

# **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 2,500 owl burrows. The Florida Burrowing Owl is classified as a "species of special concern" 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 Owls 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 active burrow but the applicant will have to wait until the end of the nesting season before construction can begin. Burrowing Owl nesting season is from February 15<sup>th</sup> through July 10<sup>th</sup>. 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. Please note that not all burrows can be observed from the street. 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 be reported in 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.

### **Three Development Options**

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

- 1) Avoid construction on the vacant lot.
- 2) During & after construction, maintain a 10 foot buffer zone in all directions from the burrow.
- 3) If a 10 foot buffer zone cannot be maintained; a state permit from FWC to remove an inactive burrow.

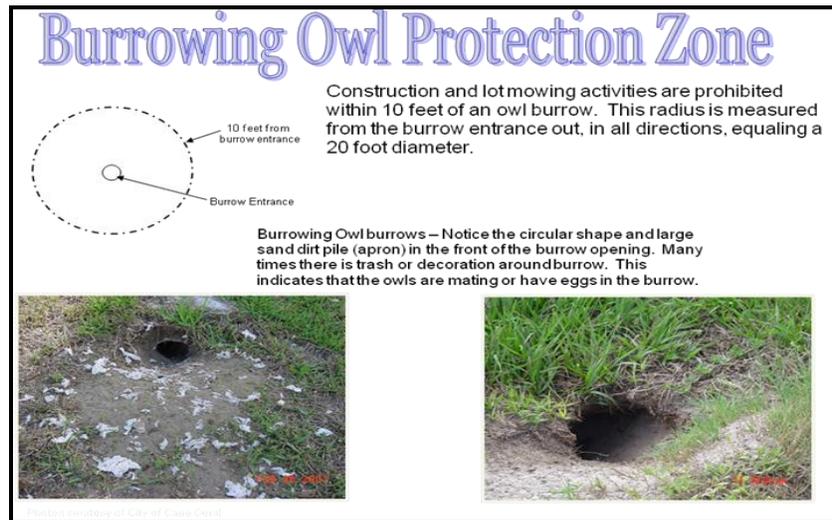
If the burrow is located within the building envelope, FWC may issue a destroy permit for the owl burrow as a last resort, after all reasonable alternatives have been shown to be impractical. Building around an owl burrow is the best scenario for the owls and the builder because no state permits are required and construction can take place at any time of the year provided a 10 foot buffer zone is maintained. 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.

### **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.

To comply with 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 will 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 received in Cape Coral.

## Protecting an Owl Burrow



The contractor or homeowner must first determine if the project can be completed while maintaining a protection zone with at least a 10 foot buffer zone around the burrow entrance. The protection zone can be identified with stakes (PCV pipes or wood stakes) to protect the area from encroachment. Signs, available at the building counter, should be posted to communicate that the area is protected by law. The contractor accepts responsibility to ensure that the protection zone delineation is adequate during the course of the project. The contractor is encouraged to enter the protection zone 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 grading tractors, sod pallet forklifts, and sod rollers. However, outside of the nesting period, topsoil may be placed as needed within the protection zone using manual shovels and rakes. The area may be sodded, leaving the burrow entrance open. The homeowner does not need to keep weeds, orange ribbon, and stakes around the burrow, although a single T-perch next to the entrance is recommended for safety and attracting owls. The lawn may be irrigated and regularly mowed all year long, although pesticides should be avoided to the greatest extent possible.

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 staked with four PCV pipes and one T-perch. The pipes are placed 10 feet away from the burrow to maintain a protection buffer for the owls. A protected Burrowing Owl Sign is located near the stakes facing the road. This helps remind residents, contractors, and the property owner 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 between 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.

### **Questions about Burrowing Owls**

Contact City of Cape Coral - 239-573-3077 - [wildlife@capecoral.net](mailto:wildlife@capecoral.net).

### **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.