

JACKSONVILLE ENVIRONMENTAL PROTECTION BOARD

RULE 1 ORGANIZATION PROCEDURE AND PRACTICE

Amendments:

1. Ordinance 85-1295-690, amended November 12, 1985
2. Ordinance 89-1235-597, amended December 12, 1989
3. Ordinance 91-193-80, amended March 26, 1991
4. Ordinance 91-902-417, amended October 8, 1991

February 28, 2003

**FINAL RULE WITH RESPECT
TO
ORGANIZATION PROCEDURE AND PRACTICE
RULE 1**

PART I - DESCRIPTION OF ORGANIZATION

PART II - BOARD PROCEEDINGS - RULE MAKING

PART III - BOARD PROCEEDINGS - IMPLEMENTATION AND ATTAINMENT PLANS

PART IV - BOARD PROCEEDINGS - ENFORCEMENT

PART V - BOARD PROCEEDINGS - DECLARATORY STATEMENTS

PART VI - SCHEDULING OF MEETINGS & WORKSHOPS

PART VII - FEES AND COLLECTION OF FEES

PART VIII - INVESTIGATIONS - RIGHT OF ENTRY

PART IX - BOARD PROCEDURES - COMPLIANCE PLANS

PART X - BOARD PROCEEDINGS - VARIANCES

PART XI - PROCEDURE FOR FILING AND VERIFYING CITIZEN ODOR COMPLAINTS

**JACKSONVILLE ENVIRONMENTAL PROTECTION BOARD
RULE 1
ORGANIZATION PROCEDURE AND PRACTICE**

**PART I
DESCRIPTION OF ORGANIZATION**

1.101 Definitions. As used throughout these rules:

- A. Board means the Environmental Protection Board.
- B. City means the City of Jacksonville, Florida.
- C. Council means the City Council of Jacksonville, Florida.
- D. Department means the Regulatory and Environmental Services Department (RESA).
- E. Director means the Director of the Department.
- F. AQD means Air Quality Division.
- G. WQD means Water Quality Division.
- H. Environmental Ordinance or any reference to Chapters 360, 362, 368 and 376, Ordinance Code means ordinance No. 84-674-684, No. 85-1295-690, 88-117-123, 89-1235-597, 91-193-80, and 91-902-417 to be Codified as Chapters 360, 362, 368 and 376, Ordinance Code.
- I. Ordinance Code means the City's official codification of ordinances.
- J. Staff means Department acting under supervision of the Director of the Regulatory and Environmental Services Department.

Specific Authority, Section 100.201, Ordinance Code. Law Implemented, Section 100.201, Ordinance Code.

1.102 Board Description

- A. The Board is created pursuant to Chapter 73, Ordinance Code. In addition to its power and duties therein specified, the Board is charged with the responsibility of adopting and enforcing rules to implement environmental health and quality, as provided in Chapter 360, Ordinance Code (Environmental Regulation); Chapter 362, Ordinance Code (Air and Water Pollution); Chapter 366 Groundwater Resource Management, Chapter 368, Ordinance Code (Noise Control) and Chapter 376, Ordinance Code (Odor Control).

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Secs.100.201 and 360.107, Ordinance Code.

- B. The Department is an administrative unit of the City, created pursuant to Chapter 26, Ordinance Code. The Department is headed by a Director and is composed of five (5) divisions, including the Air Quality Division and the Water Quality Division. The Director, in addition to functions specified in Chapter 26, Ordinance Code is charged, pursuant to Section 360.106, Ordinance Code, with the administration of Chapters 360, 362, 366, 368 and 376, Ordinance Code; with the administration of rules promulgated by the Board to implement those chapters; and is required to make regular reports to the Board.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Secs. 100.201 and 360.106, Ordinance Code.

- C. The WQD and AQD are an integral part of the Department, created by Section 26.401 and 26.501 Ordinance Code respectively. Headed by Division Chiefs, they have the general responsibility for the enforcement of air and water pollution laws and regulations. In addition to those functions, specified in Section 26.401, Ordinance Code, the Department is charged, by Section 362.103, Ordinance Code, with the responsibility to control and prohibit air and water pollution in accordance with rules adopted by the Board. As an integral part of the Department, the WQD and AQD are duly authorized representatives of the Director and provide staff assistance in the administration of Chapter 360, 362, 366, 368 and 376, Ordinance Code and of Board rules promulgated to implement those chapters.

Specific Authority Sec.100.201, Ordinance Code. Law Implemented Secs. 100.201 and 360.108, Ordinance Code.

1.103 Address, Office Hours, Public Access, Meetings

- A. General - The Board staff has regular office hours as outlined below. Its address is:

Environmental Protection Board
421 West Church Street, Suite 412
Jacksonville, Florida 32202
The telephone number is (904) 630-3666

The Department maintains regular office hours from 8:00 a.m. to 5:00 p.m., daily except for Saturdays, Sundays and legal holidays. Information or requests for copies of rules, orders, publications or other documents, issued by the Board, may be viewed or obtained, by the public at the above address.

Specific Authority Sec. 100.210, Ordinance Code. Law Implemented Sec. 100.201, Ordinance Code.

B. Meetings - Regular, Special, Emergency:

1. The Board conducts regularly scheduled meetings to conduct normal business and routine agendas on the second Monday of each month commencing at 5:00 p.m. If such second Monday is a holiday recognized by the City, the Board shall establish a new meeting date at the preceding monthly meeting.
2. The Board may schedule special meetings from time to time in order to consider one or more specific agenda items when urgency or expectations of discussion precludes inclusion in a regular meeting. Notice of special meetings will be mailed to interested persons by using mailing lists maintained by the Board staff.
3. The Chairman, on his own initiative or upon the direction of the Mayor, may convene an emergency session in the event of a major episode, disaster or in accordance with an emergency plan.
4. Usually, meetings whether regular, special or emergency session shall be held in the auditorium of the Public Health Center, 515 West 6th Street, Jacksonville, Florida, and are open to the public. However, the Board from time to time holds its meetings at various parts of the City, in order to obtain information from specific locations and areas.
5. All persons affected by actions of the Environmental Protection Board and members of the general public are invited to be heard at meetings listed in Subsection 1 - 4 above.

All presentations by affected persons or members of the general public are limited to ten (10) minutes in length unless otherwise directed at the discretion of the Chairman.

Specified Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201, Ordinance Code.

1.104 General Description of Board Organization and Operations

- A. General - The Board is established as a rulemaking, enforcement body and hearing platform in environmental matters. The Board has specific delegated duties, responsibilities and powers with respect to rule making to implement and enforce City ordinances concerned with environmental regulation, air and water pollution, noise and odor control and groundwater resource management, in accordance with the provisions of Chapters 360,362,368, 376 and 366 of the Ordinance Code. The nine members of the Board are appointed by the Mayor and Council to serve for four (4) years without pay (except for incidental expenses). The membership of the Board is described in Section 73.101, Ordinance Code, as amended. The provisions of which are incorporated herein by reference, as if they were reproduced in their entirety.

Specific Authority, Sec.100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

- B. Chairman - The Chairman is the presiding officer of the Board and shall, on behalf of the Board provide policy guidance. The Chairman of the Board will also preside as Chairman of the Steering Committee. The Chairman shall approve the agenda for each meeting and calendar for each hearing and may order items deleted from or added to the agenda as he considers necessary to expedite the Board's business. He shall sign all orders, resolutions, letters and other instruments enacted by the Board. He shall administer all necessary oaths at hearings at which he is presiding and shall request subpoena authority from City Council as necessary. The Chairman shall appoint other Board members to standing committees, except that the Vice Chairman shall be elected by majority vote of Board members at the regular September Board meeting to serve for a period of two (2) years commencing on October 1st following the election.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

- C. Vice Chairman - The Vice Chairman shall preside at meetings and hearings of the Board in the absence of the Chairman and, in case of incapacity or prolonged absence of the Chairman, perform other duties of the Chairman. In the event of the death, resignation or removal of the Chairman, the Vice Chairman shall become Chairman for the unexpired term thereof; the Board shall proceed at its next meeting to elect a Vice Chairman for the unexpired term thereof. The Vice Chairman shall be a permanent member of the Steering Committee. The Vice Chairman shall normally be elected by majority vote of Board members at the regular September Board meeting to serve for a period of two (2) years commencing on October 1st following the election.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

- D. Members - Board members are appointed as noted in Section 73.101, Ordinance Code and are subject to these procedures. Members are appointed to committees by the Chairman and may be given assignments by the Chairman or by a Committee Chairman.
- E. Counsel - The Counsel is a lawyer assigned to the Board by the Office of General Counsel. He is staff to the Board and provides legal opinions and interpretations and such other works as directed by the Chairman. He assists in the preparation of rules and regulations, ordinances, resolutions and other documents originated by the Board. He advises the Board on procedures for meetings, hearings and sessions. He is not a Board member and is not entitled to vote on issues before the Board. The Counsel is not required to be present at regular or special Board meetings or hearings unless his presence is specifically requested by the Chairman.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

F. Staff - The Board's staff is comprised of the Environmental Protection Board Program Manager and Secretary. The Department staff, under supervision of its Director shall handle assignments from the Chairman related to environmental matters. These assignments include but are not limited to development of information and provision of technical expertise in the drafting of rules to implement all Environmental Laws and Regulations contained in the Ordinance Code; assistance in proposing and enforcing such rules and ordinances; input into implementation, attainment and compliance plans, as may be required by ordinance; enforcement of such attainment or compliance plans; assistance in any investigations, monitoring, surveys, testing and information gathering as permitted by ordinance; and assistance in any emergency proceeding involving violation of air, water, noise or odor regulations. Assignments to the Department staff will be made in care of the Director.

Specific Authority, Sec. 100.210, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

G. Standing Committees - The Board may, by majority vote, establish one or more standing committees. The following are the standing committees of the Environmental Protection Board:

- | | |
|-------------------------------|-----------------|
| Steering Committee | Land Committee |
| Air Committee | Odor Committee |
| Water Committee | Noise Committee |
| Hazardous Materials Committee | |

1. Steering Committee (SC) - The SC is composed of the Chairman of the Board who is also designated Chairman of the SC, the Vice Chairman of the Board, the Deputy Director and such other members as may be appointed on a temporary basis by the Chairman. The Department personnel assigned by the Director or Division Chiefs on a need basis shall be present at SC meetings. The Department Information Specialist, EPB Program Manager and Board Legal Counsel shall be in regular attendance.

The Steering Committee (SC) reviews other Committee's work and develops the agenda for regular meetings and the calendar for hearings. The SC develops special studies, projects and reports, then submits them to the Board. The SC monitors attendance and audits Board funds. The SC develops internal policy and procedures, objectives, goals and policy for approval by the Board. SC meetings are conducted informally, but are open to the public.

2. Air Committee (AC) - The AC is composed of a Chairman (AC) and one or more other members appointed by the Chairman of the Board. The Committee will meet at the discretion of the Chairman with due advance notice. In enforcement compliance proceedings, filed with the Board, the AC reviews the status but not the merits of all cases in every aspect of air pollution.

3. Water Committee (WC) - The WC is composed of a Chairman (WC) and one or more other members appointed by the Chairman of the Board.

The Committee will meet at the discretion of the Chairman with due advance notice. In enforcement complaint proceedings, filed with the Board, the WC reviews the status but not the merits of all cases in every aspect of water pollution and conservation.

4. Land Committee (LC) - The LC is composed of a Chairman (LC) and one or more other members appointed by the Chairman of the Board. The Committee will meet at the discretion of the Chairman with due advance notice. In complaint proceedings, filed with the Board, the LC reviews the status but not the merits on all matters concerning the Nuisance Abatement Activity operations, agenda items and violations relating to solid waste management and disposal, mobile home site sanitary conditions, abandoned cemeteries, political sign removals and other subject matters as assigned by the Board.
 5. Odor Committee (OC) - The OC is composed of a Chairman and one or more other members appointed by the Chairman of the Board. In complaint proceedings, filed with the Board, the OC reviews only the status and not the merits of all cases in every aspect of odor control. The Committee will meet at the discretion of the Chairman with due advance notice.
 6. Noise Committee (NC) - The NC is composed of a Chairman and one or more other members appointed by the Chairman of the Board. The committee will meet at the discretion of the Chairman with due advance notice. In Complaint proceedings, filed with the Board, the NC reviews the status but not the merits of all cases in every aspect of noise pollution.
 7. Sub-Committee - The Chairmen of the standing committees may establish sub-committees for special investigations, surveys, or studies to be conducted for fact finding and informational purposes for their respective committee deliberations. Sub-committees are normally to be assigned on an ad hoc basis.
- H. Special Committees - The Chairman may establish ad hoc special committees for special investigation, surveys or studies to be conducted for fact finding and informational purposes for the Board. Such committees will not be Standing Committees. Such committees are appropriate when the subject matter is not clearly assignable to one Standing Committee.

Specific Authority - Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201, Ordinance Code.

- I. Public Access To Committees. The public is invited and urged to attend any committee meeting in which it has interest.

Specific Authority - Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201, Ordinance Code.

PART II
BOARD PROCEEDINGS - RULE MAKING

- 1.201 General - Proceedings held by the Board for the adoption, amendment or repeal of rules shall be conducted according to the provisions of this rule part and Part 2, Chapter 100, Ordinance Code, §100.202 through and including §100.217.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Ch. 100.201, Ordinance Code.

- 1.202 Incorporation of Part 2, Chapter 100, Ordinance Code as Rule Making Rules.

The provisions of Section 100.202 through and including Section 100.217, Ordinance Code shall become rules of the Board and are incorporated herein by reference as though they were reproduced in their entirety. For purposes of hearing requests in Section 100.205 Ordinance Code, and for the submission of public comments and/or proposals, in Section 100.207 (a), Ordinance Code, specified due dates are determined to be the dates documents are received by the Board's staff and not the date of deposit in the mail. For purposes of notice of intended rule making, pursuant to Section 100.204, Ordinance Code, publication shall also be made in a newspaper of general circulation in the City.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.202 through Sec. 100.217, Ordinance Code.

- 1.203 Rule Hearing

A public hearing will be required prior to Board action regarding adoption, amendment or repeal of rules not dealing exclusively with organization, procedure or practice. Notice of such public hearing shall be published in accordance with the provisions of Section 100.207 (b), Ordinance Code, and in a newspaper of general circulation in the City. Copies of proposed rules shall be made available to the public at the Office of the Environmental Protection Board.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Sec. 100.207(b), Ordinance Code.

- 1.204 Conduct of Public Rulemaking Hearings

A. A public hearing will be called to order by the presiding officer, who will then cause the public notice and an agenda of the hearing be read. After the agenda is read, the staff or proponent of a rule shall make a presentation which includes, but is not limited to:

1. Reasons and needs for proposed rules;
2. Statistical substantiating evidence of needs;
3. Comparisons with other municipalities;
4. Detailed explanation of proposed rules;

5. Written comments on proposed rules;

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.207(b), Ordinance Code.

- B. The staff presentation will be followed by other formal presentations as appropriate.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.207(b), Ordinance Code.

- C. The presiding officer will then recognize those persons of the general public who wish to be heard either for or against the proposed rule. Where several persons are from the same area, group or organization they will select a spokesperson to present views of the group.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.207(b), Ordinance Code.

- D. At the conclusion of the public presentation, the proponent of the rule may address any areas of concern expressed the public participants, for purposes of rebuttal or clarification.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.207(b), Ordinance Code.

- E. At the conclusion of all presentations, the Board may vote to adopt, deny or return the intended rules to Department staff for further development. In the alternative and in its discretion, the Board may defer action on an intended rule until a subsequent meeting, the date for which shall be set pursuant to subpart 1.205 below.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.207(b), Ordinance Code.

- F. The Board's secretary shall cause all public rulemaking hearing to be recorded by tape, which will be made available for record purposes.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.207(b), Ordinance Code.

1.205 Formulation of Final Rules

If the Board votes to adopt a rule immediately after the conclusion of all presentations, promulgation shall proceed pursuant to Subpart F below. However, if the Board defers action, the Board's decision on whether or not to formulate final rules shall be made at either its next regular meeting; or at a special meeting to be held at a date agreeable to a majority of the Board Members. The meeting at which the Board makes its decision will be open to the public. However, it will not be a hearing for the receipt of comments, proposals or other information on the rules. At that meeting, for voting purposes, the Board may discuss among its own membership only, the rules under consideration. Concurrent with the decision on whether or not to formulate final rules, the Board shall issue findings and reasons for its action.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.213(b), Ordinance Code.

1.206 Promulgation of Final Rules

The Board shall cause final rules to be filed with the Secretary to the City Council for publication. A rule is adopted when it is so filed. The EPB Staff shall also cause a notice of final rules, in the same format as the required by Section 100.204, Ordinance Code to be published in a newspaper of general circulation in the City. However, the rule making proceeding is closed to further comments, proposals or hearings.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.213, Ordinance Code.

1.207 Effective Date of Final Rule

A final rule shall become effective 20 days after filing with the Secretary to the City Council.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.213, Ordinance Code.

1.208 Withdrawal of Rules

The Board may withdraw a proposed rule at any time before its is filed with the Secretary to the City Council. Withdrawal may be temporary or permanent. A notice of withdrawal shall be published.

- A. Temporary Withdrawal - A rule that is temporarily withdrawn may be reconsidered by the Board and a final rule may be promulgated subject to public comments and hearings.
- B. Permanent Withdrawal - A rule that is permanently withdrawn constitutes final Board action.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.213, Ordinance Code.

PART III
BOARD PROCEEDINGS - IMPLEMENTATION AND ATTAINMENT PLANS

1.301 Implementation Plan

The provisions contained in Section 360.201, Ordinance Code will become rules of the Board. These provisions are incorporated herein by reference, as if they were reproduced in their entirety.

Specific Authority Sec. 100.201 and Sec. 360.201, Ordinance Code. Law Implemented Sec. 100.201 and Sec. 360.201, Ordinance Code.

- A. Advisory Committee - The Board may establish advisory committees to assist the Board in the preparation of an implementation plan. The advisory committee(s) shall be ad hoc in nature and shall exist for the sole purpose of advising the Board on the matter of implementation. The advisory committee(s) as to number, categories and qualifications of membership shall be determined by the Board, pursuant to the requirements of Section 360.201(b), Ordinance Code.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201 and Sec. 360.201(b), Ordinance Code.

- B. Selection and Term of Advisory Committee - Members of the Implementation Plan Advisory Committee shall be nominated by the members of the Board and shall be selected by a majority vote of the Board as a collegial body. The Advisory Committee shall serve at the pleasure of the Board.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Sec. 360.201(b), Ordinance Code.

1.302 Attainments Plans.

The provisions of Section 360.202 through and including Section 360.204, Ordinance Code will become rules of the Board. Those provisions are incorporated herein by reference as though they were reproduced in their entirety.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Secs. 360.202 through 360.204, Ordinance Code.

- A. Advisory Committee - The Board may establish an Advisory Committee to assist the Board in the formulation of attainment plans. The Attainment Plan Advisory Committee shall be ad hoc in nature and shall exist for the sole purpose of advising on attainment of environmental quality. The Attainment Plan Advisory Committee, as to number, categories and qualifications for membership shall be determined by the Board pursuant to the composition as the Implementation Plan Advisory Committee, and shall be subject to requirements of Section 360.201(b).

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Secs. 360.202 through 360.204, Ordinance Code.

- B. Selection and Term of Advisory Committee. The members of the Attainment Plan Advisory Committee shall be nominated by the Board, and shall be selected by a majority vote of the Board as a collegial body. The Attainment Plan Advisory Committee shall serve at the pleasure of the Board.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Sec. 360.202(c), Ordinance Code.

1.303 Hearing on Implementation and Attainment Plans

Notice, convocation and conduct of public hearings relative to implementation and attainment plans shall take the same form and procedure and public hearings for Board rule making.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Sec. 360.201(b), Ordinance Code.

**PART IV
BOARD PROCEEDINGS - ENFORCEMENT**

1.401 Citations, Complaints and Hearings - Incorporation of Sections 360.401 Through 360.505, Ordinance Code.

- A. The provisions relating to enforcement as they appear in Section 360.401 through and including Section 360.505, Ordinance Code will be rules of the Board and are incorporated herein by reference as though they were reproduced in their entirety.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201 and Sec. 360.401 through 360.505, Ordinance Code.

- B. In addition to the specific provisions of Section 360.401, et seq Ordinance Code, a citation may be generated by the Department as a result of routine inspections and investigations or by complaint filed by another person. Said other person's complaint shall be filed in writing with the Department and shall conform to the requirements of Sec. 360.402 (a) and (b).
- C. In all instances involving complaints from other persons, the Department shall cause an appropriate investigation to be made into the alleged charges. If the investigation discloses sufficient evidence that a violation is being committed then, and in such event appropriate enforcement action shall be commenced.
- D. Prior to the issuance of a citation, the Department may cause notices to correct to be issued. Prior to complaints being filed with the Board, the Department may cause warning letters to be issued.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201 and Sec. 360.402(a) and (b), Ordinance Code.

1.402 Enforcement Hearings

In addition to the provisions of Sections 360.403 and 360.404, Ordinance Code, enforcement hearings shall be open to the public and conducted as follows.

- A. Burden of Proof - The burden of proof for establishing a violation rests with the complainant.
- B. Order of presentation at all enforcement hearings. The presentation of evidence shall take the following order:
 - 1. The complainant's case in chief shall be presented first.
 - 2. The respondent's case in chief shall follow the complainant's case in chief.

3. Rebuttal by the complainant shall follow respondent's case in chief; and shall be directed only to material contained in respondent's case in chief.
4. Further presentations including surrebuttal may be permitted at the discretion of the hearing officer upon showing of good cause.

Specific Authority Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Secs. 360.404 and 360.405, Ordinance Code.

1.403 Appeals

Appeals to Board orders and decisions in enforcement proceedings shall be governed by Section 360.406, Ordinance Code. For purposes of these procedural rules, a timely filed petition for rehearing will constitute an appeal to a Board order or decision.

A. Petitions for rehearing must at a minimum allege:

1. Material error;
2. Substantially changed circumstances; or
3. Existence of new evidence. However, an allegation of new evidence must be accompanied by an explanation or statement that the evidence did not exist at the time a hearing on the merits was conducted; or if it did exist, why it was not presented in a timely manner.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.406, Ordinance Code.

B. Replies to petitions for rehearing may be filed by any adverse party within twenty (20) days of the service date of the petition. No replies to a reply shall be permitted.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.406, Ordinance Code.

C. A petition for rehearing and reply thereto must be in writing and must be served upon all parties to a proceeding or their counsel by either hand delivery or first class United States mail, postage prepaid. An appropriate certificate of service shall be attached to all petitions and replies. Failure to serve all parties may result in rejection of petition or reply.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.406, Ordinance Code.

D. Due dates for petitions for rehearing and replies thereto are determined to be the date of receipt by the Board's staff and not the date of deposit in the mail.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented Sec. 100.201 and Sec. 100.207(b), Ordinance Code.

**PART V
BOARD PROCEEDING - DECLARATORY STATEMENTS**

1.501 Purpose and Use of Declaratory Statement.

A declaratory statement is a means of determining the right of substantially affected persons when a controversy, or when doubt concerning the applicability of any statutory provision, rules or order, has arisen before any wrong has actually been committed. The potential impact upon petitioner's interests must be alleged in order for petitioner to show the existence of a controversy or doubt.

Specific Authority, Sec. 100.217, Ordinance Code. Law Implemented, Sec. 100.217, Ordinance Code.

1.502 Petition - Form

The petition seeking a declaratory statement shall be filed in writing in care of the Director and shall take a form for submission substantially as follows:

**PETITION FOR DECLARATORY STATEMENT
TO THE ENVIRONMENTAL PROTECTION BOARD OF THE
CITY OF JACKSONVILLE, FLORIDA**

A. Name _____ of
Petitioner: _____

B. Address _____ of
Petitioner: _____

C. Agency rule, order or statutory provision on which declaratory statement is sought: _____

D. The precise factual circumstances giving rise to the petition:

E. Description of how this rule, order to statute may or does affect the petitioner; and

F. The point(s) on which the petitioner requests a declaration.

Signature of Petitioner

Date

Address

Specific Authority, Sec. 100.217, Ordinance Code. Law Implemented, Sec. 100.217, Ordinance Code.

1.503 Board Disposition

- A. A Board order rendered pursuant to Section 100.217, Ordinance Code, shall only be applicable to the Petitioner.

Specific Authority, Sec. 100.217, Ordinance Code. Law Implemented, Sec. 100.217, Ordinance Code.

- B. The Board shall refer any petition for a declaratory statement to the appropriate standing committee (air, water, noise, odor, land) for initial disposition. If the parties are satisfied with the committee's decision, it shall be ratified by subsequent Board order. The Board shall give Petitioner written notice of such reference at least 20 days before the standing committee considers the petition.

Specific Authority, Sec. 100.217, Ordinance Code. Law Implemented, Sec. 100.217, Ordinance Code.

- C. If either of the parties are not satisfied with the initial disposition, it may appeal that committee to the Board for ultimate disposition. In such event, the Board shall hold a hearing to allow arguments by each party. The hearing will be limited to arguments only and no new factual matter which was not presented to the standing committee will be entertained. The Board shall give Petitioners notice of the appellate hearing at least 20 days in advance.

Specific Authority, Sec. 100.217, Ordinance Code. Law Implemented, Sec. 100.217, Ordinance Code.

- D. The Petitioner shall notice in a newspaper of general circulation in the City that a petition has been filed. The notice shall contain sufficient information to advise substantially affected persons of the proceedings.

Specific Authority, Sec. 100.217, Ordinance Code. Law Implemented, Sec. 100.217, Ordinance Code.

- E. A hearing, before a standing committee, shall be conducted pursuant to Part II of these rules or as otherwise agreed upon by the Board and the parties.

Specific Authority, Sec. 100.217, Ordinance Code. Law Implemented, Sec. 100.217, Ordinance Code.

PART VI
SCHEDULING OF MEETING AND WORKSHOPS

1.601 Notice of Meeting and Workshops

- A. The Board, by and through the Department, shall schedule public meeting or workshops affecting the general public interest (and not relating exclusively to organization, procedure or practice, or not concerned with internal administrative or ministerial matters not affecting the public generally) by notifying interested person, by use of mailing lists maintained by the Board or by notice in a newspaper of general circulation.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

- B. Such notice of such meeting or workshop shall state:
 - 1. The date, time and place of event.
 - 2. A brief description of the purpose of the event.
 - 3. The address where interested persons can write to obtain copy of the agenda.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

- C. The Board shall provide that such meeting or workshop shall be open to the public unless this is not required because of the nature of the meeting or workshop or provisions of applicable law.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

1.602 Emergency Meeting and Workshops

- A. The Board or the Department may without prior notice or agenda hold an emergency meeting or workshop, for the purpose of acting upon internal, administrative and ministerial matters and matters of immediate danger to the public health, safety or welfare.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

- B. Whenever an emergency meeting is scheduled to be held, the Board shall notify a newspaper of general circulation, as may be practicable under the circumstances.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 100.201, Ordinance Code.

**PART VII
FEES AND COLLECTION OF FEES**

1.701 Definitions

- A. Maintenance Fees are fees assessed by City Council to recover a portion of the cost incurred for monitoring, sampling, inspecting and enforcement of pollution sources. These fees will, in part, pay for the necessary services required to protect the public health and welfare and are assessed and due on an annual basis. With the exception of connection to Regional Sewer the entire fee is due for the year regardless of how many days a source is in operation.
1. Air Pollution Maintenance Fees are based upon potential emissions per source or the necessity to conduct inspections of such facilities, i.e., gas stations.
 2. Water Pollution Maintenance Fees are based upon the permitted or allowed water pollution treatment plant discharge loading in kilograms per day (kpd).

For domestic wastewater treatment facilities, the fee will be based upon permitted kpd of biochemical oxygen demand (BOD₅) in the effluent. Industrial plants will be charged on the basis of total kpd discharged or permitted or allowed industrial waste constituents identified in their permits. The permitted constituent concentration times the permitted daily flow equals the loading. Classes are established by loading range.
 3. Hazardous Waste General Verification Inspection Fees are based upon kilograms of waste generated per month.
- B. Potential Emissions - are the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source or facility to emit a pollutant, including air pollution control equipment and any federally enforceable restrictions on hours of operation or on the type or amount of a material combusted, stored or processed, shall be treated as part of its design. The potential emissions of a source or facility do not include any secondary emissions that may be associated with the source or the facility. These emissions shall be calculated using the most reliable emissions data obtained from AP-42 emission factors, emission tests, engineering calculations or other available information.
- C. Source - is an identifiable piece of equipment (or the smallest integral combination of pieces of equipment, structures and necessary appurtenances) that is used as a complete unit to accomplish a specific purpose or to produce a specific product; and which:

1. Includes at least one activity or operation which is the point of origin of an air pollutant, in that it separates or allows the separation of a pollutant from process or other materials or accomplishes the conversion of all or part of various materials or fuels into a pollutant;
2. Has at least one emission or discharge point; and
3. Exists at or is designed to be operated as a unit at a fixed location, although parts of the source may move while the source is in operation.

Specific Authority, Sec. 100.201, Ordinance Code; Sec. 362.104(i), Ordinance Code; Sec. 73.102, Ordinance Code.
Law Implemented, Sec. 123.102(c)(4)(i-iv) and (c)(5)(iii), Ordinance Code; Sec. 362.104(i), Ordinance Code.

1.702 Ordinance Code - Identification of Fees

Sections 123.102 (c)(4)(i-iv) and 123.102 (c)(5)(iii) Ordinance Code contain the legislatively enacted maintenance fees which these rules are proposed to collect. The fees, while not adopted in this rule will be adopted in various attainment plans enacted pursuant to Section 360.203, Ordinance Code.

Sampling, monitoring, testing and inspection of air and water pollution sources by the Department personnel for the Environmental Protection Board (Board) are necessary in the discharge of regulatory duties pursuant to Chapters 360 and 362, Ordinance Code.

Specific Authority, Sec. 100.201, Ordinance Code; Sec. 362.104(i), Ordinance Code; Sec. 73.102, Ordinance Code.
Law Implemented, Chapters 360 and 362, Ordinance Code, Sec. 362.104(i), Ordinance Code; Sec. 123.102(c)(4)(i-iv) and (c)(5)(iii), Ordinance Code.

1.703 Procedure for Collection of Maintenance Fees

There is hereby established a procedure for the collection of air and water pollution maintenance fees:

Maintenance fees shall be collected annually on a calendar year basis. The maintenance fee shall be due 30 days from the date of invoice.

Specific Authority, Sec. 100.201, Ordinance Code; Sec. 362.104(i), Ordinance Code; Sec 73.102 Ordinance Code.
Law Implemented, Chapters 360 and 362, Ordinance Code. Sec. 362.104(i), Ordinance Code; Sec. 123.102(c)(4)(i-iv) and ((c)5)(iii), Ordinance Code.

1.704 Delinquent Payments Deemed Violation of Rule

The Department shall be apprised of billing status by the Accounting Division of the City of Jacksonville Administration and Finance Department. Any facility which has not paid the maintenance fee within 30 days of the due date shall be deemed delinquent and in violation of this rule. Violations of this rule shall be enforced pursuant to section 360.407 Ordinance Code.

Specific Authority, Sec. 100.201, Ordinance Code; Sec. 362.104(i), Ordinance Code; Sec. 73.102, Ordinance Code.
Law Implemented, Sec. 123.102(c)(4)(i-iv) and (c)(5)(iii), Ordinance Code: Sec. 362.104(i), Ordinance Code.

**PART VIII
INVESTIGATIONS - RIGHT OF ENTRY**

1.801 Incorporation by Reference

Sections 360.109 (a) through (d) inclusive, Ordinance Code and Section 360.114, Ordinance Code, as they relate to entry upon property with or without notice, consent or approval, are hereby incorporated, by reference, as if they were reproduced in their entirety.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec 360.109, Ordinance Code; Sec. 360.114, Ordinance Code.

1.802 Identification and Reason for Entry

In the event that a Department representative enters upon a premises, he shall make his presence immediately known to the person in possession of the premises or to an employee or agent of that person if such person, employee or agent is on the premises at the time of entry. Upon making his presence known, the Department representative shall also advise the reason for his entry on the premises.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.109(a)(3), Ordinance Code; Sec. 360.114, Ordinance Code.

1.803 Entry With Notice of Consent

The Department representative shall have right of entry upon any property, in order to make investigations pursuant to and to implement the environmental laws of the City, upon twenty-four hours notice to the person in possession of the property, without that person's consent or upon consent obtained from the person in possession of the property on less than twenty-four hours notice.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.109, Ordinance Code.

1.804 Entry Without Notice or Consent

In those situations in which the Director determines that entry upon property without notice or consent is required to investigate a suspected violation, such entry upon property may be made only upon written approval of the Director. Written approval for such entry shall be given only after cause has been shown by the Department. In establishing cause, the Department shall present the Director with evidence documenting the existence of a suspected violation of the City's environmental laws, rules and regulations. The Director's written approval shall recite the reasons for entry without notice or consent and shall be made available to the person in possession of the property to be entered and to public inspection generally. In addition, all evidence documenting a suspected violation or a situation detrimental to public health and welfare shall be reduced to writing and made available for public inspection generally.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.109, Ordinance Code.

1.805 Entry Without Notice, Consent or Director Approval

In case of an emergency situation involving a suspected violation of the City's environmental laws, rules and regulations, the Department representative is authorized to enter upon property without notice, consent or approval, without delay in order to protect the public health and welfare. Emergency entry is authorized only if the Department documents the existence of an emergency situation which is;

- A. detrimental to the public health and welfare;
- B. that the emergency situation will not be abated unless immediate action necessitating entry upon property is taken; or
- C. that identification of the perpetrator and subsequent enforcement action will be obstructed unless immediate entry is taken. All such documentation and other evidence of an emergency situation shall be reduced to writing after the entry and kept by the Department for inspection by the person in possession of the property entered and by the public generally.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.109, Ordinance Code.

1.806 Crossing Property

In the event of an actual or suspected violation of Chapters 362, 366, 368 or 376, or in the event of an actual or suspected violation of any rule, regulation, order, standard, attainment plan or compliance plan of the Board exists or is suspected to exist and if said actual or suspected violation can be reached by crossing real property, then the Department representative shall have the right of entry upon said real property and shall be immune from prosecution, civil or criminal, for trespass upon real property while in discharge of his duties in searching for the source of said violation.

If entry is made due to an actual or suspected violation, all such documentation and other evidence shall be reduced to writing after the entry and kept by the Department for inspection by the person in possession of the property entered and by the public generally.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.109, Ordinance Code.

1.807 Entry for the Purpose of Abating an Unattended Pollution Source

In the event of the discovery of an unattended pollution source which may be quickly eliminated by immediate abatement, the Department representative shall have the right to take all reasonable steps to effect such abatement, if the owner, after reasonable inquiry, cannot be found or notified.

If entry is made to abate an unattended pollution source, all such documentation and other evidence shall be reduced to writing after the entry and kept by the Department for inspection by the person in possession of the property entered and by the public generally.

Specific Authority, Sec. 100.201, Ordinance Code. Law Implemented, Sec. 360.114, Ordinance Code.

**PART IX
BOARD PROCEDURES - COMPLIANCE PLANS**

- 1.901 The purpose of this rule is to implement City Ordinance 84-674-684 and 88-117-123 (Section 362.104, 368.108, 376.105 and 366.216, Ordinance Code) which states:

The Board shall, by rule, specify what elements and provisions are required in a compliance plan and in a compliance agreement embodying the plan.

Rulemaking also encompasses Board power of Section 362.104 (d) and (k), Ordinance Code.

- 1.902 Compliance Plan - The compliance plan shall show how the Respondent plans to bring a non-complying facility into compliance. The compliance plan shall contain, but not be limited to:

- A. A schedule showing the steps the non-complying facility will take to come into compliance with the law or rule or section thereof that the non-complying facility has violated and the date by which each step shall be completed.
- B. A list of any repairs, improvements and/or construction needed so that the non-complying facility shall be in compliance and a schedule showing how and by what dates each major step of the said repairs, improvements and/or construction shall be completed or has been completed.
- C. Specifications as to any permits or documents the non-complying facility needs to come into compliance and a schedule showing by what date the permit or documents shall be obtained.

- 1.903 Compliance Agreements - A compliance agreement shall be in writing and shall contain an agreement as to the facts and stipulated remedial actions. A compliance agreement shall contain at least the following elements and provisions, where applicable.

- A. The name of the agency (the Petitioner) entering into the compliance agreement.
- B. The name and title of the person or persons (the Respondent) entering into the compliance agreement. This shall also include the name of the facility to be regulated by the compliance agreement.
- C. The type and location of the facility named in the compliance agreement. This description should be sufficiently detailed so that the site can be readily located.
- D. A compliance plan as described above and in Section D below or a list of any unresolved citations and/or other enforcement actions in the past 365 days, showing the law or rule violated along with any steps that have been or will be taken to comply.

- E. The dates of meetings between the two parties with regard to the specified violation.
 - F. Provisions for the implementations of Waiver for cause of a civil penalty for each law or rule or section thereof that the facility has violated, to be paid by the Respondent within 10 days after acceptance of the compliance agreement by the Board.
 - G. An agreement by the Respondent that it waives its right to a hearing pursuant to Section 360.403(a), Ordinance Code.
 - H. An agreement by the Petitioner stating that if the Respondent abides by the terms of the compliance agreement, the Petitioner will seek no separate or further enforcement action, penalties or damage against the Respondent for violations specified in the compliance agreement.
 - I. An agreement between the Respondent and Petitioner that if the Respondent does not abide by the terms of the compliance agreement then the Petitioner may pursue all such civil and criminal penalties, procedures and action and remedies as are available at law or in equity.
 - J. An agreement by the Petitioner that the adoption of the compliance agreement shall constitute final action by the Petitioner pursuant to any of the Environmental Protection Board rules which were cited in the Compliance Agreement.
 - K. A schedule for both sampling and maintenance for the named facility.
 - L. A list of standards that the named facility must meet.
 - M. The signature of the parties involved and the date on which the compliance agreement was signed.
- 1.904 Compliance Agreements Embodying Compliance Plans - Compliance agreements embodying compliance plans shall be a written agreement between the non-complying party and the City, negotiated by the Department of Regulatory and Environmental Services Department.

The compliance plan may be incorporated by reference, attachment or demarked within the body of the agreement as appropriate to the plan's length and complexity.

1.905 Board Approval of Compliance Plans and Compliance Agreements - Board approval of compliance plans and compliance agreements shall be by Board Order.

A. Negotiated Compliance Plans.

Negotiated Compliance Plans and Agreements may be considered within regular Board agendas. Consideration may include:

1. A staff presentation.
2. An opportunity for the non-complying party to respond.
3. Board adoption, rejection or amendment with adoption.

B. Unnegotiated Compliance Plans.

1. Thirty days shall be considered reasonable and sufficient time for a violator, who has been notified of the need for a compliance plan, to respond to a proposed Department Compliance Plan or to present an alternative compliance plan.
2. A compliance plan presented by a non-complying party without Department staff concurrence in the absence of a negotiated plan per Section 360.301(c), shall be remanded to hearing.

C. A Board order approving and accepting a compliance agreement, as evidenced by the signature of the Board Chairman on that order shall constitute the signing of that compliance agreement by the Board Chairman, as required in Section 360.301 (b)(2), Ordinance Code.

1.906 Compliance Plan Adoption Hearings - In addition to the provisions of Section 360.301, Ordinance Code, compliance plan hearings shall be open to the public and conducted as follows:

A. The Environmental Protection Board Activity, upon receipt of the hearing date, shall publish notice in a newspaper of general circulation in the City that an unnegotiated compliance plan has been remanded to hearing before the Board. This notice shall contain sufficient information to advise substantially affected persons of the proceedings. Direct notice by Certified Mail or personal service shall be made to the Respondent. Notices shall be made at least ten days before the date of hearing.

B. Burden of Proof - The burden of proof for establishing a violation of a rule, law or sections thereof and a schedule for compliance with the rule, law or sections thereof rest with the Petitioner.

C. Order of Presentation - At all compliance plan adoption hearings, the presentation shall take the following order:

1. The Petitioner's compliance plan and schedule shall be presented first.

2. The Respondent's compliance plan and schedule shall follow the Petitioner's.
3. Rebuttal by the Petitioner shall follow the Respondent's plan and schedule, and shall be directed only to material contained in the Respondent's plan and schedule.
4. Further presentation, including surrebuttal may be permitted at the discretion of the Board upon showing of good cause.
5. The Board shall adopt, reject or amend with adoption the presented compliance plan.

PART X
BOARD PROCEEDINGS - VARIANCES

1.1001 Variances - Incorporation of 360.111, Ordinance Code.

- A. The provisions relating to variances as they appear in Section 360.111 Ordinance Code will be rules of the Board and are incorporated herein by reference as though they were reproduced in their entirety.
- B. In addition to the specific provisions given in Section 360.111 Ordinance Code, the Petitioner shall submit substantiating evidence with the variance request which will prove that a variance should be granted.

1.1001 Disposition of the Request for Variance

- A. The Department upon receipt of a copy of the request for a variance shall assign the request to the Environmental Protection Board Activity.
- B. The staff shall then review the request for variance for compliance with Section 360.111, Ordinance Code.
 - 1. If the request is found to be complete, it shall be forwarded to the Steering Committee which forwards it to the appropriate standing committee (air, water, noise, odor, land) and the appropriate Department staff and the Petitioner shall be informed to the time, date and place of the meeting.
 - 2. If the request is found to be incomplete Board staff shall return the petition and notify both the Petitioner and Chairman in writing regarding petition deficiencies, with specificity.
- C. After a chance for review of the request for variance, the appropriate standing committee, the Department staff and the Petitioner shall meet together at a regularly scheduled committee meeting. The order of presentation shall be as follows:
 - 1. The Department staff presentation shall include, but not be limited to
 - a. Rule from which variance is sought.
 - b. Status of facility's compliance with the rule from which variance is sought.
 - c. A summary of Section 360.111 (b) Ordinance Code.

2. Petitioner's presentation shall include, but not be limited to
 - a. The request for variance which specifically addresses each portion of Section 360.111(b), Ordinance Code.
 - b. Substantiating evidence which proves the need for a variance.
 3. Staff discussion of the Petitioner's request for variance in which the Department staff concurs or disputes with the Petitioner's facts.
 4. Questions by the committee to the Petitioner and the Department staff.
 5. The Department staff recommendations to the committee on the request for variance in which Department staff concurs, disagrees or proposes modifications to the request for variance.
 6. After the Department staff recommendations the committee shall either
 - a. Recommend additional time for the development of the request for variance. If this option is chosen, all involved parties must agree to the additional time and its duration.
 - b. Recommend the request for variance be forwarded to the Steering Committee to the schedule for public hearing.
- D. The Steering Committee shall then establish a date for a public hearing on the request for variance. This date shall then be given to the Environmental Protection Board Activity.
- E. The Environmental Protection Board Activity upon receipt of the hearing date shall publish notice in a newspaper of general circulation in the City that a request for variance has been filed. This notice shall contain sufficient information to advise substantially affected persons of the proceedings. This notice shall be made at least ten days before the date of hearing.
- F. Conduct of Public Variance Hearings.
1. A public hearing will be called to order by the presiding officer, who will then cause the public notice and agenda of the hearing to be read. After the agenda is read, the Department staff shall make a presentation which includes but not limited to:
 - a. Rule from which variance is sought.
 - b. Status of facility in complying with rule from which variance is sought.
 2. The Department staff presentation will be followed by the Petitioner's case as prescribed in Section 3. The presentation shall include substantial evidence that proves the need for a variance.

3. The Department staff discussion of the Petitioner's case giving agreement or rebuttal of Petitioner's statement.
4. The presiding officer will then recognize those persons of the general public who wish to be heard either for or against the proposed variance. Where several persons are from the same area, group or organization, they will select a spokesperson to present view of the group.
5. At the end of the public presentation, the Department staff may address any areas of concern expressed by the public for purposes of rebuttal or clarification.
6. Following the Department staff rebuttal or clarification presentation, the Petitioner shall have the opportunity to offer its own rebuttal or clarification.
7. At the conclusion of all presentations, the Board may ask questions of both the Department staff and the Petitioner for the clarification of any point or proposal made.
8. After all presentations and questions by the Board, the Board may grant or deny the variance. In the alternative and in its discretion, the Board may defer action on a variance until a subsequent meeting.

PART XI
PROCEDURE FOR FILING AND VERIFYING CITIZEN ODOR COMPLAINTS

1.1101 Statement of Intent

This rule sets forth the procedure by which citizen odor complaints shall be filed and verified and the procedure for informing the responsible persons or entities that complaints have been filed against them. As used in this rule, verifying means that an inspector determines that an odor is present in the outdoor air and identifies with reasonable certitude the facility or entity causing the odor. The determination of objectionability of the odor is left to the citizen who lodged the complaint.

1.1102 Procedures for Odor Complaint Verification

A. Each complaint of odors received by phone will be recorded on a Department Odor Complaint form. The form shall be designed to facilitate the gathering of information, pertinent to a complaint, within the shortest possible time. Any changes made to the Odor Complaint Form shall be an agenda item at the Odor Committee meeting prior to their implementation. The determination of objectionability of the odor shall be left to the citizen who lodges the complaint. The Department shall determine why, if possible, the complainant finds the odor objectionable. The following questions may be posed to the complainant to assist in this determination:

1. Is this odor irritating, annoying or offensive to you?
Y___ N___ Describe:
2. Is the odor injurious to your health?
Y___ N___ Describe:
3. Is the odor injurious to plant or animal life?
Y___ N___ Describe:
4. Does the odor interfere with the enjoyment of property?
Y___ N___ Describe:
5. Does the odor interfere with the use and enjoyment of property?
Y___ N___ Describe:
6. Does the odor interfere with the conduct of business?
Y___ N___ Describe:

B. If the complainant has specifically identified (not a generic identification, e.g., chemical plant, kraft pulp mill) the source (facility) causing the objectionable odor, the Department will notify the source (facility) that a complaint has been filed prior to or during, the complaint investigation.

Notification will be made by telephone to a number provided by the source. Notification will consist of general location of the odor, suspected source (facility),

odor description and time received. If telephone notification is unsuccessful, through no fault of the Department, no further notification will be made.

If later, upon investigation, the reported source (facility) is verified by the investigator as the cause of the complaint, notification under Step 10 of the Protocol will not be made.

- C. If the odor is ongoing, the investigator will proceed directly to the reported location of exposure. The investigator will stop, get out of the car and determine the presence or absence of a detectable odor in the air. The investigator will note the descriptive character of the odor, the intensity (faint, moderate, strong) and the time. The investigator will next measure and record meteorological data using portable, hand-held instruments carried for this purpose.
- D. After recording initial data as described above, the investigator will attempt to interview the complainant, if the complainant is available on or near the scene of the reported exposure.
- E. The investigator will survey the general vicinity of the reported exposure, note any odors detectable in the general vicinity and look for any small localized sources consistent with the character of the odor reported and/or noted at the complaint site; for example, animal pens, garbage piled in or near the street, anything being burned, small water or sewage treatment plants, small facilities such as garages, paint shops, etc.
- F. If no odor has been detected within a general vicinity of the reported site, the investigator will close the investigation.
- G. If an odor has been noted and does not seem to be from a small, localized source (as characterized in 5. above), the investigator will proceed to the probable odor source, based upon his/her general knowledge of the area, the character of the odor previously noted, and the prevailing winds.
- H. Upon arrival, the investigator will conduct a survey upwind and downwind of the facility, noting any odor detectable downwind beyond the property line of the facility, which has the same odor description as that of the odor detected in the area of exposure.
- I. Ambient and olfactory data pertaining to an odor complaint, i.e. odor description, odor intensity and meteorological data, must be gathered within four (4) hours of the complaint. Other data necessary for the validation of the complaint may be gathered before or after the passage of the four (4) hour period.

- J. Immediately upon completion of the field investigation, the investigator will notify the alleged source of the finding of the investigation. Such notification may be made by phone, or in person. Notification will consist of general location of the odor, suspected source (facility), odor description and time received. It is the responsibility of the source owner to make provisions for the receipt of telephone or personal notifications and to inform the Department of such provisions.
- K. Upon completion of the investigation, the investigator will promptly document the findings on the complaint form, while details are still fresh in mind.
- L. The completed complaint form shall be given to the supervisory personnel for review. If the odor complaint is validated, the source owner will be advised in writing on a monthly basis. The written notification must be postmarked no later than the fifteenth day of the month for validated complaints received during the previous month. Copies of the validated complaints shall be enclosed with the monthly notification.

1.1103 Training

Training shall be provided to the Department complaint investigators in the determination of odor intensity and odor description. Procedures utilized for training the investigators shall be documented and be made available to the public upon request. Records of training received shall be maintained and shall be available upon request.

1.1104 Use of Meteorological Instruments

Measurements of temperature, relative humidity, wind speed and wind direction made in the course of an odor investigation must be done in accordance with methods and with the aid of instruments, described in the Standard Operating Procedures (SOP) manual. The SOP manual shall reflect current procedures utilized by the investigators, and must be kept updated.

1.1105 Odor Episodes

In the event of an odor episode that results in odor complaints from households in close proximity, the investigator may elect to perform one investigation in his attempt to validate all the complaints. In such an event, a single notification to the culpable source, by phone or in person, will suffice as notification for the entire group of complaints.

1.1106 Safety

Investigation of odor complaints shall be conducted so as not to jeopardize the safety of the investigator.

Specific Authority: §376.107, §362.104, §73.102, §360.107, §100.201, Ordinance Code. Laws Implemented: §360.401, §360.402, §362,101, §362.104, §376.101, §376.102, §376.106, §376.107, Ordinance Code.

DONE AND ORDERED This 14th day of December, 1992, at the regular meeting of the Environmental Protection Board, City of Jacksonville.

ENVIRONMENTAL PROTECTION BOARD

BY: _____
JOHN P. WILCHEK
CHAIRMAN