

City of Cape Coral's

Burrowing Owl Building Permit Procedures



Photo courtesy of Dan Tudor

The Florida Burrowing Owl is the most encountered protected species in the City of Cape Coral with over 3,000 owl burrows. The Florida Burrowing Owl is classified as a "Threatened" by the Florida Fish and Wildlife Conservation Commission (FWC). This means burrows, owls, and their eggs are protected from harassment and/or disturbance by State and Federal laws. Cape Coral is home to the largest Burrowing Owl population in the State of Florida. Burrowing Owl success will be determined in part by the conservation efforts performed within the City of Cape Coral. With relatively modest protection efforts, Cape Coral can help this species continue to survive.

State and Federal Protection

Burrowing Owls and their nests and eggs are protected by State and Federal laws. Even if no Burrowing Owls are observed at a burrow, the burrow may not be destroyed without a permit issued by the FWC (39-27.002 F.A.C.). Additionally, Burrowing Owls and their burrows are protected under the Federal Migratory Bird Treaty Act.

In most cases, FWC will issue a nest removal permit for an owl burrow but the applicant may have to wait until the end of the nesting season before construction can begin if the burrow is active. Burrowing Owl nesting season is from February 15th through July 10th. The City of Cape Coral's environmental staff works in cooperation with the FWC to manage the owl population and can answer questions regarding the permit application process. The City does not grant or deny any owl Nest Removal Permits.

Burrowing Owl Affidavit is Required for Building Permits

One of the key management practices in Cape Coral is the site inspection provided by the contractor or home owner prior to permitting. The applicant must inspect and search for burrows throughout the project area. The owl burrow entrances range from 3 to 8 inches in diameter. Some burrows are marked with white PCV pipes or T-perches, but others are not marked. Any burrows on the project site or within the street rights-of-way of the parcel must be reported on the burrowing owl/gopher tortoise affidavit. This includes burrows that are not currently being used by owls.

Any burrows located in the adjacent or the surrounding vacant lots must also be reported on the affidavit. Construction vehicles, equipment, and material deliveries often spill over onto adjoining lots (this acknowledgment does not authorize entry onto or use of any private property). Construction or delivery personnel may have no knowledge of Burrowing Owls or may have obstructed views while operating large machinery or vehicles. Please take a few moments to inspect surrounding properties for burrowing owl nests prior to commencing construction. Erect a protection zone and keep it roped off until construction is complete. This may avert accidental destruction of a nest and associated violations.

Development Options

If a Burrowing Owl burrow is present on a vacant lot, one three scenarios can occur depending on the proximity of the owl burrow to the proposed development.

- 1) Maintain at least a 10 foot radius buffer zone in all directions from the burrow during construction.
- 2) Maintain at least a 33 foot radius buffer zone in all directions from the burrow for construction during nesting season (Feb 15th to July 10th).
- 3) If the buffer zone cannot be maintained a state permit from FWC is required to remove the burrow or work inside the buffers.

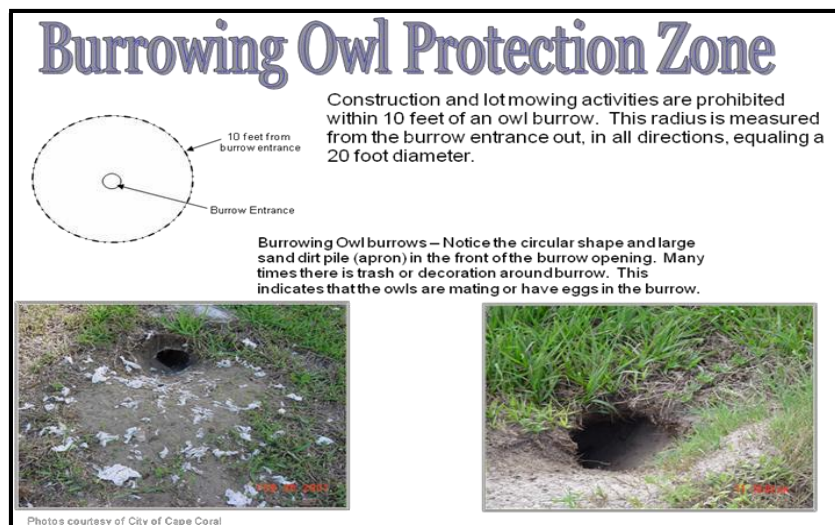
If the burrow is located within the building envelope, FWC may issue a permit to destroy the owl burrow as a last resort, after all reasonable alternatives have been shown to be impractical. Building around an owl burrow is the best scenario for the owls and the builder because no state permits are required if a buffer zone is maintained. To offset the adverse impacts to the species when a nest is destroyed, the contractor or homeowner may be required to pay mitigation fees or place a “starter burrow” on the property.

To comply with City, state, and federal regulations, the contractor may have to make minor design adjustments, maintain a roped off protection zone, or adjust the timing of construction to accommodate the nesting season. Properties with owls are developable. These regulations help assure this beneficial species is not pressed further toward endangered status. Burrowing owls are desirable in Cape Coral neighborhoods because they eat roaches, mole crickets, snakes, and rodents. No reports of Burrowing Owls causing physical harm to humans, children, or pets have ever been reported in Cape Coral.

Starter Burrow

In order to minimize the adverse impacts to the species when a nest is destroyed, the contractor or homeowner is strongly encouraged to place a “starter burrow” on the property. This simply involves digging a small angled hole resembling a natural owl burrow and placing a T-perch next to it. Such a “starter burrow” would not have any protected status until used as a nest by Burrowing Owls.

Protecting an Owl Burrow



The City and state require protection zones be installed around an owl burrow during development activities. The contractor or homeowner will need to determine if the project can be completed while maintaining a protection zone with at least a 10 or 33 foot buffer zone around the burrow entrance depending on the time of year. The protection zone must be installed prior to commencement of construction activities. The buffer should consist of the following materials: stakes (pvc, wood, or rebar) with a rope around perimeter; silt fence on up to three sides; orange construction fence; other materials if previously approved at permitting. The contractor accepts responsibility to ensure that the protection zone delineation is adequate during the course of the project. The contractor is encouraged to trim weeds/grasses and remove debris that may have blown into the area at any time. During summer months, a monthly trim using a heavy-duty weed whacker is advised.

During construction, the protection zone must be avoided by all heavy equipment and vehicles. Outside of the nesting period, once construction is complete, topsoil may be placed as needed within the protection zone using manual shovels and rakes. Sod may be hand placed to within three feet of the burrow entrance. The homeowner does not need to keep weeds, flagging, rope or stakes around the burrow, although a T-perch next to the entrance is recommended for safety and attracting owls. The lawn may be irrigated and regularly mowed all year long. Pesticides and herbicides should be avoided to the greatest extent possible when the owls are actively using the nest.

Studies in Cape Coral have shown that if construction occurs while maintaining this protection zone, nesting is seldom interrupted. Some owls may stay at the nest while construction is taking place. Other owls may not use the protected nest during construction, but may return after the construction is complete. Owls have a strong tendency to return to a prior nesting site. If their previous nesting site is not available, they seek to take over other burrows.



Photo courtesy of Alex Padilla

In Cape Coral, each owl burrow is typically staked with four PVC pipes and one T-perch. The pipes are placed 10 feet away from the burrow to maintain a protection buffer for the owls. A Burrowing Owl Sign is sometimes located near the stakes facing the road. This helps remind residents, contractors, and property owners that a burrow is close by.

Migratory Bird Nest Removal Permits

Burrowing Owl burrows (nests) cannot be "moved"; they can only be destroyed by obtaining a permit from the State. FWC only issues permits to destroy a nest after all reasonable alternatives (such as realigning development to preserve the nest) have been shown to be impractical. Be aware that any such permit will normally apply only to inactive nests from July 11th thru February 14th. Plan to submit your application for a permit at least six to eight weeks early to allow for processing time. The permit application form may be obtained from the online permitting system on the FWC website.

Molesting, Harassing, or Injuring Owls or their Burrows is a Crime

Please report violations to the FWC's - 24 hour hotline at 1-888-404-3922.