



**Florida Fish
and Wildlife
Conservation
Commission**

November 22, 2016

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*Managing fish and wildlife
resources for their long-term
well-being and the benefit
of people.*

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Dear Florida Realtor:

This informational packet has been created by the Florida Fish and Wildlife Conservation Commission's (FWC) Gopher Tortoise Conservation Program to educate Florida realtors and property owners on the laws, rules, and guidelines relating to gopher tortoises.

The gopher tortoise is listed as a threatened species by the State of Florida, and therefore is protected by state law. Wildlife conservation is important because when a species goes extinct, it reduces the biodiversity of our ecosystems. Gopher tortoise conservation is especially important because they are a keystone species and their burrows provide refuge for over 350 other species, many of which are also listed. This means that a reduction in the population of gopher tortoises could lead to a reduction in the populations of other species that use gopher tortoise burrows. Developing an appreciation and understanding of our wild neighbors can help us learn to co-exist with Florida's native wildlife.

Objectives of FWC's Gopher Tortoise Management Plan include minimizing the loss of gopher tortoises and restoring and maintaining viable populations throughout the state so that the species no longer warrants listing. Public outreach is one of the many conservation actions implemented by the FWC to accomplish these objectives. It is imperative that landowners know the rules protecting gopher tortoises that may be present on their property. The enclosed information will inform property owners on state laws and keep gopher tortoises safe from adverse impacts.

This packet also contains materials intended to inform you about gopher tortoises, whether you are a realtor trying to sell a property, or a buyer looking for property. It includes a list of frequently asked questions, brochures, fact sheets, and a short questionnaire. Please return the questionnaire, using the enclosed self-addressed envelope, to help us improve our outreach efforts in the future. Thank you for helping to disseminate this information and please contact our office at (850) 921-1030, if you have any questions.

Sincerely,

Deborah Burr

Gopher Tortoise Conservation Program Coordinator



Florida Realtor Association Outreach Information Frequently Asked Questions

1. I'm trying to sell a property, can I relocate the gopher tortoise if no development is taking place?

No. Applicants must demonstrate the need for a permit. This requires the submittal of a development plan or proof of local government approval for the activity proposed (in the form of preliminary or final subdivision plat, or master planned unit development approval; Development of Regional Impact [DRI] development order; or authorization to commence clearing, grading, or construction activities).

1. Does the law require realtors/landowners to disclose gopher tortoises on a property for sale and under contract?

Yes. Under Florida law, *Johnson v. Davis* 480 So. 2d 625 (Fla. 1985), a seller is obligated to disclose to a buyer any known facts that may materially affect the value of the property. Gopher tortoises are protected by state law and there may be extra steps to take if the buyers decide to build on the property, including obtaining a permit and paying for mitigation.

2. How do I tell the difference between gopher tortoise burrows and the burrows of other animals (such as armadillos)?

Gopher tortoise burrow openings are distinctly half-moon shaped, with a curve at the top and a flat bottom. The size of the opening is proportional to the size of the gopher tortoise. Armadillo burrows have a round opening and may have tail drag marks outside the burrow. If you are unsure or have questions, contact your regional FWC gopher tortoise conservation biologist <http://myfwc.com/license/wildlife/gopher-tortoise-permits/contacts/>.

3. Can gopher tortoises be relocated before listing a property for sale with an existing house? Can a potential buyer relocate gopher tortoises before they purchase a property with an existing house?

No. Gopher tortoises cannot be relocated unless construction is planned for the property that may impact the tortoises or their burrows. If you are concerned about a burrow possibly jeopardizing the integrity or utility of an existing structure or poses a safety concern (e.g burrow under a propane tank), or if the safety of the resident tortoise is compromised (e.g., burrows in a grass parking lot, dirt driveway, etc.), contact your regional FWC gopher tortoise conservation biologist.

4. Can I build on the property if there is a gopher tortoise burrow(s) on it? Do I need a permit?

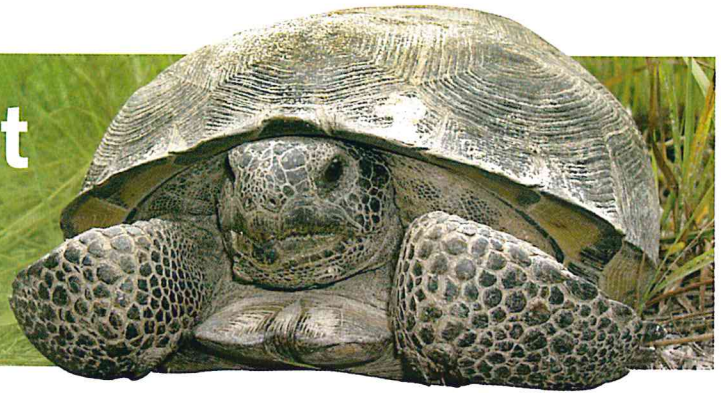
Yes. You can build on the property if there is a gopher tortoise burrow. You will need to obtain a gopher tortoise relocation permit from the Florida Fish and Wildlife Conservation Commission (FWC) if any development activity will take place within a 25 foot radius of the gopher tortoise burrow. Development activity must not harm gopher tortoises nor violate rules protecting them. Leaving a 50-foot diameter (25-foot radius) circle of habitat around each burrow (e.g., undisturbed "islands" or "crop circles") and developing the rest of a project site does not qualify and requires a permit to ensure that gopher tortoises are not harmed.

5. How do I apply for a permit?

Permits can be applied for online at MyFWC.com/GopherTortoise. The online permitting system allows individuals to register, submit permit applications, electronically submit required mitigation, and receive official communications including permits from FWC. Paper applications are also available, but

Get The Facts About Gopher Tortoises:

Permitting and Mitigation



FWC's new permitting process includes . . .

- a simple permit for relocating a small number of tortoises.
- a conservation permit that replaces the former standard relocation and incidental take permits.
- a mitigation contribution to the Florida Fish and Wildlife Conservation Commission (FWC).
- a Web-based permit application system that will expedite all gopher tortoise permit applications.

Permits are not required for . . .

- vegetation maintenance along linear utility lines and highways, agricultural or silvicultural activities or activities conducted to improve habitat for wildlife. However, a permit would be required if these activities are directly related to or in preparation for development and impact gopher tortoises or their burrows.
- development that occurs more than 25 feet (radius) from the entrance of a gopher tortoise burrow.

Permits are required if . . .

You cannot avoid development within a 25-foot radius of the entrance to a burrow. In this case, you must obtain a permit for any gopher tortoise capture, relocation and release prior to initiating any land clearing, grading or other development activities.

When should you apply for a permit?

The FWC has 90 days from the receipt of a completed application to issue a permit; however, the FWC tries to issue them within 45 days. It is advisable to submit completed applications to the gopher tortoise permit coordinator at least 90 days prior to the time needed.

How can I apply or get more information?

More permitting information, including the online permit application system and application forms, is available at MyFWC.com/GopherTortoise or contact the gopher tortoise permit coordinator at

850-921-1031 or visit MyFWC.com/GopherTortoise

Which permit do you need and how much will it cost?

PERMIT TYPE	MITIGATION CONTRIBUTION
Authorized Agent*	██████ (one time contribution)
Recipient Site	██████ per site (one time contribution)
10 or Fewer Burrows impacted <i>tortoises are relocated on-site or off-site*</i>	██████
Conservation* - more than 10 burrows impacted and relocation to a protected area	██████ for first five tortoises ██████ each additional tortoise
Conservation* - more than 10 burrows impacted and relocation to a short-term protected area	██████ for first five tortoises ██████ each additional tortoise
Conservation* - more than 10 burrows impacted and relocation to an unprotected area	██████ each tortoise

*Authorized agent permits are required for capture, relocation and release activities associated with any off-site relocation.



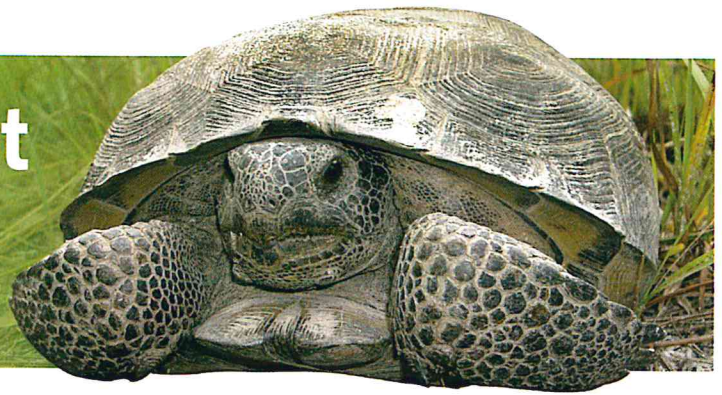
Florida Fish and Wildlife
Conservation Commission

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"Mitigation amounts are adjusted on an annual basis based on the Consumer Price Index (CPI). Please visit MyFWC.com/GopherTortoise for the current mitigation amounts."

Get The Facts About Gopher Tortoises:

Laws, policies and guidelines



Gopher tortoises are a threatened species and are protected under state law, Chapter 68A-27 of the Florida Administrative Code (F.A.C.). Property owners must obtain relocation permits from the Florida Fish and Wildlife Conservation Commission (FWC) to relocate all gopher tortoises before any land clearing or development activities can take place.

Rule 68A-27.004 (F.A.C.)

The gopher tortoise (*Gopherus polyphemus*) is hereby declared to be threatened, and shall be afforded the protective provisions specified in this paragraph. No person shall take, attempt to take, pursue, hunt, harass, capture, possess, sell or transport any gopher tortoise or parts thereof or their eggs, or molest, damage, or destroy gopher tortoise burrows, except as authorized by Commission permit or when complying with Commission approved guidelines for specific actions which may impact gopher tortoises and their burrows. A gopher tortoise burrow is a tunnel with a cross-section that closely approximates the shape of a gopher tortoise. Permits will be issued based upon whether issuance would further management plan goals and objectives.

Gopher tortoise enforcement policy

Gopher tortoise or gopher tortoise burrow permits are not required to conduct agricultural, silvicultural and management activities intended to improve native wildlife habitat. In addition, if a landowner can demonstrate that gopher tortoise burrows on their land are abandoned, the law pertaining to protecting burrows does not apply.

Upper respiratory tract disease

The FWC no longer requires upper respiratory tract disease testing as a prerequisite to issuing gopher tortoise relocation permits.

Permitting guidelines

Landowners or developers must relocate gopher tortoises out of harm's way on land slated for development. Prior to initiating development activity, landowners or developers must obtain proper permits for all gopher tortoise capture, relocation and release. New FWC permitting guidelines provide incentives for relocating tortoises to lands that have long-term protection and management; authorize gopher tortoise agents to capture, handle and transport gopher tortoises; require recipient site certification for private landowners who would like to receive displaced tortoises; and require a mitigation contribution to the FWC for all permits.

Relocation

Before gopher tortoise capture, handling and relocation activities begin, landowners must obtain a permit from the FWC. Landowners with 10 or fewer burrows may opt to relocate tortoises on-site as habitat requirements permit; or retain a permitted authorized gopher tortoise agent for all off-site relocations.



Photo by David Moynahan

Mitigation contributions

All permits require a mitigation contribution. A mitigation contribution is compensation, usually in the form of monetary contributions or protected land donations. All mitigation contributions support gopher tortoise conservation actions as specified in the FWC Gopher Tortoise Management Plan.



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For more information contact the gopher tortoise permit coordinator at 850-921-1031 or visit MyFWC.com/GopherTortoise