state.	Concurrency requirement does not address state-owned transportation facilities other than HSS.
Highways of State-wide Significance (HSS)	LOS set by state in consultation with locals.	Concurrency requirements of GMA do not apply to HSS, except in Island and San Juan counties.

There have been some unsuccessful attempts to interpret other sections of the GMA to imply a duty for local governments to coordinate more closely with the state in their transportation planning. In 2002, a petition for review filed with the Central Puget Sound Growth Management Hearings Board asserted that the spirit of the GMA planning goals demanded a more coordinated and consistent transportation planning effort between state and county governments. The petitioner specifically cited the concurrency goal and the goal encouraging efficient multimodal transportation systems in her argument. The Hearings Board ruled against the petitioner, concluding none of the GMA planning goals applied to the state. The Hearings Board noted this conclusion was unfortunate, because to truly achieve managed growth, state and local planning efforts should be better linked.⁹

In 2005, Clark County’s comprehensive plan was challenged because its land use policies would result in the failure of 18 links in the state’s transportation system. The petitioners argued these deficiencies should have triggered a reassessment of the county’s policies and regulations based on the concurrency requirement together with the GMA’s provisions for capital facilities planning. The Western Washington Growth Management Hearings Board refuted this claim, reasoning it would be impossible for the county to comply with the GMA capital facilities requirements for state-owned facilities because it does not have the authority to set levels of service, nor the responsibility to make improvement decisions on them. This, together with the concurrency exemption for state-owned facilities, led the Board to conclude that the capital facilities element requirements of the GMA do not apply to highways of statewide or regional significance.¹⁰

These interpretations of the GMA have defined a fairly limited coordination requirement for state and local transportation planning:

- state transportation facilities must be included in local comprehensive plans for informational purposes, but highways and ferry routes of statewide significance are specifically exempted from concurrency for most local governments,
- concurrency is not explicitly required for non-significant state-owned transportation facilities, and it is unclear whether local governments could opt to include them in their concurrency regulations.

9. *Jody L. McVittie v. Snohomish County (McVittie VIII)*, 01-3-0017, CPSGMHB (January 8, 2002).

10. *The Building Association of Clark County et al. v. Clark County and State of Washington, Office of Financial Management*. 04-2-0038c, WWGMHB (November 23, 2005).

EXTERNAL CONSISTENCY PROVISION:

The comprehensive plan of each county or city that is adopted pursuant to RCW 36.70A.040 shall be coordinated with, and consistent with, the comprehensive plans adopted pursuant to RCW 36.70A.040 of other counties or cities with which the county or city has, in part, common borders or related regional issues.

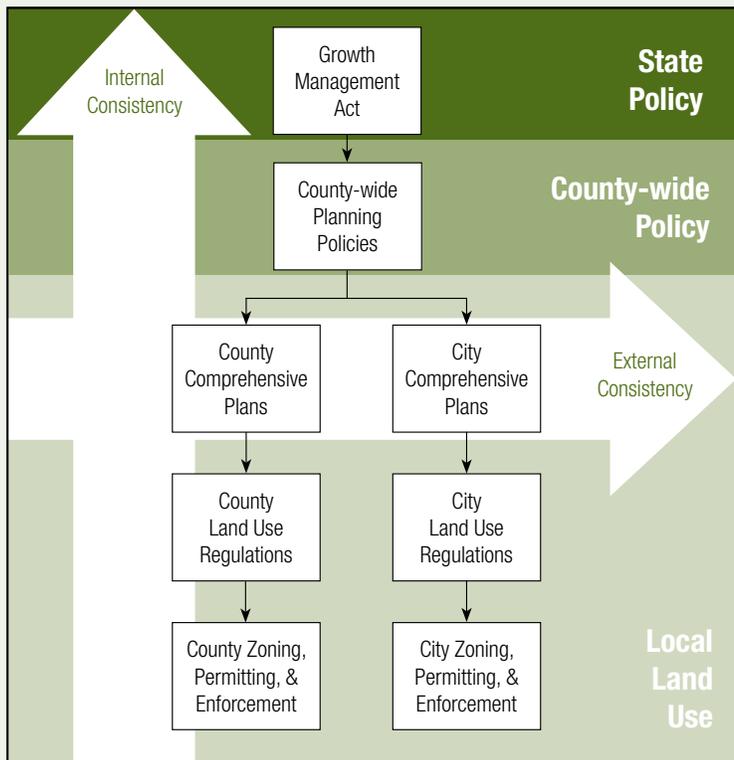
RCW 36.70A.100

Regional Coordination of Planning

The Growth Management Act defines a stronger duty for coordination and consistency among local governments than it does between local governments and the state. The preamble explicitly states local governments should cooperate and coordinate with one another in land use planning. The concepts of regional coordination and consistency are also repeated in many of the specific provisions of the Act.

Local comprehensive planning must be internally and externally consistent. Internal consistency is required among and between the elements of the comprehensive plan and the implementing development regulations.¹¹ External consistency requires local governments with common borders or related regional issues to ensure their plans are coordinated and consistent.¹² Under the GMA, consistency means planning and regulatory provisions are compatible, fit together, and do not thwart each other.¹³

External Consistency is Implemented Through County-wide Planning Policies



The external consistency provision is implemented primarily through county-wide planning policies. County-wide planning policies are a framework agreed upon by counties and cities that provide procedural and substantive direction to the comprehensive plans of each jurisdiction. The Central Puget Sound Growth Management Hearings Board characterizes the relationship between county-wide planning policies and local land use planning and regulation as “a hierarchy of substantive and directive policy. Direction flows first from the county-wide planning policies to the comprehensive plans of cities and counties, which in turn provide substantive direction to the content of local land use regulations, which govern the exercise of local land use powers, including zoning, permitting and enforcement.”¹⁴

The power of county-wide planning policies to support regional planning is limited by the GMA premise that county-wide planning policies may not alter the land-use powers of cities.¹⁵ The growth management hearings boards have identified a three-prong test to prevent county-wide planning policies from needlessly or excessively intruding upon local prerogatives.

County-wide planning policies must:

1. meet a legitimate regional objective,
2. provide substantive direction only to the provisions of a comprehensive plan, and cannot directly affect the provisions of an implementing regulation or other exercise of land use powers, and

11. RCW 36.70A.070

12. RCW.36.70A.100

13. *West Seattle Defense Fund v. City of Seattle*, 94-3-0016, CPSGMHB (April 4, 1995).

14. *City of Snoqualmie v. King County*, 92-3-0004, CPSGMHB (June 1, 1993).

15. RCW 36.70A.210(1)

3. be consistent with other relevant provisions in the GMA.¹⁶

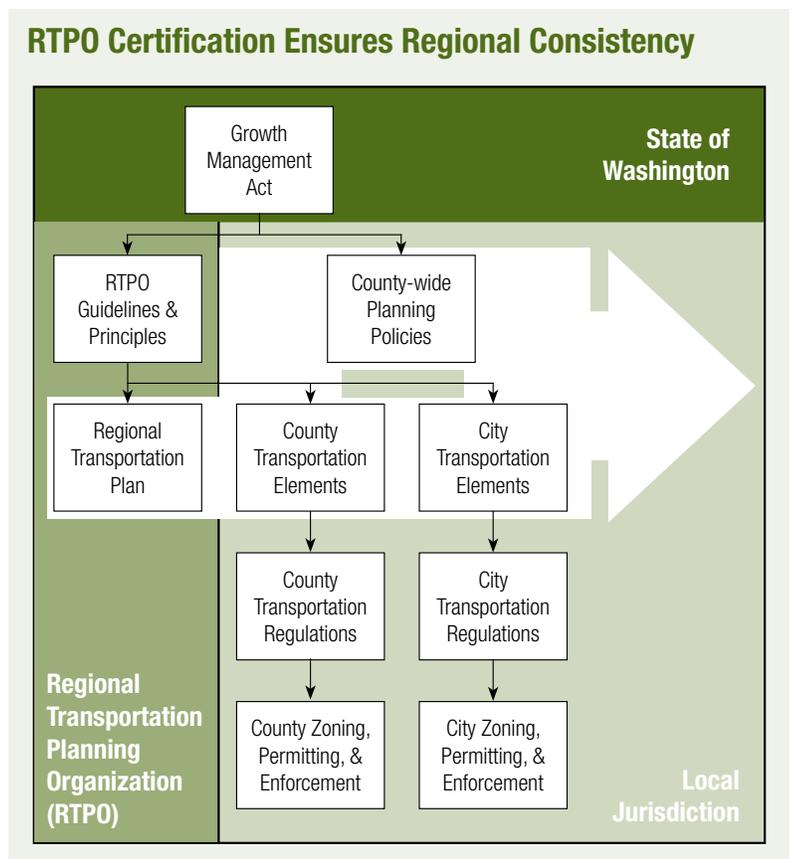
The hearings boards presume that if the plans of different jurisdictions are consistent with county-wide planning policies, they are also consistent with one another.¹⁷ Allegations of inconsistency are evaluated based upon a plan-to-plan comparison.¹⁸ The external consistency provision also requires coordination which is evaluated based on the evidence of communication and consultation between the jurisdictions.¹⁹ As long as the parties are at the table, however, the hearings boards do not police the coordination²⁰ or require one jurisdiction to comply with another's stated policy preferences.²¹

The external consistency provision compels cities and counties to ensure their comprehensive plans, including their transportation elements, are compatible with those of bordering jurisdictions, fit together, and do not thwart each other. Recognizing its inherently regional nature, the legislature required an even higher standard for the coordination of transportation planning. The GMA requires local governments to:

1. coordinate levels of service standards within the region,
2. assess the impacts of their transportation and land use policies on the transportation systems of adjacent jurisdictions, and
3. describe any other intergovernmental coordination efforts they have undertaken in the transportation element of their comprehensive plan.²²

Additionally, the transportation elements of local comprehensive plans and the transportation related county-wide planning policies must be certified by an RTPO to ensure regional consistency.²³ The certification is based on the consistency of the local policies with the RTPO's adopted guidelines and principles and regional transportation plan as well as the general conformity of the local policies with GMA requirements.²⁴

The planning authority of RTPOs was tested in a Washington State Court of Appeals case which found that when there is a conflict



16. *City of Snoqualmie v. King County*, 92-3-0004, CPSGMHB (June 1, 1993).
 17. *RIDGE v. Kittitas County*, 00-1-0017, EWGMHB (April 10, 2002). Also *City of Bremerton et al. v. Kitsap County*, 04-3-0009c, CPSGMHB (August 9, 2004).
 18. *Corrine R. Hensley v. City of Woodinville*, 96-3-0031, CPSGMHB (February 25, 1997).
 19. *RIDGE v. Kittitas County*, 00-1-0017, EWGMHB (June 7, 2001). Also *City of Edgewood et al. v. City of Sumner*, 01-3-0018, CPSGMHB (January 18, 2001).
 20. *RIDGE v. Kittitas County*, 00-1-0017, EWGMHB (April 10, 2002).
 21. *Forster Woods Homeowners' Association and Friends and Neighbors of Forster Woods et al. v. King County*, 01-3-0008cm CPSGMHB (November 6, 2001).
 22. RCW 36.70A.070(6)(a)
 23. RCW 47.80.023
 24. RCW 47.80.023(3)

between regional and local plans, the regional plan prevails if there has been a coordinated planning process.²⁵

WSDOT coordinates the activities of the 14 RTPOs that cover 38 of the 39 counties in Washington. WSDOT participates in the regional planning process through the RTPOs in order to ensure statewide consistency.

The Growth Management Act requires WSDOT to:

1. establish minimum standards for development of a regional transportation plan in cooperation with the RTPOs,
2. facilitate coordination between regional transportation planning organizations, and
3. through the regional transportation planning process and through state planning efforts identify and jointly plan improvements and strategies within those corridors important to moving people and goods on a regional or statewide basis.²⁶



25. *The City of Des Moines et al. v. The Puget Sound Regional Council, et al.*, 42306-1-I, Wn. App. 96-2-20357-2 (November 15, 1999).

26. RCW 47.80.070