THE AUTHORITY OF THE ZONING ADMINISTRATOR

In recent years, much interest has centered around new zoning techniques -- planned unit developments, density bonuses, floating zones, conditional zoning, and the like. Less assuming, but equally important, are the changes taking place in the administration of zoning. The actions taken by several communities to transfer hearing, review, and decision-making responsibilities from lay bodies -- such as the zoning board of appeals and the planning commission -- to a professional zoning administrator are of particular significance.

There are two basic reasons for establishing the position of a zoning administrator. One is that zoning regulations are becoming increasingly more complex to administer. No longer is the zoning ordinance a self-executing statute. For example, the number of special uses, admissible in specific districts but only upon the discretionary grant of an application for a permit, has risen rapidly over the years. Greater flexibility has resulted in a correspondingly greater need for capable administrators to interpret ordinance provisions and grant building licenses to developers when all conditions are met. The need for a more professional approach to zoning administration has therefore led some communities to create the position of zoning administrator.

The second reason relates to the increasing volume of zoning cases. Some planning commissions and governing bodies find themselves spending an inordinate amount of time hearing and deciding zoning cases, many of them routine. To give the commissions more time to spend on policy decisions, minor zoning administrative matters are being delegated to a zoning administrator.

This report deals only with zoning administrators who have assumed some of the zoning functions formerly discharged by a zoning board of appeals, a planning commission, or a legislative body. In some communities there are persons called zoning administrators who handle routine functions such as record keeping, processing applications, and field inspections. Since they perform none of the zoning functions traditionally performed by lay bodies or the legislative body, they are not treated in this report.

The purpose of this report is simply to describe the powers and duties of zoning administrators in several communities that have pioneered this approach to zoning. No attempt is made to evaluate their performance or the powers granted to them. Six representative examples of zoning administrator arrangements are discussed: Fremont, California; Los Angeles, California; Pittsburgh, Pennsylvania; San Francisco, California; Baltimore County, Maryland; and Spokane County, Washington. The zoning administrator's authority is discussed with regard to variances, special and conditional uses, zoning map changes, and enforcement. Public hearing requirements and the procedure to appeal the zoning administrator's decision are also discussed. Finally, a summary table is reproduced.

POWERS

Potentially the zoning administrator can decide variances, special exceptions or conditional uses, and certain zoning amendments. In addition he can be given the responsibility to enforce the provisions of the ordinance both by granting or withholding necessary permits and by initiating and carrying through legal proceedings against existing uses. In the six cases reviewed, however, no individual zoning administrator was granted all of these powers. Moreover, differences exist in the procedures each zoning administrator must follow in the exercise of his powers and duties.

Variance

In five of the six ordinances reviewed, the zoning administrator is given the power to decide all variance cases on the basis of hardship. The excerpts from the Baltimore County and Los Angeles ordinances below are typical examples of the provisions.

The Zoning Commissioner of Baltimore County . . . shall have the power to grant variances from area and height regulations in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship.

(Baltimore County, Article 3, Section 307*)

Authority of the Administrator. A Zoning Administrator shall have the power and duty, to investigate and make a determination upon all applications for variances from any of the regulations and requirements of the zoning ordinances.

(Los Angeles, Article 2, Section 12.27B)

*Full citation of this and subsequent zoning ordinances quoted are listed alphabetically by city at the end of the report.
In both cases, the zoning administrator must evaluate conditions and determine whether strict enforcement of the ordinance would create unnecessary hardship. He is also given the authority to impose additional conditions required, in his judgment, by each specific case. All ordinances include this safeguard and the Los Angeles provision is typical of the language used.

In granting a variance a zoning administrator may impose such conditions as necessary to protect the public health, safety or welfare, and to assure compliance with the objectives of the master plan, in accordance with the purpose and intent of the zoning ordinance.

(Los Angeles, Article 2, Section 12.27 B1-d)

The Baltimore ordinance states that a variance applies only to height and area regulations, while the Los Angeles ordinance provides that a variance may be granted where exceptional circumstances are found. In the first case, the intent of the law is clearly stated and more narrowly drawn; in the second case, the zoning administrator is given greater latitude for interpretation.

Of the ordinances reviewed, only the Pittsburgh ordinance does not authorize the zoning administrator to decide variances on the basis of hardship.* This responsibility remains in the hands of the board of adjustment which has power "... to vary or adjust the strict application of the requirements of this ordinance ... where ... exceptional physical conditions not provided for in the district regulations ... would result in practical difficulty or unnecessary hardship."

(Pittsburgh, Article 29, Section 2901-2)

Special Exceptions and Conditional Uses

The authority of a zoning administrator to decide special exceptions and conditional uses varies. In some cases he decides all special uses; in others, he shares responsibility with the planning commission or the city council; in still others, he is given no powers. Examples of each have been found among the ordinances reviewed and are described below.

The most sweeping power is given to the Baltimore County zoning administrator. He decides all special exceptions and, in addition, determines the conditions which an applicant must meet to get a permit for a particular use.

The ordinance sets broad guidelines for the zoning administrator in deciding special exceptions.

*The zoning administrator does have the power to approve certain exceptions of height and area regulations. Church steeples, for example, along with structures necessary in the operated maintenance of a building, may exceed height provisions in the districts specified by the zoning ordinance after approval is granted by the zoning administrator. These provisions are covered in sections 2802 and 2803 of the Pittsburgh ordinance.
Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not:

a. Be detrimental to the health, safety, or general welfare of the locality involved;

b. Tend to create congestion in roads, streets or alleys therein;

c. Create a potential hazard from fire, panic, or other dangers;

d. Tend to overcrowd land and cause undue concentration of population;

e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;

f. Interfere with adequate light and air.

(Baltimore County, Article 5, Section 502.1)

The ordinance further gives the zoning administrator unspecified power to impose conditions for the protection of properties surrounding the special use in question.

In Spokane County, Washington, the zoning administrator also decides all special uses (listed in this case under the heading of conditional uses). Unlike Baltimore County, however, this ordinance specifies the conditions which apply to each use; in addition it lists the uses and the zones where they may be permitted. The conditions applying to retirement, convalescent, and nursing homes are representative of the ordinance provisions.

Retirement Home, Convalescent Home, and Nursing Home

A. Zones permitted: agricultural, agricultural suburban, suburban residential.

B. Conditional standards.

1. Minimum lot area: 3 acres.

2. Minimum width at the building line: 125 feet.

3. Minimum continuous frontage of public street: 100 feet.


5. Maximum lot coverage: 35 per cent.

6. Minimum setback distance: front yard--35 feet; rear yard--25 feet; side yard--25 feet. Structures and corner lots shall observe front yard setback on both streets.
7. One unlighted sign not to exceed six square feet in area.

(Spokane County, Section 4.24.040)

Another variation is found in Los Angeles where the zoning administrator is given more limited powers. He decides certain conditional uses, while the planning commission decides others.

The uses decided by the Los Angeles zoning administrator fall into two groups and are permitted only in zones specified by the ordinance. The first group includes such uses as hotels, motels, and auditoriums; the second group includes such uses as churches, golf courses, hospitals, and motion picture studios. In addition to specifying the zone in which uses may be permitted, the ordinance establishes general principles to guide the administrator in making his decisions. For the first group of uses the administrator can grant a permit if:

... he finds that the location is proper in relation to adjacent uses or the development of the community and to the various elements and objectives of the Master Plan, and that the use will not be materially detrimental to the character of the development in the immediate neighborhood.

(Los Angeles, Article 2, Section 12.24 Cl.5)

For the second group of uses, the administrator can grant a permit if:

... he finds that the proposed location will be desirable to the public convenience or welfare and will be in harmony with the various elements and objectives of the Master Plan.

(Los Angeles, Article 2, Sections 12.24 Cl and 12.24 Cl.5)

Conditional uses decided by the Los Angeles Planning Commission include airports, educational institutions, libraries, museums, and fire and police stations. In these cases, the ordinance specifies only uses permitted under the conditional use provisions, leaving the decision of the zone in which they may be developed to the discretion of the planning commission.

Like Los Angeles' zoning administrator, Fremont's administrator decides only certain conditional uses that are temporary, and not necessarily restricted to specific zones. These include real estate signs, circuses and carnivals, construction of yards, labor camps, and temporary tracts. The ordinance regulates each conditional use as illustrated by the provisions for circuses and carnivals.

A circus or carnival involving temporary assemblages of over 300 people may be permitted in any district, provided that access to such establishment shall be from a secondary or major thoroughfare, and provided further that such establishments are not located within 200 feet from any residential development. In any case a conditional use permit issued by the zoning administrator shall be required for all such uses.

(Fremont, Article 21, Section 8.22105)
For some uses, the Fremont ordinance specifies that certain additional conditions must be met. These conditions may be imposed by the administrator and may apply to "... location, design, siting, maintenance and operation ... necessary for the protection of adjacent property and in the public interest." (Article 25, Section 8.22502) In the case of construction yards, for example, the ordinance states that "... fencing may be required when the administrator deems it necessary."

The Pittsburgh zoning administrator also has jurisdiction over certain conditional uses. Unlike the procedure in Los Angeles and Fremont, the other conditional uses are decided by the city council on the recommendation of the planning commission.

The Pittsburgh ordinance specifies the zones in which conditional uses are permitted, and the conditions which must apply when conditional uses are decided by the zoning administrator. For example, gas stations are permitted in certain districts at the discretion of the administrator. The conditions which must be met are stated as follows:

Uses Which Are Permitted by the Administrator ...

(1) Automobile and Gasoline Service Stations. ... in "C2" and "M1" districts:

A. Shall not have gasoline pumps closer than 15 feet to the line of any street.

B. Shall not, within 35 feet of the line of any street, place any stand or rack or other paraphernalia, other than what is necessary for quick service to automobiles.

C. In addition to business signs located as permitted under Section 2502, may have a sign on and identifying the pumps.

D. Shall conduct such activities as car washing, waxing, and polishing or greasing, only within an enclosed building. . . ."

(Pittsburgh, Article 28, Section 2801.2)

Other conditional uses decided by the Pittsburgh zoning administrator are: automobile repair shops, funeral homes, and home offices.

In San Francisco, the power to grant or deny a special use is retained by the planning commission. The zoning administrator's function is limited to setting public hearings and reporting relevant factors to the commission after investigation. The role of the administrator in such cases is as follows:

"... the zoning administrator shall make necessary investigations and studies for a report upon the facts related thereto, which report shall be submitted at public hearing thereon by the planning commission. The zoning administrator shall set a reasonable time and place for the public hearing and shall give notice of the time,
place, and purpose of each such hearing in the same manner as provided for hearings on the reclassification of property in Section 305."

(San Francisco, Article 3, Section 303 (b))

Zoning Amendments

The authority to amend the zoning map or the text of a zoning ordinance is usually exercised by the local legislative body, acting upon the recommendation of the planning commission. In Baltimore County, however, the zoning administrator is given the power to decide petitions for changes in the zoning map or use classification for specific properties. Before deciding zoning changes, the zoning administrator is required to notify the planning director and to hold public hearings.

Whenever a petition is filed for a change in or reclassification of the use to which a particular piece of property is subject according to the appropriate zoning map in effect at the time, the matter shall be referred to the zoning commissioner in accordance with appropriate zoning regulations.

Upon receipt of such petition by the Zoning Commissioner, he shall promptly forward a copy of the same to the Director of Planning (or his Deputy) for his consideration and written report thereon containing his findings regarding pertinent planning factors.

A public hearing on such petition shall be held by the Zoning Commissioner not less than thirty nor more than sixty days after the filing thereof.

(Baltimore County, Article 5, Section 500.2 a, b and d)

The Baltimore experience is the exception. In San Francisco, the administrator neither interprets the law nor decides its application. Here the administrator investigates proposed amendments of zoning and reports his findings to the planning director. The ordinance states the extent and limitations of the administrator's duties as follows:

Amendments, Action. The Zoning Administrator shall make necessary studies and investigations of each such proposal and shall submit his findings thereon to the Director of Planning prior to the hearing. The Director of Planning shall submit his own report and recommendation at the hearing ... if, from the facts presented at the hearing, the planning commission finds that the public necessity, convenience or general welfare requires the proposed amendment or any part thereof, it shall approve such amendment or part and otherwise [sic] it shall disapprove the same.

(San Francisco, Article 3, Section 306)

In addition, it is the administrator's responsibility to set the time and place for hearings on zoning changes which are held by the planning commission.
Hearing. Upon the proposal of an amendment by the Board of Supervisors, the filing of an application for amendment, or the adoption of a resolution of intention by the planning commission, it shall be the duty of the Zoning Administrator to set a time and place for a hearing thereon before the Planning Commission.

(San Francisco, Article 3, Section 305 b)

Investigating each proposed zoning change is often time consuming and, under certain conditions, can interfere with other more important functions of the administrator. In Los Angeles, for example, the zoning administrator was originally delegated this responsibility. Now, however, he is not. The Los Angeles zoning administrator points out in this context that: "The tremendous increase in request for zoning changes resulting from urbanization of agriculturally zoned areas after the war coupled with other incidental problems so deluged the administrator that he could not . . . properly consider and analyze requests for changes of zone." (H. E. Smutz, "Is Zoning Wagging the Dog?"

Planning 1955, p. 111.)

Other localities have elected not to involve the zoning administrator in zoning changes. The choice of whether to add this responsibility to the office (as in Baltimore County), or to delegate only routine functions to it (as in San Francisco), depends in large measure on the needs and circumstances prevailing in the community.

Enforcement

Another important responsibility which may be assigned to the zoning administrator is the enforcement of the ordinance. In Baltimore County, the zoning administrator grants or denies building and occupancy permits, a responsibility usually handled by the building department.

All Applications to the Building Engineer for building permits shall be submitted to the Zoning Commissioner for approval by him as to Zoning before any permit shall be issued. Before approving any such application, the Zoning Commissioner shall satisfy himself that the application is in proper form and contains all necessary information, and that the proposed building or use of land, building, or structure, complies in all respects with the regulations then in effect with respect to zoning.

(Baltimore County, Article 5, Section 500.1)

He may also initiate court action against construction or alteration of structures in violation with the provisions of the ordinance. This provision is stated as follows:

... the Zoning Commissioner, or any person whose property is affected by any violation, including abutting and adjacent property owners, whether specially damaged or not may maintain an action in the Circuit Court for the County for an injunction enjoining the erection, construction, reconstruction, alteration, repair or
use of buildings, structures and land in violation of Zoning Regulations and restrictions adopted pursuant to these Regulations.

(Baltimore County, Article 5, Section 504)

The zoning administrator's enforcement powers, however, can be much greater, as illustrated by the San Francisco ordinance. The San Francisco zoning administrator is charged with carrying out enforcement policies established by the planning commission.

The San Francisco ordinance sets the basic guidelines and gives authority for the establishment of enforcement policies.

**Enforcement.** The Planning Commission shall have authority to establish from time to time such policies, rule and regulations, not in conflict with the Charter of the City, as it deems necessary to secure the proper administration and enforcement of this Code. It shall be the duty of the Zoning Administrator to comply herewith, and he shall make regular reports to the Commission through the Director of Planning concerning all applications received, and his disposal thereof and the reasons for his decisions.

(San Francisco, Article 3, Section 309)

Following the policy statement, the ordinance outlines the procedures which must be followed by the zoning administrator in enforcing the ordinance.

**Inspection of Premises.** In the performance of his duties, the Zoning Administrator and employees of the Department properly authorized to represent him shall have the right to enter any building or premises for the purposes of investigation and inspection.

**Co-operation With Other Departments.** The Zoning Administrator shall furnish to the various departments, officers or employees of the City vested with the duty of authority to issue permits or licenses such information as will insure the proper administration of this Code and of the rulings and determinations of the Department of City Planning relative thereto. It shall be the duty of said departments, officers and employees to co-operate with the Zoning Administrator in the performance of his duties. It shall be the duty of the Department of Public Health, Department of Public Works, Police Department, and the Fire Department to assist in the enforcement of the provisions of this Code.

**Methods of Enforcement.** The Zoning Administrator shall have the authority to implement the enforcement thereof by any of the following means:

1. He may serve notice requiring the removal of any use in violation of this Code upon the owner, agent, or tenant of the building or land, or upon the architect, builder, contractor or other person who commits or assists in any such violation;
2. He may call upon the District Attorney to institute any necessary legal proceedings to enforce the provisions of this Code, and the District Attorney is hereby authorized to institute appropriate actions to that end;

3. He may call upon the Chief of Police and his authorized agents to assist in the enforcement of this Code.

In addition to any of the foregoing remedies, the City Attorney may maintain an action for injunction to restrain or abatement to cause the correction or removal of any violation of this Code.

(San Francisco, Article 3, Section 309 b, c, and d)

The ordinance clearly states that the zoning administrator is required not only to withhold permits when applicable, but also to take steps to remove violations when they occur. The enforcement powers delegated to the zoning administrator are complemented by the cooperation of both the legal and police departments, which are necessary in meeting this specific provision of the ordinance.

The San Francisco experience is unique among the ordinances reviewed for this report and illustrates that considerable responsibility can be given to a zoning administrator for enforcement.

HEARINGS

With the exception of Pittsburgh, the zoning administrator in the ordinances reviewed not only decides variances and special exceptions or conditional uses but also conducts public hearings. Such hearings, however, are not always mandatory. In some ordinances they are optional, held at the discretion of the administrator; in others, they are either optional or mandatory depending on the specific circumstances.

**Mandatory Hearings**

Provisions for mandatory public hearings are illustrated by the Spokane County and San Francisco ordinances. In both cases hearings are always held before deciding either variances (except when the variation requested is minor) or conditional uses. The Spokane County ordinance states this requirement as follows:

Upon the filing of applications for conditional use permit or variation [sic] the board of adjustment [whose powers have now been transferred to the zoning adjuster] shall set the time and place for a public hearing on such matters.

(Spokane County, Section 4.25.040)
Administrative Exception. An administrative exception not to exceed one foot of any dimensional standard pertinent to front yard, side yard, rear yard, flanking street, and building line may be granted by administrative action of the Board of Adjustment without public hearing and without posting of public notices.

(Spokane County, Section 4.25.030)

In San Francisco, a public hearing on variances is also normally required. The ordinance states:

Hearings. Upon the filing of a verified application, the Zoning Administrator shall set a reasonable time not to exceed thirty (30) days thereafter for considering the same and shall give notice thereof to the applicant and may give notice to any other interested person. If the variance requested is solely for a modification of any regulation of this Code which is expressed by a number or in terms of a ratio, fraction or percentage, and involves a deviation from the expressed requirement of less than ten (10) per cent of such number, ratio, fraction or percentage, the determination of the Zoning Administrator may be made without holding a public hearing. In all other cases, a public hearing shall be held.

(San Francisco, Article 3, Section 302 (b))

The zoning administrator in San Francisco may also be delegated the power to hold hearings for conditional uses even though these uses are decided only by the planning commission. The ordinance states:

The Planning Commission may delegate to a committee of one or more of its members, or to the Zoning Administrator, the holding of the hearing required in (b). The delegate or delegates shall submit to the Commission a record of the hearing, together with a report of findings and recommendations relative thereto, for the consideration of the Commission in acting upon the authorization of the conditional use.

(San Francisco, Article 3, Section 304 (d))

In practice, however, because of time and staff limitations, hearings are held by the planning commission. The responsibility of the zoning administrator is usually limited to setting the time and place of hearings.

The Zoning Administrator shall set a reasonable time and place for the public hearing and shall give notice of the time, place and purpose of each such hearing in the same manner as provided for hearings on the reclassification of property in Section 305. A record of pertinent information presented at the public hearing shall be made and maintained as part of the permanent record relative to the application.

(San Francisco, Article 3, Section 304 (b))
Optional Hearings

When the ordinance specifies conditional uses, the zones in which they may be permitted, and the conditions for granting permits, then a mandatory public hearing requirement may be unnecessary. As an example, the Baltimore County ordinance, which originally required hearings for special exceptions, was amended in 1960 dropping this requirement. The original provision stated:

In cases of petitions for Special Exceptions under Section 502 of these regulations, the Zoning Commissioner shall receive such petitions in such form as he may prescribe. He shall hold a public hearing thereon after giving public notice of such hearing as above provided with respect to petition for reclassification. After such a hearing he shall pass his Order granting or refusing such Special Exception.

(Baltimore County, Article 5, Section 500.5)

Now the only requirement is that the administrator grant a special exception when it is in harmony with the general purposes and intent of the zoning regulations. The revised section states:

Authority of Zoning Commissioner to Provide for Special Exceptions and Variances. Subject to the appropriate principles, standards, rules, conditions and safeguards as set forth in the zoning regulations, the Zoning Commissioner may grant variances from area and height regulations and may make Special Exceptions to the zoning regulations in harmony with their general purposes and intent; provided that the issuance of all such Special Exceptions and Variations shall be subject to appropriate principles, standards, rules, conditions and safeguards set forth in the zoning regulations.

(Baltimore County, Article 5, Section 500.5)

While public hearings in Baltimore County are no longer mandatory in deciding special exceptions they are required in variance cases.

Before granting any such variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification.

(Baltimore County, Article 3, Section 307)

In Los Angeles the situation is reversed. Here the zoning administrator is required to hold public hearings when deciding conditional uses (in all but one case), but in the case of variances hearings are optional. The provisions of the ordinance are stated as follows:

Hearing--Date--Notice. Upon the filing of such application, the matter shall be set for hearing; except that in the case of an application to drill temporary geological exploratory core holes a Zoning Administrator may determine the matter without the
necessity of setting it for hearing if he finds that a hearing is not necessary to protect the rights of the public.

(Los Angeles, Article 2, Section 12.24)

Determination—Hearing. Upon the filing of a verified application, the Administrator to whom it is assigned shall investigate the matter and make his decision thereon as expeditiously as is possible. If necessary, the Zoning Administrator to whom the matter is assigned may set it for hearing and shall give notice thereof to the applicant and other interested parties, including the owners of surrounding property.

(Los Angeles, Article 2, Section 12.27 B)

In Fremont, the zoning administrator decides all variances and certain conditional uses and is generally not required to hold public hearings. With regard to variances the ordinance states in part:

No formal public hearing need be held, provided that the zoning administrator may order such a public hearing if it is deemed to be necessary in the public interest.

(Fremont, Article 29, Section 8-22904)

The ordinance does state, however, that application for variances shall be acted upon by the zoning administrator after a hearing between the administrators and the applicant, giving the applicant the right to present "... statements, evidence and witnesses in support of his application."

Public hearings are optional for conditional uses decided by the administrator, except in one case. The ordinance simply states that public hearings are "not required generally ... Except as otherwise provided ..." (Fremont, Article 25, Section 8-22506). This single exception applies to the sale of alcoholic beverages. The ordinance indicates that "... the granting authority, before granting any conditional use permit which includes permission to conduct any use contemplating sale of alcoholic beverages for consumption on the premises, shall hold public hearings ..." (Section 8.22506.3). However, the zoning administrator does have the power to hold public hearings if he considers them necessary. The ordinance states: "A public hearing may be ordered, ... [when] the granting authority deems it ... necessary in the public interests." (Section 8.22506 (c)). (The term "granting authority" is used here since, as it was pointed out, conditional uses are decided by both the administrator and the planning commission.)

The Pittsburgh ordinance is the only example where the administrator has jurisdiction over certain conditional uses, but has no powers to hold hearings. However, as we have seen, his powers are limited to specific uses in clearly specified zones. This ordinance does make hearings mandatory for zoning decisions made by the board of adjustments which decides both variances and special exceptions.

In Pittsburgh, hearings on conditional uses are held by the planning commission which reports its findings to the city council.
APPEALS

All ordinances include provisions for appeals from administrative decisions. The actual procedure for appeals is a routine matter, similar in most ordinances, and generally based on alleged error on the part of the administrator's decision. An application in writing is usually required where the reasons for the appeal are stated. The application must be filed within a specified period of time ranging anywhere from 10 to 60 days from the time of the decision by the administrator.

The actual power to hear appeals can be vested in the legislative body, the zoning board, or the planning commission. Usually, however, appeals are heard by a zoning board.

Appeals of Variances

The most common arrangement is for the board of appeals to hear appeals from variance decisions of the zoning administrator. Spokane County, Baltimore County, and Los Angeles follow this procedure. The provision in the Spokane ordinance can be used as an illustration.

[The board of adjustment, subject to appropriate conditions and safeguards as provided by this title, shall hear and decide: appeals] where it is alleged by the applicant that there is error in any order, requirement, permit, decision or determination made by the administrative official in the administration or enforcement of this title.

(Spokane County, Section 4.25.030)

The provisions in the Baltimore County ordinance are similar to those of Spokane County. In Los Angeles, however, where the board hears appeals for all variances but not for all conditional uses, its powers are more specifically identified.

Authority of the Board. The board shall have and exercise the following powers . . . hear and determine appeals from the rulings, decisions, and determinations of a zoning administrator granting or denying applications for variances from any rule, regulation, restriction or requirement of this chapter.

(Los Angeles, Article 2, Section 12.28)

Appeals from the administrator's decision on variances in Fremont are heard by the planning commission. In order to provide for legislative review, the ordinance also states that such appeals may be heard by the city council.

Appeals of Special Exceptions and Conditional Uses

Administrative decisions of special exceptions and conditional uses are usually appealed to the zoning boards. Specific reference to this power, as it applies to special exceptions in Baltimore County, is as follows:
Special exceptions are permitted only if granted by the zoning commissioner, and subject to an appeal to the Board of Zoning Appeal [now known as the County Board of Appeals].

(Baltimore County, Article 5, Section 500.2)

Another approach is used in Fremont where the zoning administrator's decisions are appealed to the planning commission. The ordinance states this provision as follows:

A determination of the zoning administrator with respect to a conditional use permit is appealable to the planning commission, upon written request for a hearing before the commission . . . In the absence of such a request being filed within 7 days after determination of the zoning administrator, such determination is final.

(Fremont, Article 25, Section 8-22509)

Appeals of Zoning Amendments

In most cases the zoning administrator is not involved in zoning map changes or reclassification of uses. Where he does have this responsibility, as in Baltimore County, appeals procedures for zoning changes are similar to those which apply to other administrative decisions. In Baltimore County, the county board of appeals hears these appeals along with variances and special exceptions.

CONCLUSION

A major problem in the effective application of land-use controls is the reluctance to recognize the need for the trained technician. Professionalization of the administrative function in zoning, as reflected in the use of zoning administrators who assume certain functions of the lay boards, is a sign that the situation is changing for the better.

This report brings together the experience of six communities which have given the power to make zoning decisions to a professionally competent zoning administrator. Their experiences, tempered by local conditions and requirements, should prove useful to other communities interested in this approach.
## APPENDIX

**SUMMARY OF ZONING ADMINISTRATOR’S POWERS IN SELECTED POLITICAL UNITS**

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<tr>
<th>Jurisdiction and Method of Appointment</th>
<th>Variances</th>
<th>Conditional Uses and Special Uses</th>
<th>Zoning Changes</th>
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<td><strong>Baltimore Co., Md.</strong></td>
<td>Holds public hearings and decides all variances</td>
<td>Holds public hearings and decides all special exceptions</td>
<td>Holds public hearings; may grant changes or reclassification for particular properties</td>
<td>Initiates legal proceedings against violations and controls permits applications</td>
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<td><strong>Fremont, Calif.</strong></td>
<td>Holds public hearings and decides all variances</td>
<td>Holds public hearings and decides certain conditional uses</td>
<td>No power</td>
<td>No power</td>
</tr>
<tr>
<td><strong>Los Angeles, Calif.</strong></td>
<td>Holds public hearings and decides all variances</td>
<td>Holds public hearings and decides certain conditional uses</td>
<td>No power</td>
<td>No power</td>
</tr>
<tr>
<td><strong>Pittsburgh, Pa.</strong></td>
<td>No power; variances are decided by the Board of Adjustment</td>
<td>Decides only certain conditional uses</td>
<td>No power</td>
<td>No power</td>
</tr>
<tr>
<td><strong>San Francisco, Calif.</strong></td>
<td>Holds public hearings and decides all variances</td>
<td>Investigates and reports relative facts to the planning commission; sets public hearings but makes no decisions</td>
<td>Investigates and reports finding to the director of planning; makes no decisions</td>
<td>Requires removal of use violations; initiates legal proceedings against violations; controls permits and licenses applications</td>
</tr>
<tr>
<td><strong>Spokane Co., Wash.</strong></td>
<td>Holds public hearings; decides all variances</td>
<td>Holds public hearings and decides all conditional uses</td>
<td>No power</td>
<td>Controls applications for building permits</td>
</tr>
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*a Formal public hearings are optional.

*b Public hearings are mandatory except for minor exceptions (see text pp. 10 and 11 for variances and pp. 12 and 13 for conditional uses).

*c Public hearings are mandatory.

*d The Los Angeles zoning administrator decides two groups of conditional uses. Some of the uses in the first group include: Section 12.24-C.1 -- apartment hotels, hotels, and motels; auditoriums, stadiums, arenas with seating capacity of more than 3,000 people; circuses; correctional institutions; dairies; drive-in theaters; commercial golf courses; community centers; funeral homes; nurseries; private clubs; private nursery schools, day-care homes; public parking; radio and television transmitters; temporary storage of wrecked autos; trailer parks. Uses in the second group include: Section 12.24-C.1.5 -- churches; elementary and high schools; golf courses, hospitals; motion picture studios.

*e Some of the conditional uses decided by the Pittsburgh zoning administrator include the following: Section 2002-28 -- agricultural uses; auto repair shops; central utility buildings; community garage or parking areas; funeral homes; gas stations; home offices; major parking areas; newspaper publishing; radio and television towers; temporary structures on real estate tracts; water tanks.

The San Francisco planning commission may delegate to a committee of two or more of its members or to the zoning administrator the authority to hold required hearings.

*f Zoning changes are decided by the planning commission after public hearings; decisions are appealed to the city council.

*g Approval of zoning changes are recommended by the planning commission to the city council in Pittsburgh and to the board of supervisors in San Francisco after public hearings. Denial of zoning changes are decided by the planning commission.

*h Zoning changes are recommended by the planning commission to the board of county commissioners after public hearings.

*i In case of zoning violations, the city council instructs, the city attorney to initiate legal proceedings.

The department of building and safety exercises enforcement through the control of building permits.

The bureau of building inspection enforces the provisions of the ordinance. The zoning administrator maintains records of zoning compliance necessary for enforcement.
REFERENCES


Zoning Ordinances Quoted

Baltimore County Zoning Regulations, Adopted by the County Commissioners of Baltimore County, Maryland, as amended to March 1962.

City of Fremont Zoning Ordinance, Fremont, California Municipal Code, Chapter II, Title VIII, as amended to June 1964.


Zoning Ordinance, City of Pittsburgh, Pennsylvania, as amended to November 1966. Copies available at the Office of the City Clerk, 510 City-County Building, Pittsburgh, Pennsylvania 15219. $2.50.


Zoning Ordinance Spokane County, Washington, as amended to January 1965.