

# A1 Annexation

## White Paper: Annexation/UGA

**Popular support exists among Buckley residents to expand the City's Urban Growth Area (UGA) in support of a variety of community goals. This report assesses the legal feasibility of the expansion of Buckley's UGA in hopes of eventual annexation of County land currently outside the UGA.**

### Executive Summary

**Washington State law prohibits annexation of unincorporated areas outside of the Urban Growth Area while countywide planning policies restrain the expansion of the UGA. Specifically, Buckley residents have expressed an interest in the expansion of Buckley's city limits in order to accommodate residential growth, provide more room for commercial growth along the region's main transportation corridor (route 410) and provide the new White River High School with city services, namely multi-modal transportation access. Based upon review of the Washington State Growth Management Act (GMA), Pierce County Countywide Planning Policies, and Growth Management Hearing Boards rulings, it is probable that Buckley only will be able to make a strong case for expansion of the UGA with respect to the third objective.**

### Annexation as a Part of the GMA Process – Within Urban Growth Areas

**The annexation process is effectively part of the City's comprehensive planning process under the Washington State Growth Management Act (GMA). To help reduce urban sprawl, the GMA requires that counties designate urban growth areas "within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature." [RCW 36.70A.110 (2)]. Annexations are prohibited beyond UGAs. [RCW 35.13.005 and RCW 35A.14.005].<sup>1</sup> Like all UGA's across the state, Buckley's UGA was created in 1994 with enough land to accommodate the 20-year population growth projections established for the City by the county in which it is located, Piece County.<sup>2</sup>**

**The regulations of the GMA eliminate much of the annexation decision-making process by cities regarding the land outside of their UGA. Cities, such as Buckley, do retain the authority to make**

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<sup>1</sup> Central Puget Sound Growth Management Hearings Board, *Rural Residents*, 3310, FDO, at 42.

<sup>2</sup> Growth is more than simply a quantitative increase in the numbers of people living in a community and the addition of "more of the same" to the built environment. Rather, it encompasses the related and important dynamic of change. Because the characteristics of our population have changed with regard to age, ethnicity, culture, economic, physical and mental circumstances, household size and makeup, the GMA requires that housing policies and residential land use regulations must follow suit. This transformation in our society must be reflected in the plans and implementing measures adopted to manage growth and change. [*Children's I*, 5311, FDO, at 9.]

decisions on the land within their UGA, and thus, will determine whether and when to annex this land. Ultimately, a city will annex to the limits of its urban growth area, assuming that the population projections prove accurate.<sup>3,4</sup> Lands within the UGA will ultimately be developed at urban densities and intensities.<sup>5</sup> The timing of that expansion will depend on a number of factors, including population growth within the urban growth area and the city's ability to provide urban-type services in that area.<sup>6</sup>

#### Movement of the Urban Growth Boundary

The expansion of Buckley's UGA is under the purview of Pierce County but subject to limitations imposed by the GMA framework. [RCW 36.70A210 (3) a]. It is the County's duty to establish UGA boundaries, while the City's role in that process is limited to a consultative one.

Counties have the ability to expand UGAs for future growth subject to meeting goals for population projections and density, and provided that the new UGA meets the locational criteria of RCW 36.70A.110 (e.g., adjacent to urbanized land, with services available or nearby). For a county to calculate the amount of unincorporated UGA land necessary to accommodate its allocated population growth, the county must utilize a population density assumption that reflects development densities anticipated by the county plan<sup>7</sup>. For sizing UGAs, the density assumption used cannot be based upon historic patterns that perpetuated low density sprawl, and must reflect the planned for urban densities.<sup>8</sup> The Central Puget Sound Growth Management Hearings Board has concluded that counties must provide evidence of their data and calculations, thus, "show their work", when designating UGAs:

*The actions of the local jurisdiction are presumed valid; however, when challenged the record must provide support for the actions the jurisdiction has taken; otherwise the action may be determined to have been taken in error – clearly erroneous.*

- KCRP, et al., v. Kitsap County [KitsapCitizens], CPSGMHB Case No. 01-3-0019c, Final Decision and Order, May 9, 2001, at 13.

In summary, Buckley would not likely meet either the density criteria or the location criteria for the expansion of its UGA for commercial or residential uses because it has not exhausted opportunities to upzone within the existing UGA nor are any proposed UGA expansion areas adjacent to existing urbanized land.

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<sup>3</sup> Municipal Research & Services Center of Washington, *Annexation Handbook*, Report Number 19, December 2001.

<sup>4</sup> In the land to be annexed, cities will still need the consent of either property owners or voter/residents within areas they desire to annex, even within the context of the Growth Management Act.

<sup>5</sup> Central Puget Sound Growth Management Hearings Board, *Johnson II*, 7302, FDO, at 10.

<sup>6</sup> Annexation, although encouraged by the GMA, is not a condition precedent to urban development in a UGA. [*Johnson II*, 7302, FDO, at 10.]

<sup>7</sup> Central Puget Sound Growth Management Hearings Board, *Bremerton/Port Gamble*, 5339/7324c, 9/8/97 Order, at 16.

<sup>8</sup> *Ibid.*

### Annexation for White River High School

Although unusual, there are precedents for UGA extensions for the purpose of including institutional facilities (including schools) within municipal boundaries. In general, public and institutional uses do have a propensity to generate growth within the local environs of such uses, and it is therefore appropriate that such facilities be encouraged in urban areas within the UGA where adequate.<sup>9</sup> However, because GMA regulations require cities and counties to identify lands useful for public purposes, specifically enumerating schools, the need for location of potential school sites within a UGA should be considered, but is not required. (RCW 36.70A.150).<sup>10</sup>

White River High School, completed in 2002, was situated between the UGA's for the cities of Buckley and Bonney Lake in order to be proximate to both communities. The school is served by urban services (sewer) from Buckley, thus meeting one of the two locational criteria for expansion under the GMA. It should be noted that any UGA expansion involving a church or a school must comply with the goals and requirements of the Act and could be the subject of challenge before the Growth Management Hearings Board.<sup>11</sup>

### Recommendations

Buckley cannot make a strong contention for the expansion of its UGA to the west along State Highway 410 because this expansion would likely be considered in violation of the Growth Management Act. However, Buckley can make a strong claim for expanding the UGA for the purposes of annexing White River High School into the city limits. The issue would then shift to how much land contiguous to the high school should be allowed to be included in the annexation. Buckley could state its need for a reasonable boundary for the provision of utilities.

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<sup>9</sup> Central Puget Sound Growth Management Hearings Board, *Hensley VI, 03309c*, FDO, at 16.

<sup>10</sup> Central Puget Sound Growth Management Hearings Board, *CTED, 03317*, FDO, at 28-29.

<sup>11</sup> *Ibid.*