

1 D. The city council finds that the use of poison to control prairie dogs may
2 have an adverse and cumulative effect upon the local environment, and upon the
3 health and safety of human beings and local wildlife, and should be avoided when
4 feasible. The city supports the use of other methods instead of poisons as a
5 mechanism for prairie dog control, especially when other less ecologically
6 damaging control strategies are available.

7 E. The requirements of this section are in addition to, and do not supersede,
8 any state or federal limitations on the destruction or relocation of prairie dogs.

9 7.06.020. – Definitions.

10 The following terms shall have the following meanings for the purposes of this
11 chapter. Terms not defined here shall have any meaning attributed to them in
12 chapter 15.10 of this code.

13 Active prairie dog habitat means the smallest possible area of a polygon
14 encompassing all active prairie dog burrows on a property.

15 Director means the director of planning and development services, or such
16 director's designee.

17 Prairie dog means any individual of the *Cynomys* genus.

18 7.06.030. – Prohibitions.

19 A. No person shall kill a prairie dog, or use lethal means with the intent to kill
20 a prairie dog, except as allowed by this chapter.

21 B. No person shall remove a prairie dog from the ground except as allowed by
22 this chapter.

1 C. No person shall damage or fill a prairie dog burrow except as allowed by
2 this chapter.

3 D. No person shall transport a prairie dog onto public or private property within
4 the city except under an approved relocation plan as described in section
5 7.06.050(B).

6 7.06.040. – Exemptions.

7 Public law enforcement personnel, including animal control officers, are exempt
8 from the provisions of this chapter for the purposes of carrying out their official
9 duties assisting the community with prairie dogs outside the burrow and colony
10 setting. The following are exempt from the need to obtain a major prairie dog
11 management permit, but shall be eligible for a minor prairie dog management
12 permit, as those terms are described in section 7.06.050, regardless of the number
13 of prairie dogs to be destroyed:

14 A. Acts by a person who owns or operates an airport facility, or by a person
15 acting at the direction of the owner or operator of an airport facility, necessary to
16 promote human safety or to comply with Federal Aviation Administration
17 standards or regulations; and

18 B. Acts by a person who owns or operates a dam or irrigation ditch where the
19 structural integrity or the safety thereof is threatened by prairie dog burrows or
20 burrowing.

21 7.06.050. – Prairie Dog Management Permits.

22 A person may use lethal means to kill prairie dogs, destroy their burrows, remove
23 them from the ground, or relocate them, if permitted to do so under this section.

1 A. Minor prairie dog management permits.

2 1. A person seeking to destroy fewer than 25 prairie dogs shall be
3 eligible for an expedited process to receive a prairie dog management
4 permit. The applicant shall have the burden of proof that the number of
5 prairie dogs within the area where prairie dogs are proposed to be destroyed
6 falls below this limit. The applicant must agree that the city may inspect
7 the property to determine the number of prairie dogs thereon. An area shall
8 be presumed to carry fewer than 25 prairie dogs if the active prairie dog
9 habitat area is less than one acre, but the results of an inspection may
10 overcome this presumption.

11 2. An applicant eligible for this expedited process shall be entitled to a
12 prairie dog management permit issued by the director, subject to all
13 applicable fees, and any conditions the director determines necessary to
14 protect human health, safety, and welfare, wildlife, and the natural
15 environment, such as those described in subsection B(6), below.

16 3. As an alternative to destroying the prairie dogs under the permit, the
17 applicant may donate them to a facility which uses them to rehabilitate
18 wildlife, or may relocate the prairie dogs in the same manner as described
19 in subsection B.

20 4. Restriction on serial use of minor prairie dog management permits.
21 Minor prairie dog management permits are not intended to be used in batch
22 or in series to control more than 25 prairie dogs within a single or connected

1 population, regardless of whether the population exists within a single
2 property or crosses property lines.

3 5. No person may use, or collaborate with others to use, a batch or
4 series of minor prairie dog management permits to avoid the requirements
5 of a major prairie management permit.

6 B. Major prairie dog management permits.

7 1. Attempt to relocate. A person seeking to destroy 25 or more prairie
8 dogs must first attempt in good faith to relocate the prairie dogs, as
9 described below.

10 2. Notice. The applicant shall notify the public, in the form and
11 manner prescribed by the director, and with the information the director
12 determines necessary, that prairie dogs will become available for relocation.
13 If the property for which a permit is sought is the subject of a development
14 application, the notice shall be given at the time the application is made.

15 3. Acceptance by receiving site. Any landowner may agree to accept
16 the prairie dogs by notifying the applicant and the city, in the form and
17 manner prescribed by the director. Acceptance must include the relocation
18 plan, all information the director determines necessary, and all other
19 necessary approvals. Deadlines for acceptance shall be as follows:

20 a. If the property for which a permit is sought is the subject of
21 a development application, acceptance must be made at least 30 days before
22 any grading on the property.

1 b. If the property for which a permit is sought is not the subject
2 of a development application, acceptance must be made within 90 days of
3 the notice.

4 4. Relocation responsibility. Should any landowner timely agree to
5 accept the prairie dogs, as determined by the director, the applicant shall
6 relocate the prairie dogs to the receiving site at its own expense. The
7 applicant shall notify the director whether the applicant intends to complete
8 the relocation itself, or whether it intends to allow the receiving site to
9 manage the relocation and reimburse the receiving site for its costs.

10 a. An applicant undertaking responsibility to relocate the
11 prairie dogs shall submit a relocation plan to the city, including all
12 information the director determines necessary, and including any other
13 approvals and permits necessary to facilitate the relocation.

14 b. If an applicant instead chooses to allow the receiving site to
15 manage the relocation, the receiving site shall have 90 days after such
16 choice is made to relocate the prairie dogs. The receiving site shall provide
17 an estimate of all reasonable costs of relocation. In this circumstance, the
18 applicant would agree with the receiving site to pay such costs. Only
19 reasonable relocation costs shall qualify for reimbursement. Any further
20 non-nominal charges to accept prairie dogs are ipso facto unreasonable.

21 5. Relocation. Prairie dogs may be removed and relocated as described
22 in the applicable relocation plan.

1 6. Should no landowner accept the prairie dogs that are the subject of
2 the major prairie dog management permit application, or should any prairie
3 dogs remain on the property after an attempt to relocate the prairie dogs
4 targeted in the permit application, the director shall issue the permit, subject
5 to all applicable fees. As an alternative to destroying the prairie dogs under
6 the permit, the applicant may, but is not required to, donate them to a facility
7 which uses them to rehabilitate the black-footed ferret.

8 7. The director may condition the approval of a relocation plan or a
9 major prairie dog management permit on the construction of a fence built
10 to specifications necessary to restrict prairie dog entry, where the property
11 that is the subject of the application has applied successively for major
12 prairie dog management permits so as to indicate a neglect to actively
13 manage prairie dogs on the property.

14 C. Duration and extension. A prairie dog management permit shall be valid
15 for a period of one year. An applicant may request an extension of up to one year,
16 and the director shall grant the request if the applicant has diligently pursued the
17 management during the initial term but has been unable to complete the
18 management due to unforeseen circumstances.

19 D. Birthing period restriction. No relocation or extermination of prairie dogs
20 shall occur between April 1 and June 1.

21 7.06.060. - Staff approval of relocators.

1 No person shall relocate a prairie dog unless the director, in conjunction with the
2 natural resources manager, qualifies the relocator as meeting all the following
3 criteria:

4 A. The relocator has at least three years of experience relocating prairie dogs.

5 B. The relocator provides references for, and documentation of, two successful
6 prairie dog relocation projects.

7 C. The relocator's team must include, at least as an on-call consultant, a natural
8 resources professional who has experience in wildlife biology and plant ecology.

9 D. The relocator must provide a list of all methods used during relocation,
10 including, but not limited to:

11 1. number of traps,

12 2. days of pre-baiting,

13 3. how often traps are monitored,

14 4. days of trapping,

15 5. method of transportation of prairie dogs to receiving site, and

16 6. facility for holding live prairie dogs.

17 7.06.070. - Notice.

18 Notice by landowner of prairie dog management. No landowner shall allow the
19 extermination of prairie dogs without posting notice on the property, in a form
20 approved by the director, for at least 14 days prior to such management.

21 7.06.080. – Fees.

22 A. Application fee. At time of application, an applicant for a major prairie dog
23 management permit shall pay an application processing fee of \$500.00 to offset

1 administrative costs associated with issuing and monitoring these permits. This
2 application fee shall be in addition to any other mitigation cost or payment required
3 in conjunction with approved prairie dog management practices. There is no
4 application fee for a minor prairie dog management permit.

5 B. Habitat restoration fee. At time of issuance of permit, an applicant for a
6 major prairie dog management permit shall be invoiced for a fee of \$1,200.00 per
7 acre of active prairie dog habitat lost, prorated for any partial acres of lost habitat.
8 The revenues from this fee shall be used for acquiring additional public land to
9 serve as prairie dog habitat, conducting relocation of prairie dogs to suitable habitat,
10 creating new habitat or improving existing habitat for prairie dogs, monitoring the
11 success of these activities, protection of existing prairie dog colonies, educating the
12 public regarding prairie dogs, or funding prairie dog-related research, and may be
13 used to offset the administrative costs of the foregoing. All revenues accruing to
14 the city under this paragraph shall be placed in the prairie dog habitat restoration
15 fund established in chapter 4.71. There is no habitat restoration fee for a minor
16 prairie dog management permit.

17 C. The director shall waive the habitat restoration fee, or any portion of such
18 fee, in situations where a landowner establishes to the satisfaction of the director
19 and the natural resources manager that the landowner would be entitled to destroy
20 prairie dogs inhumanely but instead has used only humane methods to destroy the
21 prairie dogs targeted under the permit. The director shall also waive the habitat
22 restoration fee, or any portion of such fee, where a landowner successfully relocates

1 the population to a different portion of the same property as outlined in the
2 applicable relocation plan.

3 D. Unless the fee is waived as described above, the applicant shall pay the fee
4 to the city upon taking an action authorized by the permit. Failure to timely pay
5 such fee shall be a violation of this chapter.

6 7.06.090. - Rules and regulations.

7 The director may propose such reasonable rules and regulations as may be
8 necessary for the purpose of administering, interpreting, or enforcing the provisions
9 of this section. The rules and regulations shall be reviewed by the city attorney's
10 office and then adopted by the city manager. Notice of adopted rules shall be
11 published in a newspaper of general circulation in the city.

12 7.06.100. - Forms.

13 The director may designate the required form of any application, request, plan, or
14 other submittal under this chapter. All such submittals must be complete to be
15 considered by the city.

16 7.06.110. – Appeal.

17 Appeals shall be permitted as follows:

18 A. Appeal of decisions of the director and natural resources manager.

19 1. To the city manager. The applicant may appeal to the city manager, under
20 the procedures listed in chapter 2.98, any action, decision, refusal, denial, or order
21 by the director or natural resources manager that finally disposes of a request or
22 application under this section. The city manager shall reverse the decision upon
23 finding that the decision misapplied or misinterpreted this section.

1 2. To the city council. An applicant who receives an unfavorable written
2 decision from the city manager on appeal may then appeal the matter to the city
3 council by filing a notice of appeal as described in 15.02.040(K)(6) within seven
4 days from the date of the city manager’s decision. The council shall hear and decide
5 on the appeal generally under the procedures detailed in section 15.02.040(K)(10),
6 (11)(a)-(c), and (12). The council shall reverse the decision of the city manager
7 upon finding that the decision misapplied or misinterpreted this section.

8 B. Appeal of adoption of rules and regulations. Any rule or regulation
9 promulgated under section 7.06.090 may be appealed to the city council within 28
10 days of publication of adoption, by filing a notice of appeal as described in
11 15.02.040(K)(6). The council shall hear and decide on the appeal generally under
12 the procedures detailed in section 15.02.040(K)(10), (11)(a)-(c), and (12). The
13 council shall reverse any rule or any part of any rule upon finding that the decision
14 misapplied or misinterpreted this section, and may then remand any matters to the
15 city staff for further rulemaking. Any rules or parts of rules not specifically
16 reversed shall be final.

17 7.06.120. - Violation—Penalty.

18 Violation of any section of this chapter is a strict liability offense punishable
19 according to chapter 1.12. Additionally, any violation of this chapter shall be a
20 violation of the development code and enforceable by all means described in
21 chapter 15.09.

22 7.06.130. – Responsible Enforcement Entities.

1 The code enforcement and animal control divisions shall be primarily responsible
2 for enforcing the provisions of this chapter.

3 Section 3

4 The Council amends the Longmont Municipal Code by adding the following chapter:

5 CHAPTER 4.71. - PRAIRIE DOG HABITAT RESTORATION FUND

6 4.71.010. - Fund established.

7 There is created a special fund pursuant to article 9.9 of the Municipal Charter,
8 known as the prairie dog habitat restoration fund for the purposes described at
9 section 7.06.080(B) of this Code. The city council shall at any time have authority
10 to make appropriations from the fund as restricted by chapter 7.06 of this Code.

11 4.71.020. - Revenue sources.

12 The prairie dog habitat restoration fund shall be funded through revenues derived
13 from collection of the prairie dog habitat restoration fee pursuant to section
14 7.06.080(B) of this Code.

15 Section 4

16 The Council amends section 15.05.030(G)(9) of the Longmont Municipal Code, by adding
17 italicized material and deleting stricken material, to read as follows:

18 15.05.030. - Habitat and Species Protection

19 ...

20 G. Habitat and Species Protection Standards

21 ...

22 9. Prairie Dog Removal

1 *Before the approval of any development application that would authorize*
2 *construction, grading, or paving on any land carrying any prairie dogs as*
3 *defined in chapter 7.06, the applicant must also secure a prairie dog*
4 *management permit under that chapter. No person shall undertake any*
5 *construction, grading, or paving on any land which, at such time, carries*
6 *any prairie dogs. In addition to being a violation of that chapter, any*
7 *violation of this paragraph shall be a violation of this development code.*

8 ~~a. Before the commencement of construction on the development site,~~
9 ~~any black-tailed prairie dogs inhabiting portions of the site that shall be~~
10 ~~disturbed shall be relocated according to a relocation plan approved by the~~
11 ~~city. Relocation plans must be in compliance with applicable state laws~~
12 ~~pertinent to relocation and include provisions for recolonization of the~~
13 ~~prairie dogs to a property. The relocation plan shall include the written~~
14 ~~consent of the owner of the relocation property.~~

15 ~~b. Only after a good faith effort to relocate the prairie dogs, and after~~
16 ~~consultation with the city about alternatives, may an applicant eradicate the~~
17 ~~prairie dogs. All good faith efforts shall be documented in writing and~~
18 ~~submitted to the city for consideration. Eradication shall be by the use of a~~
19 ~~poisonous substance that is either approved for such use by the United~~
20 ~~States Environmental Protection Agency or is applied by a certified operator~~
21 ~~regularly engaged in the business of fumigation or pest extermination and~~
22 ~~was licensed by the State of Colorado~~
23 ~~pursuant to C.R.S. § 35-10-114.~~

1 Section 5

2 To the extent only that they conflict with this ordinance, the Council repeals any conflicting
3 ordinances or parts of ordinances. The provisions of this ordinance are severable, and invalidity of
4 any part shall not affect the validity or effectiveness of the rest of this ordinance.

5 Introduced this 18th day of December, 2018.

6
7 Passed and adopted this 8th day of January, 2019.

8
9

10 /s/ Brian J. Bagley
11 MAYOR

12 ATTEST:

13
14 /s/ Dawn E. Quintana
15 CITY CLERK

16

17 NOTICE: THE COUNCIL WILL HOLD A PUBLIC HEARING ON THIS ORDINANCE AT
18 7:00 P.M. ON THE 8TH DAY OF JANUARY, 2019, IN THE LONGMONT COUNCIL
19 CHAMBERS.

20

21

22 APPROVED AS TO FORM:

23

24

25 /s/ Dan Kramer 01/09/2019
26 ASSISTANT CITY ATTORNEY DATE

27

28

29 /s/ Cristi Campbell 01/09/2019
30 PROOFREAD DATE

31

32

33 APPROVED AS TO FORM AND SUBSTANCE:

34

35

36 /s/ Joni Marsh 01/09/2019
37 ORIGINATING DEPARTMENT DATE

38

39 CA File: 18-000038