

City Commission Policy 500

FDEP Consent Order Policy

DEPARTMENT: Environmental Services and Facilities

DATE ADOPTED: November 10, 2021

DATE OF LAST REVISION: November 10, 2021

500.01 **AUTHORITY:** City Commission

500.02 **PURPOSE:** Adopt a FDEP Consent Order Policy that ensures transparency, and provides for efficient resolution of environmental violations, in order to ensure continuity of essential services for our community.

500.03 **STATEMENT OF POLICY:** It shall be the policy of the City of Tallahassee to provide the City Manager with authority to resolve environmental violations with State of Florida Department of Environmental Protection (FDEP) through a consent order (CO), while requiring the following measures:

1. The City shall provide public notice of all FDEP COs in a newspaper of daily circulation in Leon County, Florida within 30 days of the CO's effective date.
2. If permitted by FDEP, the City shall elect in-kind or pollution prevention projects in lieu of civil penalties, in order to focus these funds back into our community.
3. The City Commission will be notified of a pending proposed CO.
4. Periodic updates on the status of FDEP COs shall be provided to the City Commission, as appropriate.
5. Execution of COs shall be in accordance with City Commission Policy 116.
6. A link to active entered FDEP COs will be maintained on the City's website.

500.04 **BACKGROUND AND INTENT:** FDEP has the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapters 373, 376, and 403, Florida Statutes, and the rules promulgated and authorized in Title 62, Florida Administrative Code. Many aspects of the essential services provided to our community via City operations are subject to FDEP regulation. When FDEP finds that an environmental violation occurred and intends to pursue formal enforcement, a CO is typically offered to the responsible party (Respondent) as a means of settlement, prior to FDEP filing a legal action.

A CO entered into by FDEP and a responsible party (Respondent) is a legally enforceable document that binds the Respondent to perform certain acts and resolves environmental violations of Florida law. The CO is an administrative final order governed by the Administrative Procedures Act, Chapter 120, Florida Statutes, and is challengeable by a substantially interested party within the timeframes outlined in Chapter 120.

The City, through adoption and implementation of this policy, desires to formalize its commitment to the City's mission to ensure continuity of essential services by giving the City Manager the authority to expeditiously resolve violations with FDEP, while providing for transparency and public awareness.

500.05 **SCOPE AND APPLICABILITY:** This policy applies to all COs the City enters into with FDEP.

500.06 **ADMINISTRATION:** The City's Environmental Services and Facilities Department shall be responsible for the oversight, implementation, and periodic update of this Policy.

500.07 **SUNSET PROVISION:** This policy shall be scheduled for sunset review by the City Commission at least once every five years, or pursuant to such other schedule as may subsequently be adopted by the City Commission for general sunset review of City policies.

500.08 **EFFECTIVE DATE:** This policy becomes effective immediately upon adoption by the City Commission

REVISIONS: None.