

***Information Sharing and Administrative Planning: From Japan's Local Government Ordinances***

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**Abstract**

There is presently no provision for administrative plans under the Administrative Procedure Law of Japan. In administrative planning, utilizing the amendment of the Administrative Procedure Act and the stipulation of the procedure for public comment in 2005 enables control over the level of discretion involved in the planning process to a certain extent. Further, the establishment of a legal system promoting public participation in administrative activities, such as the procedure for formulating plans that the Administrative Procedure Law has made a future subject, is also desired. Notably, in Japan, it was the local governments that introduced the process of sharing information with residents, as in the case of the information disclosure system, before the national government, which did so only after it had already been established in several municipalities. This research is aimed at investigating the ordinances passed by local governments in Japan. This way, the study's aim is to contribute to the national government's efforts to further revise the Administrative Procedure Act. This study examines the ordinances passed by Kanagawa Prefecture and Nagano Prefecture for their respective municipalities. Kanagawa Prefecture was the first local government to ordinate an information disclosure system in Japan; Suwa City in Nagano Prefecture established the administrative plan for the ordinance of the first administrative procedure in Japan. Enabled by this process, several guidelines were formulated that aid in providing information to residents, being helpful in the contexts of prescribing administrative plans and sharing information. This study suggests ways and means of furthering this cause.

Keywords: Japan, local government, administrative planning, ordinance, public comment.

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## **Introduction**

Under Japan's Administrative Procedure Law, there is presently no provision for administrative planning. To a certain extent, utilizing the amendment to the Administrative Procedure Act and the stipulation of the 2005 procedures for public comment enables control over the level of discretion involved in the planning process. The establishment of a legal system that promotes public participation in administrative activities, such as a procedure for formulating plans (a future subject of the Administrative Procedure Law), would also be desirable.

Japan's birthrate is declining and Japanese society is aging, with rural areas becoming depopulated due to increasing urban population density. Local governments are expected to systematically halt population decline. For local governments, it is thus necessary to choose a municipality that people want to live in. To that end, it is important for municipalities to pave the way for citizen participation by formulating administrative plans and implement citizen demands.

Through decentralization, local governments have taken over responsibility for many administrative activities that had been the responsibility of the national government. Municipalities are actively managing the PDCA of administrative activities through citizen participation. It is expected that a system to reflect the voices of citizens will be created in the country through local governments.

## **Background**

### **Local Autonomy in Japan**

Local autonomy is permitted to local public bodies in Japan. This is prescribed and guaranteed by the Constitution of Japan. In addition, the Constitution stipulates that local governments can establish ordinances "within the scope of the laws of the country." Thus, local governments can establish ordinances. (Isozaki, 2012)

According to the latest data released by the Japanese Ministry of Internal Affairs and Communications (2014), there are 47 prefectures and 1,718 municipalities in Japan. Local autonomy generally consists of two elements: "group autonomy" and "resident autonomy." (Takada, 2009)

"Group autonomy" refers to the establishment of an organization (a local public entity, hereinafter referred to as a "local government") that is independent from a country and based on a certain region. The principle of processing local administrations is within the authority and responsibility of this organization.

"Resident autonomy" is the principle of the function of local governments based on the intentions and responsibilities of residents in the area.

Claims have been made that greater emphasis has been placed on group autonomy in Europe and on resident autonomy in the United States. (Mitsunari, 2009)

In Japan, while the importance of the outcomes of group autonomy and the European-type administrative activities have been emphasized, in recent years, there has been a tendency to emphasize American-type autonomy and administrative procedures. The

Administrative Procedure Act of Japan, promulgated in 1993 and enforced in 1994, is one example of this tendency. (Uga, 2016)

## **Administrative Planning Guarantees and Citizen Participation Procedures in Japan**

Administrative plans are discretionary acts.

The legal effects of the administrative plan have (1) legally binding power over citizens, such as the determination of area divisions in town planning, (2) do not have legal binding power over citizens, but do have binding power over the government, (3) provide only national government and local governments with guidelines. There are also some administrative plans that are not legally binding. (Ishizaki, 2013)

Even in an administrative plan corresponding to point (3), if the plan cannot be executed, there is a case for questioning the mayor's political responsibility and citizens' trust in the executive's ability toward administrative execution may be damaged. During planning, the local government, as an organization, collectively confirms the measures' feasibility and verifies the possibility of obtaining the necessary budget. Although the plan noted in point (3) is not a legitimate act of bribery, it substantially constrains the administrative activities of the whole organization over a long period of time and affects the lives of citizens. Therefore, the plan noted in point (3) also needs to reflect citizens' opinions.

In the revision to the Administrative Procedure Act of 2005, a Public Opinion Procedure (Public Comment Procedure, hereinafter "public comment") was stipulated, and the obligation to consider the opinions submitted within the due date for "Order etc." was further stipulated. (Ota, 2016)

By utilizing these provisions for planning administration, it is possible to control planning discretion to a certain extent. However, it is not only public comments but also "legal system development that promotes citizen participation in administrative activities, such as plan formulation procedures that the Administrative Procedure Act has made as a future task" that is desired. In particular, "easy procedures for citizen participation and interest adjustment" are necessary for planning administration. (Ushijima, 2016)

## **Objective**

Under Japan's Administrative Procedure Law, there is presently no provision for administrative planning. In Japan, it was notably local governments who introduced the process of sharing information with residents, as in the case of the information disclosure system, before the national government, which did so only after this process had already been established in several municipalities. This research is aimed at investigating the ordinances passed by local governments in Japan. The study's aim is thus to contribute to the national government's efforts to further revise the Administrative Procedure Act.

## Survey

This study examines the ordinances passed by the Kanagawa Nagano Prefectures for their respective cities. Kanagawa Prefecture was the first local government to implement an information disclosure system in Japan; Suwa-City in Nagano Prefecture established an administrative plan for the regulation of the first administrative procedures in Japan. Towns and villages were excluded from the survey, as they do not have advanced information disclosure procedures.

These cities have established their own websites to provide administrative information. The survey was conducted from July to November 2017 by searching for ordinances and outlines on city websites.

The survey items were as follows:

- (1) Whether or not an administrative proceeding ordinance has been established. This ordinance is an arbitrary provision not mandated by the national government.
- (2) A form of provision concerning public comment.
- (3) Under the provision for public comment, whether or not administrative plans are also covered.
- (4) Under the provision for public comments, the timing of information sharing of the formulation of administrative plans.

## Results and Discussion

### Survey item (1)

19 cities in the Kanagawa Prefecture and 19 cities in the Nagano Prefecture were surveyed (Table 1). All of these cities have enacted an Administrative Procedure Ordinance. Of these, only Suwa-City, in Nagano Prefecture, included administrative plans for the application of the Administrative Procedure Ordinance (Table 2). Suwa-City had three articles that specialized solely on administrative plans in their Administrative Procedure Ordinance.

From these results, it was found that the majority of cities do not prescribe administrative plans in their administrative procedure ordinances. As such, Suwa-City is a very distinctive municipality. As administrative plans have not been stipulated in the national Administrative Procedure Act, many cities have been hesitant and have avoided administrative procedure ordinances. Administrative work becomes complicated when guaranteeing administrative plan procedure on the plan through an ordinance. It is thus to be appreciated that Suwa-City has stipulated that including administrative plan procedures in the Administrative Procedure Ordinance is challenging. However, this challenge has proven that the creation of such ordinances did not spread to other cities in Nagano Prefecture where Suwa-City is located and did not spread outside Nagano Prefecture, to the Kanagawa Prefecture.

Table 1. Number of cities in each prefecture surveyed.

	Kanagawa Prefecture	Nagano Prefecture
Number of cities	19	19

Table 2. Establishment of administrative procedure ordinances.

	Number of cities in Kanagawa	Number of cities in Nagano
Established	19	19
Regulations targeting administrative plans	0	1
Cannot found on the Web	0	0

### Survey items (2) and (3)

19 cities in Kanagawa Prefecture and 15 cities in Nagano Prefecture had ordinances and outlines describing public comment processes concerning administrative plans. Of these, ten cities in Kanagawa Prefecture and three cities in Nagano Prefecture stipulated the regulations in the ordinance. There were nine cities in Kanagawa Prefecture and 12 cities in Nagano Prefecture that stipulated an outline. Zero cities in Kanagawa Prefecture and four cities in Nagano Prefecture did not publish their regulations on the web (Table 3). With the exception of the four cities whose regulations could not be found on the web, the ordinances and outlines on public comment of all cities were targeted to administrative plans (Table 4).

From these results, it was revealed that there is a tendency to prescribe “regulations, guidelines, outline,” which is an internal rule where the mayor decides independently from the “ordinance” where the highest regulations are decided by the city council. If regulated by the ordinance, voting is necessary for revision, which the mayor cannot easily change. This means that citizen participation in an administration plan is guaranteed to be rigid. It was found that cities in Kanagawa Prefecture recognize the importance of the process of formulating and guaranteeing an administrative plan in a more substantial way than cities in Nagano.

The administrative plan was prescribed in Suwa-City’s administrative proceeding ordinance, but other cities prescribed the outline concerning the public comment in their ordinances. This suggests that the national government’s Administrative Procedure Act did not prescribe administrative plans, and the cities adopted a form consistent with the national government concerning the administrative procedure ordinances.

Public comment procedures are prescribed in the national Administrative Procedure Act, but in many cities, public comment procedures are not prescribed in administrative procedure ordinances, and separate ordinances or outlines have been established. Separating public comment procedures from the Administrative Procedure Ordinance allows for a wider scope of application than that given by the Administrative Procedure Ordinance, where administrative plans, etc. can be included in the scope of application.

The purpose of the Administrative Procedure Ordinance is “securing fairness and transparency in administrative management” and the purpose of the Public Comment Procedure Ordinance is “guarantee[ing]... citizen participation.” Many cities have revealed that procedures for formulating administrative plans are recognized as a

means of “guaranteeing citizen participation” rather than as a means for “securing fairness and transparency in administrative management.”

Table 3. Rules on public comment.

	Number of cities in Kanagawa	Number of cities in Nagano
Ordinance	10	3
Regulations / Guideline / Outline	9	12
Cannot found on the Web	0	4

Table 4. Rules on public comment and administrative plans.

	Number of cities in Kanagawa	Number of cities in Nagano
Having rules covering administrative plan	19	15
No rules covering administrative plan	0	0

#### Survey item (4)

In the majority of cities in Kanagawa and Nagano Prefectures, a public comment form based on a draft of the plan was used after the draft plan was completed. There were three cities that stipulated beginning the public comment process at the concept and examination stage, and before the formulation of the original plan (Table 5). Seven cities in the Kanagawa Prefecture and one city in Nagano Prefecture prescribed that the public comment process should be publicized in advance (Table 6).

From these results, as well as the national government’s public comment form, there are many provisions for cities to make public comments after a plan draft is formulated. It is impossible to make major corrections after a draft is formulated through the public comment form. Public comments that show drafts and implement them are advantageous in that post-processing can be simplified, but there are disadvantages such that it is difficult to aggregate citizens’ opinions. In public comment periods before the draft plan is formulated, information is shared with citizens at the conceptual stage, the concept is devised, and public comment is then incorporated into the draft.

Although seeking public comment at the concept stage means that it takes a long time to formulate a draft and this is disadvantageous, this practice has the advantage that the citizens’ opinions are more likely to be reflected in the plan.

Even if a public comment period is opened, it may end before citizens are aware of it. Every city had a public comment period of 30 days or more, but many cities allowed shortening of this period. In order to make public comment procedures work well, it is necessary to inform citizens that cities are requesting public comments. It was notable that cities in Kanagawa Prefecture focused on the importance of information sharing before public comment and emphasized information sharing.

Table 5. Rules on the timing of public comment periods.

	Number of cities in Kanagawa	Number of cities in Nagano
Beginning the public comment process after the formulation of the original plan	2	1
Beginning the public comment process before the formulation of the original plan	17	14

Table 6. Provisions to announce public comment periods.

	Number of cities in Kanagawa	Number of cities in Nagano
With announcement of public comment periods provision	7	1
Without announcement of public comment periods provision	12	14

## Conclusion

Below, based on the survey results of cities in two prefectures, the authors summarize several points to be considered when the national government revises the Administrative Procedure Act.

1) Many cities' ordinances other than the Administrative Procedure Ordinance: Whether public comment is considered an administrative management policy or a guarantee of public rights is a significant difference. Even though an administrative plan has no legal binding force, it has a politically binding force and remains part of a serious administrative act for citizens. First, applying administrative plans to the Administrative Procedure Act should be considered. Public comment has already been stipulated in the Administrative Procedure Act. Rather than prescribing public comment as a matter of citizens' rights, this process was stipulated as a means of ensuring the transparency of government administration. In some cities, this process is regulated as a matter of citizens' rights and a democratic process in relation to the national government. The government should, at a minimum, define administrative plans in the Administrative Procedure Act.

2) There were many cities that stipulated an administrative plan not in an ordinance but in an outline, etc.: An administrative plan is expected to be a rigid guarantee which is incorporated into an act such as the Administrative Procedure Act and is not a changeable outline based only on the judgment and decision-making of the chief executive officer.

3) Methods for easy participation: It should be stipulated that a public notice be made before the start of the public comment period and that sharing information must begin before the original version of the plan is formulated. In some cities, these are already institutionalized and running, so this is not an unfeasible action. This will prevent the public comment format from becoming overwhelming. In order to announce the public comment period in advance, it is necessary to carefully manage the planning process. The administration's administrative ability will be tried.

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