

Before Work Begins Learn the Law

Before breaking ground on any project/construction it is important to be aware of the City of Cape Coral and State of Florida rules and regulations in regards to protected and listed species within the City limits.

This brochure is designed to guide you through the basics of the construction restrictions regarding Cape Coral's protected wildlife. Any violation of species protection can result in an investigation and possible penalties.



Photograph by Cindi Bateman

Important Numbers

To report malicious destruction or harassment of protected species such as the burrowing owl or gopher tortoise:

**Florida Fish and Wildlife Conservation
Commission (FWC) Wildlife Alert Hotline
1-888-404-3922 or myfwc.com**

Environmental questions and concerns within the City of Cape Coral:

**Environmental Resources Division
(239)574-0785 or capecoral.net**

Permitting questions and concerns regarding listed species within the City of Cape Coral:

**Planning Division
(239)574-0553 or capecoral.net**

A volunteer organization dedicated to the protection and preservation of all Cape Coral wildlife:

**Cape Coral Friends of Wildlife
(239)980-2593 or
ccfriendsofwildlife.org**



Environmental Resources Division

City of Cape Coral Environmental Resources Division



**Best Management
Practices**

Burrowing Owls



The burrowing owl (*Athene cunicularia*) is present throughout the state of Florida. Cape Coral has a substantial population of burrowing owls due to the availability of large open areas.

The burrowing owl is a ground nester, digging burrows up to 8 feet long underground. The burrow functions as shelter for the adults and young, and a protective nest for eggs. Owls are typically most active during dawn and dusk. However, both adults and young are frequently seen outside the burrow and surrounding territories during the day.

Rules and Regulations Concerning Burrowing Owls

The burrowing owl is a state threatened species, and taking (e.g., harming, harassing, pursuing, capturing), possessing, or selling burrowing owls, their nests (i.e., burrows), or eggs is prohibited without a permit (Rule 68A-27 F.A.C.).

Burrowing owls, eggs, young, and active nests (i.e., burrows with eggs or young) also are protected under the Federal Migratory Bird Treaty Act.

Collapse of burrows at any time of year is prohibited and requires a permit. Conducting activities greater than 10 feet from a burrow year-round reduces the likelihood of collapsing a burrow.

Conducting activities greater than 33 feet from a burrowing owl burrow during the nesting season (February 15-July 10, though nesting may start earlier) reduces the likelihood of disturbing nesting pairs.

If a take is unavoidable, contact the Florida Fish and Wildlife Commission (FWC) to apply for an Incidental Take Permit.

Gopher Tortoises

Another listed species that utilizes burrows is the gopher tortoise (*Gopherus polyphemus*). This land tortoise is most often associated with upland habitats but is at home in dry sandy areas, pine woods, and palmetto scrub habitat.

Gopher tortoises are long lived species and can live to be more than 40 years old in the wild. The oldest gopher tortoise in captivity is 94. The burrows average 15 feet long and have been documented up to 47 feet long. Multiple burrows in an area may be utilized by a single gopher tortoise. Eggs are not laid or incubated within the burrow. The female gopher tortoise uses the mounded sand or “apron” at the burrow entrance as a nest site or chooses another area in proximity to the burrow. Tortoises don’t reach sexual maturity until 10-20 years old. Breeding season is approximately March through October.

Rules and Regulations Concerning Gopher Tortoises

In Florida, the gopher tortoise is listed as threatened and the tortoises and burrows are protected by state law, Chapter 68A - 27.003, FL Administrative Code.

There are options to address the presence of gopher tortoises on lands slated for development: avoid development; avoid destruction of tortoise burrows; relocate tortoises on-site (permit required); or relocate them off-site (permit required).

Please refer to FWC for the 10 or Fewer Burrows permit for gopher tortoise relocation options.

A disturbance includes any type of work within 25 feet of a gopher tortoise burrow. Most typical activities associated with residential lawn and landscape maintenance do not require a permit, provided they do not collapse the burrows or harm gopher tortoises.



The half moon shaped entrance is a defining feature of the gopher tortoise burrow.

Bald Eagles



Photograph by Cindi Bateman

The bald eagle (*Haliaeetus leucocephalus*) nesting season runs October 1st through May 15th of the following year. Eagles mate for life and use the same site year after year, if available. In Florida, the eagles usually return in late September or early October. Protection of Cape Coral's bald eagles is important as Florida's nesting population constitutes over 80 percent of the entire bald eagle population within the southeastern United States. The main threat to bald eagles in Florida is loss of nesting habitat due to development.

Rules and Regulations Concerning Bald Eagles

The U. S. Fish & Wildlife Service and the FWC have established guidelines for protective zones around eagle nests with certain restrictions imposed to ensure continued success of those sites.

In Cape Coral, eagles are also protected by city Ordinance 13-92 (Code of Ordinances, Chapter 23). City regulations establish an eagle nest management zone that extends 1,100 feet in all directions from each eagle nest.

Within any eagle nest management zone, heavy outdoor construction is prohibited during eagle nesting season. The City may prohibit construction at any time within 350 feet of an eagle nest.