

# VISION 2050



## Annexation

### DRAFT Briefing Paper

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Puget Sound Regional Council

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## Introduction

The Growth Management Act (GMA) reimagined local governance by identifying cities as the preferred providers of urban services and envisioning counties as providers of regional and rural services. Cities can more efficiently provide urban services due to broader revenue authority and flexibility under state law. While GMA changed the focus for cities and counties, state fiscal policies and annexation laws were not updated to implement GMA's vision. Regional goals and policies, through VISION, promote incorporation of all lands within the urban growth area by 2040, and counties and cities have adopted consistent policies in local plans. In fact, there have been many annexations and incorporations since GMA was adopted. However, fiscal impacts, community perceptions, cumbersome and costly annexation methods, and lack of incentives have served as barriers to annexation. Local governments need more tools, such as tax credits or other financial incentives, to complete successful annexations.

This paper provides background information on the annexation process and explores the multiple challenges to annexation. To develop this paper, the Puget Sound Regional Council (PSRC) analyzed urban growth area data, researched local and national annexation policies, and spoke to planners at cities and counties, as well as Boundary Review Board officials, to understand the varying perspectives on annexation.

## Policy Context: The Growth Management Act and VISION 2040

GMA requires counties, in consultation with cities, to designate urban growth areas that can accommodate current and projected growth and provide urban-level services. The urban growth area is comprised of cities, towns, and unincorporated urban growth areas, all served by various governmental entities and special service districts. GMA states that cities and towns are the most appropriate providers of urban services,<sup>1</sup> and adoption of the Act resulted in several incorporations and a renewed focus on annexation. Cities and towns may only annex land located within designated urban

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<sup>1</sup> RCW 36.70A.110(3)

growth areas.<sup>2</sup> GMA promotes county-city coordination by requiring that countywide planning policies address joint county and city planning within urban growth areas, preferably in the form of interlocal agreements that result in the eventual annexation of urban unincorporated areas.<sup>3</sup>

The multicounty planning policies in VISION 2040 reinforce GMA's goal that all of the urban growth area will eventually be annexed. MPP-DP-18 states all urban unincorporated lands should be affiliated for annexation with an adjacent city. While this policy notes that certain areas may be feasible or more appropriate for incorporation, annexation is preferred over incorporation in most cases. The Regional Growth Strategy envisions that affiliated annexation areas are expected to accommodate a larger share of overall unincorporated urban growth than unaffiliated areas. MPP-DP-19 supports joint planning efforts in unincorporated areas between counties and cities, and MPP-DP-20 supports the provision and coordination of urban services to unincorporated urban areas by the adjacent city, or only where appropriate, by the county as an interim approach. MPP-PS-6 reinforces interjurisdictional coordination and efficient service provision by encouraging urban services to be provided by cities or appropriate regional service providers and the consolidation or dissolution of special service districts, including sewer, water, and fire districts.

VISION 2040 contains three actions related to annexation of the urban unincorporated areas. DP-Action-15 states that countywide planning bodies should coordinate with cities and develop approaches to reconcile different development and infrastructure standards in unincorporated urban areas, especially those areas affiliated for future annexation. The plan states that mechanisms should be established to ensure the appropriate forms, densities, and mixes of uses are identified and supported. Because service provision is such a key aspect of annexation, two actions in the Public Services chapter (PS-Action-1 and PS-Action-5) affect the potential annexation of urban unincorporated areas. PS-Action-1 directs PSRC to communicate to the Legislature that special service districts should be required to comply with the GMA, and PS-Action-5 encourages counties to review special service districts' plans and identify

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<sup>2</sup> RCW 35.13.005, 35A.14.005

<sup>3</sup> RCW 36.70A.210(3)(f)

inconsistencies with local growth management goals and objectives, as well as the regional vision.

## Local Actions

Cities have made progress in annexing urban unincorporated lands. Figures 1 and 2 demonstrate the current size and distribution of population in the urban unincorporated areas today. Approximately 23 percent of the urban growth area remains unincorporated. Looking at annexations from 2000 to 2017, the urban unincorporated area steadily decreased in size until around 2012, when annexation activity slowed due to the Great Recession and loss of sales tax credit incentives.

Figure 1: Size, in acres, of Unincorporated Urban Growth Areas (2017)

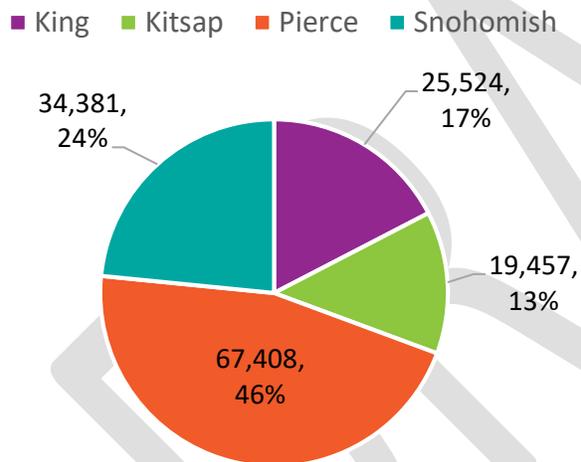
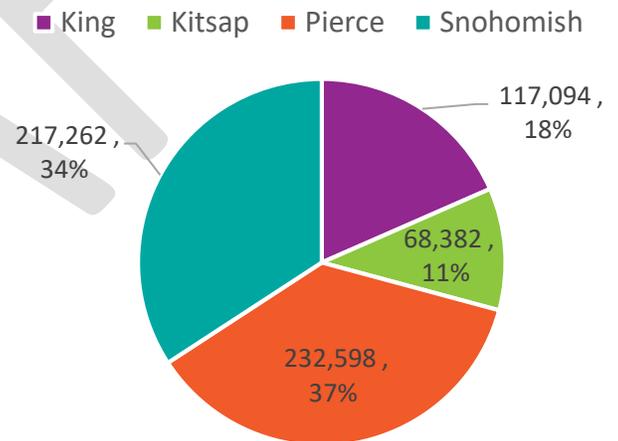


Figure 2: Distribution of Population of Urban Unincorporated Areas (2017)



Source: OFM, PSRC

Annexation and incorporation policies are included in the countywide planning policies for all four counties. Many urban unincorporated areas have been designated and affiliated with an adjacent city. These areas are referred to as “potential annexation areas” in King, Pierce, and Kitsap counties, and as “municipal urban growth areas” in Snohomish County. Cities and towns are encouraged to plan for their eventual annexation in local comprehensive plans. In general, these are not areas to which cities may assign any of their established growth target allocations. Rather, as land under county jurisdiction, the county typically assigns growth targets to individual areas

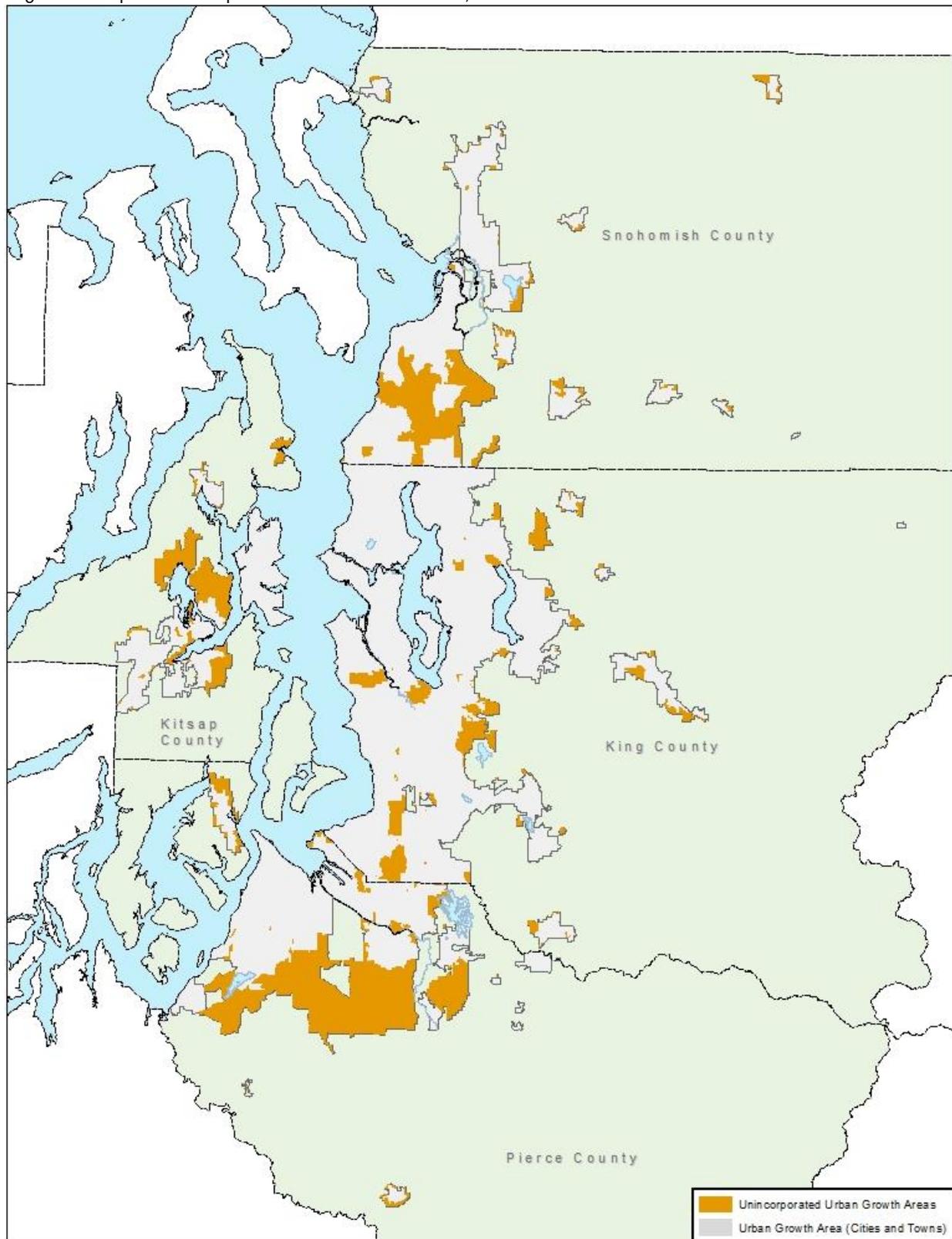
or assigns growth to these areas through the county comprehensive plan. In some cases, the annexation of affiliated areas would dramatically increase a city's total population.

Since VISION 2040 was adopted in 2008, the amount of urban unincorporated land that is identified as potential annexation areas and affiliated with adjacent municipalities has increased by 10 percent, to represent approximately 70 percent of the unincorporated urban growth area. In 2014, Pierce County formalized the affiliated annexation areas to cities in their countywide planning policies. The county also developed a designation of Potential Incorporation Areas to more fully define and plan for the unincorporated area.

Figure 3 shows the current extent of the unincorporated urban growth area. While the unincorporated urban areas consist largely of islands and potential annexation areas adjacent to and affiliated with individual cities or towns, there are three large contiguous unincorporated areas remaining: Southwest UGA in Snohomish County; Central Pierce UGA in Pierce County; and Central Kitsap UGA in Kitsap County. Two areas, the Silverdale UGA in Kitsap County and Tehaleh UGA in Pierce County, are identified as areas planned for incorporation. Despite several attempts, ballot initiatives to incorporate Silverdale have not yet been successful.

Aside from countywide planning policies and local comprehensive plans, counties encourage joint planning efforts with municipalities through methods such as interlocal agreements. Several local examples exist, including Kitsap County, which coordinated with the City of Poulsbo to create the "Poulsbo Urban Transition Area," a special zoning designation that ensures development in the potential annexation areas is consistent with the city. Pierce County has worked with municipalities to create community plans, adopted as part of the county's comprehensive plan, that provide a framework for consistent land use standards in the potential annexation areas. They have also created an annexation data book of annexation areas. King County has also developed an annexation data book to better define characteristics of existing annexation areas and facilitate conversations for future planning efforts. Snohomish County recently published a draft white paper on annexation trends and plans to focus more on the topic in 2019.

Figure 3: Map of Unincorporated Urban Growth Area, 2018



# Annexation Trends

Following the adoption of GMA in 1990, communities across the region incorporated to create new towns and cities. In addition, cities and towns have grown through large annexations, several occurring in the early to mid-2000s, as shown in Figures 4 and 5 below. Many of these, such as the annexation of South Highline in Burien, Eastgate in Bellevue, and Finn Hill, Juanita, and Kingsgate neighborhoods in Kirkland, occurred with the assistance of a sales tax credit instituted by the state Legislature to offset costs associated with annexation. In Snohomish County, the cities of Marysville and Lake Stevens used incentives in state law to annex large affiliated areas.

Figure 4: Annexed Population by Time Period

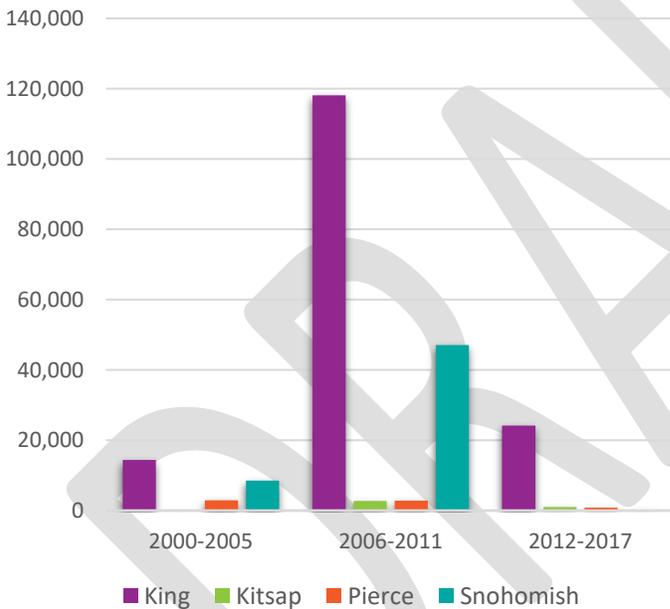
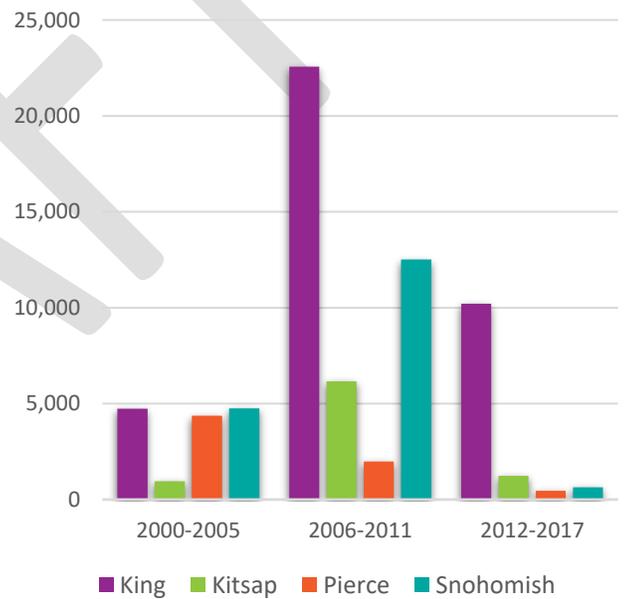


Figure 5: Annexed Acreage by Time Period



Source: Office of Financial Management, Annexation Detail report

## Challenges to Annexation

Municipal annexations are difficult and often complex, time-consuming, and expensive. Several issues can arise from the transfer of governance from counties to cities, including public service provision, financial implications, and community engagement.

## Annexation Methods in State Law

While GMA envisions the urban growth area to eventually be incorporated and served by cities and towns, the Act, when adopted, did not overhaul state annexation laws.

Depending on a city’s code classification (first or second class city or town or code city), annexation methods vary. Figure 7 briefly describes the most commonly used methods. Voters and property owners in the annexation area have most of the control over the process. All methods require some form of petition or public vote.

Regardless of method, annexations can be time consuming and expensive processes with no guarantee that the annexation will be successful. In addition to the time and costs associated with organizing and administering an election, a city may incur additional expenses to educate the residents about the annexation. Petition method annexations may have lower costs, but typically require an organized community group and significant city support to facilitate.

Considering GMA and regional and countywide policy expectations of annexation or incorporation of the unincorporated urban areas, and that many of the areas have already been affiliated with adjacent cities, it has been asked why annexation remains an uncertain, labor intensive and costly process.

Figure 7: Annexation Methods

Annexation Method	Brief Summary*
<p><b>Election Method</b>  <i>RCW 35. 13.015-110;</i>  <i>RCW 35A. 14.015-100</i></p>	<p><u>Option 1:</u> Initiated by a petition calling for an election and signed by qualified electors living in the area to be annexed. For First and Second Class Cities and Towns (FSCCT), the petition must contain 20% of the votes cast in the last general election (if a FSCCT) or 10% if a code city. The petition must be reviewed by a Prosecuting Attorney (FSCCTs) or filed with City Council (code cities). If the petition is valid and accepted, the election may proceed with an optional public hearing.</p> <p><u>Option 2:</u> Initiated by a City Council resolution calling for an election. The resolution must demonstrate that the annexation is in the best interests and general welfare of the residents. An optional public hearing may be held. The Council can include questions on the ballot pertaining to assessments and tax rates, city indebtedness, comprehensive plan amendments, and community municipal corporations (in accordance with RCW 35.14.010-060). The Boundary Review Board (BRB) has oversight. The election requires different minimum votes, depending on the ballot questions.</p>

<b>Direct Petition Method**</b> <i>RCW 35.13.015-110</i> <i>RCW 35A.14.015-100</i>	This is the most frequently used method. Initiated by a Notice of Intent submitted to the City Council. City Council can accept, reject, or modify the request. If accepted, the initiators prepare an annexation petition that must be signed by owners of at least 60% of the assessed property value to be annexed. Before a city can approve the annexation, the BRB must approve.
<b>Unincorporated Islands Method</b> <i>RCW 35.13.182-1822</i> <i>RCW 35A.14.295-299</i>	To further the goals of GMA, the state Legislature adopted an abbreviated annexation process for unincorporated islands. A resolution of intent to annex (with BRB approval), public hearing, and adoption of annexation ordinance is required. The annexation is subject to potential referendum election.
<b>Alternative Unincorporated Islands– Interlocal Agreement Method</b> <i>RCW 35.13.470-480</i> <i>RCW 35A.14.460-470</i>	This option is only available to cities located in counties subject to “buildable lands” review under GMA (all four central Puget Sound counties). The 180-day negotiation period to start the annexation process can be initiated by a city or county. Public hearings are required by both entities. If an agreement is reached, the city can adopt the interlocal agreement and annexation ordinance, subject to potential referendum election. If no agreement is reached, the county may initiate negotiations with another contiguous city.

*\*Refer to the applicable sections of state law for a complete overview of the annexation methods, including specific methods for annexing for municipal purposes or federally owned areas. Additional resources are available at the [Municipal Research and Services Center webpage](#).*

*\*\*An alternative Direct Petition Method is outlined in RCW 35.13.410 and 35A.14.420 that offers alternatives to petition signatories.*

## Financial Implications

While the upfront costs of conducting an annexation are one barrier, often the long-term cost and revenue impacts of annexation are the most significant barrier facing annexation. Cities must evaluate if the costs of providing municipal services to newly annexed areas will be offset by the projected revenue that would be received on an annual basis. Municipalities are hesitant to approve annexations that are not fiscally sustainable or may lower levels of service for existing city neighborhoods. However, since commercial areas tend to provide greater revenue, the remaining unincorporated areas are often predominately residential with higher anticipated costs of service.

In 2006, the Legislature approved a sales tax credit to offset the costs associated with annexing.<sup>4</sup> The tax credit allowed cities that were annexing communities with at least 10,000 residents to receive a larger share of their generated state sales tax revenue for up to ten years. The sales tax credit was available to cities located in counties with populations greater than 600,000 – King, Pierce, and Snohomish counties in the

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<sup>4</sup> RCW 82.14.415

central Puget Sound region were eligible. The sales tax credit incentive expired in 2015.<sup>5</sup> This credit enabled Kirkland to annex a large area consisting of the Finn Hill, Juanita, and Kingsgate neighborhoods, and remain economically viable. Other cities in the region also took advantage of the tax credit. The Legislature passed a bill in 2016 that allowed an exception for Seattle, to encourage the annexation of the North Highline community.<sup>6</sup> Additional bills to renew the sales tax credit have been considered in recent years. Local financial incentives provided by counties have complemented state incentives in the past. King County, as part of an initiative to promote annexation in 2004, set aside \$10 million to further incentivize annexation.

Counties also face concern about the financial impacts with annexations. Regardless of the cost/revenue balance of an area, large unincorporated areas may make up a significant portion of the county's tax base. Annexation will reduce the county revenue and require it to shrink county services in response. Revenue sharing agreements between cities and counties can help facilitate the transfer of governance and ensure counties remain fiscally sustainable, though these agreements are not currently required. Kitsap County's CPPs have outlined a process for Urban Growth Area Management Agreements that include revenue sharing interlocal agreements to facilitate and encourage annexation. In 2001, all four cities in Kitsap County adopted a revenue sharing agreement. Since that time, the cities of Port Orchard and Bremerton have withdrawn from the agreement.

### *Discrepancies in Urban Land Development Patterns*

Municipalities are often concerned with the financial ramifications associated with annexing older developments in unincorporated areas. These areas were built under less restrictive, suburban or rural guidelines that differ from today's compact urban design requirements and current stormwater and transportation standards. In some cases, even today, county codes often do not require the urban form desired by cities and towns. In unincorporated areas, sidewalks are rare, road standards are based on serving a more dispersed population, and stormwater regulations are generally less restrictive. Access to parks and open space is significantly lower for residents in urban unincorporated areas. Only 35 percent of residents live within a half-mile of a park and

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<sup>5</sup> *ibid.*

<sup>6</sup> SB 5864 – 2015-16, *ibid.*

46 percent live within a mile of a community park, compared to 85 percent and 79 percent, respectively, in cities.<sup>7</sup> When municipalities annex these areas, they face expensive hurdles in retrofitting communities to meet residents' expectations of being in a city.

Joint planning efforts and interlocal agreements can be successful in preparing areas for eventual annexation and offsetting municipal costs, though counties may lack the resources available to customize zoning and development regulations to match each city. Low-cost options, such as administrative changes to ensure municipal input is considered through the county permitting process or county hearings examiner cases in potential annexation areas, can improve consistency in community design and infrastructure, without fully meeting city standards.

### *Gerrymandered Annexation Boundaries*

Because of the financial burden associated with annexing, some municipalities have become more selective in where they will consider expanding boundaries, often focusing on commercial and industrial lands, as these areas generate more revenue and require fewer public services. This practice is problematic as it results in a funding imbalance for counties, with the revenue-generating areas gone but residential neighborhoods, which are typically more costly to serve, left in the county. While urban unincorporated areas vary across the region, a sampling of some of the most populous remaining areas shows higher shares of poverty and minority communities than the region as a whole.

### **Interjurisdictional Coordination**

Annexations involve the county, municipality, and at times, special service districts. State law allows special districts for a variety of services, including sewer, water, drainage, flood control, parks and recreation, fire, library, school, and public transportation, and these districts more commonly serve unincorporated areas. Hundreds of special purpose districts operate in the region. Special service districts do not have to plan under GMA, and at times, the goals of the special districts can be inconsistent with those of counties and municipalities. With each entity having single-purpose interests, convening all groups to come to an agreement about a potential

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<sup>7</sup> Regional Open Space Conservation Plan, Puget Sound Regional Council, 2018.

annexation can be difficult. With annexation, cities may or may not seek to absorb the special district, or a portion of it, into their established city services. When this occurs, it can result in special districts actively campaigning against annexation.

### *Coordinating Vested Rights*

For those developing parcels as an annexation is underway, interjurisdictional coordination is critical. Joint planning efforts that minimize inconsistency in codes or permitting processes in unincorporated urban areas can lessen the impacts of vested rights allowed by state law. Vested rights refer to zoning laws that entitle an owner or developer the right to proceed in accordance with a prior zoning provision, if an application or approval has been issued prior to laws being amended. In Washington, case law has shaped the vested rights doctrine and *Schneider Homes v. City of Kent* (1998) held that vested rights survive annexation. This can be problematic, as property owners and developers are granted vested rights upon the submittal of an application for development in the county (for permits, subdivision or development agreements) with no time expiration. If the area is annexed, the municipality is required to process vested applications using county regulations that may be inconsistent with its local comprehensive plan and development regulations.

### **Community Engagement**

In Washington, like most states, annexation is ultimately decided by property owners and residents. Real and perceived tax implications and regulatory requirements can make residents hesitant to annex. Communities may be afraid that annexation could result in higher costs or new restrictions. At other times, residents may desire annexation if they view it as an opportunity for better representation by local policy makers, improved local services, or lower taxes.

Counties and cities struggle with having the resources and capacity to engage communities, understand their needs and issues, and fully educate them about the opportunities that annexation provides. Coordinated outreach efforts may help ensure that residents and property owners receive quality information about an annexation process, whether by election or petition, allowing them to make a fully informed decision.

Counties and cities working together with community residents to wholly annex areas rather than only annexing commercial and industrial areas, can also promote community cohesion throughout the process. As areas are annexed, ensuring community boundaries are respected can ensure residents are not fragmented and left with incoherent planning efforts.

## **Policy Considerations for VISION 2050**

VISION 2040 includes actions for PSRC and goals and policies for streamlining and transferring governance of urban unincorporated areas from counties to municipalities. The updated plan will identify key projects for PSRC, opportunities for regional collaboration, and guidance or requirements for local plans. While annexation is a complex issue, PSRC can offer policy guidance to encourage the gradual annexation of urban unincorporated areas to accomplish the GMA and regional goal of having services within the UGA provided by municipalities, rather than counties and special service districts.

VISION 2040 contains three actions related to annexation and incorporation policies:

- DP-Action-15 states that countywide planning bodies should coordinate with cities and develop approaches to reconcile different development and infrastructure standards in unincorporated urban areas, especially those areas affiliated for future annexation, and establish mechanisms to ensure the appropriate forms, densities, and mixes of uses are identified and supported.
- PS-Action-1 directs PSRC to communicate to the Legislature that special service districts should be required to comply with the GMA.
- PS-Action-5 encourages counties to review special service districts' plans and identify inconsistencies with local growth management goals and objectives, as well as the regional vision.

DP-Action-15 could be expanded to more inclusively address the challenges to annexation and work toward solutions. New language could call for PSRC to support local outreach efforts to the state Legislature about annexation laws and potential incentives and resources that could accomplish the goals of GMA. PSRC could also organize peer networking sessions and workshops to highlight annexation and incorporation best practices, assist with joint planning efforts, and address other

barriers. Workshops and peer networking sessions could offer an opportunity for collaboration between counties, cities, special service districts, and boundary review boards.

### **Policy Questions**

As the PSRC boards consider updating VISION, some questions to consider include:

- How can VISION 2050 advance the goal of annexing the urban growth area? Could the policies be improved through revised or additional policy language?
- What additional actions at the regional, countywide, or local levels could be added to VISION 2050? What areas of coordinated action may be effective in addressing annexation?
- Are there areas where additional data, research and analysis would have value?

### **Next Steps**

Discussions at the Regional Staff Committee and Growth Management Policy Board meetings in winter 2018-2019 will inform updates to VISION 2050. Board and committee discussions during these meetings will be reflected in the final draft plan that will be presented for review in the summer of 2019, in anticipation of the scheduled adoption of VISION 2050 in the spring of 2020.