

CHAPTER 7.06 - PRAIRIE DOG CONTROL

7.06.010. - Purpose and legislative intent.

- A. The city council intends to protect prairie dogs when appropriate, and encourage more humane means of management when necessary to manage conflict with human land uses.
- B. The city intends to exercise its legislative authority to require action in compliance with this chapter by landowners, residents, visitors, applicants, developers, employers, and employees pursuant to its local home rule authority.
- C. The city council finds that the regulation of local wildlife, wildlife habitat, and any conflicts between human land uses and local wildlife constitutes an area of valid local concern and regulation and is therefore subject to the valid exercise of the city's police power.
- D. The city council finds that the use of poison to control prairie dogs may have an adverse and cumulative effect upon the local environment, and upon the health and safety of human beings and local wildlife, and should be avoided when feasible. The city supports the use of other methods instead of poisons as a mechanism for prairie dog control, especially when other less ecologically damaging control strategies are available.
- E. The requirements of this section are in addition to, and do not supersede, any state or federal limitations on the destruction or relocation of prairie dogs.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019)

7.06.020. - Definitions.

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

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

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

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

Urban level development means:

1. Property of any size that has received a land use approval and a certificate of occupancy for the existing use on the property, or
2. Developed outlots in both residential and commercial subdivisions that were approved for open space, recreation or drainage purposes, or
3. City owned and managed golf courses and developed parks.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019; Ord. No. [O-2019-51](#), § 2, 9-10-2019)

7.06.030. - Prohibitions.

- A. No person shall kill a prairie dog, or use lethal means with the intent to kill a prairie dog, except as allowed by this chapter.
- B. No person shall trap or remove a prairie dog from the ground except as allowed by this chapter.
- C. No person shall damage or fill a prairie dog burrow except as allowed by this chapter.

- D. No person shall transport a prairie dog from within the city onto public or private property except under an approved relocation plan as described in subsection 7.06.050.B.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019; Ord. No. [O-2019-51](#), § 3, 9-10-2019)

7.06.040. - Exemptions.

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

- A. Acts by a person who owns or operates an airport facility, or by a person acting at the direction of the owner or operator of an airport facility, necessary to promote human safety or to comply with Federal Aviation Administration standards or regulations; and
- B. Acts by a person who owns or operates a dam or irrigation ditch where the structural integrity or the safety thereof is threatened by prairie dog burrows or burrowing.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019; Ord. No. [O-2019-51](#), § 4, 9-10-2019)

7.06.050. - Prairie dog management permits.

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

A. *Minor prairie dog management permits.*

1. A person seeking to destroy prairie dogs on property that is less than 1.5 acres in size, or that has active prairie dog habitat less than 1.5 acres in size, or that has existing urban level development, shall be eligible to receive a minor prairie dog management permit. The applicant must agree that the city or its consultants may inspect the property to determine the location and size of the active prairie dog habitat.
2. An applicant eligible for this process shall be entitled to a prairie dog management permit issued by the director, subject to all applicable fees, and any conditions the director determines necessary to protect human health, safety, and welfare, wildlife, and the natural environment, such as those described in subsection B.6, below.
3. As an alternative to destroying the prairie dogs under the permit, the applicant may donate them to a facility which uses them to rehabilitate the black-footed ferret, or may relocate the prairie dogs in the same manner as described in subsection B.
4. Restriction on serial use of minor prairie dog management permits. Minor prairie dog management permits are not intended to be used in batch or in series to control prairie dogs within a single or connected population, regardless of whether the population exists within a single property or crosses property lines.
5. No person may use, or collaborate with others to use, a batch or series of minor prairie dog management permits to avoid the requirements of a major prairie management permit.

B. *Major prairie dog management permits.*

1. *Attempt to relocate.* A person seeking to destroy prairie dogs on property that has an active prairie dog habitat greater than 1.5 acres, or that does not have existing urban level development must first attempt in good faith to relocate the prairie dogs, as described below.

2. *Notice.* The applicant shall notify the public, in the form and manner prescribed by the director, and with the information the director determines necessary, that prairie dogs will become available for relocation. If the property for which a permit is sought is the subject of a development application, the notice shall be given at the time the application is made or as soon as the city determines that the property has active prairie dog habitat greater than 1.5 acres.
 3. *Acceptance by receiving site.* Any landowner may agree to accept the prairie dogs by notifying the applicant and the city, in the form and manner prescribed by the director. Acceptance must include the relocation plan, all information the director determines necessary, and all other necessary approvals. Deadlines for acceptance shall be as follows:
 - a. If the property for which a permit is sought is the subject of a development application, acceptance must be made before any stormwater construction activity permit (SCAP) is issued for the property.
 - b. If the property for which a permit is sought is not the subject of a development application, acceptance must be made within 90 days of the notice.
 4. *Relocation responsibility.* Should any landowner timely agree to accept the prairie dogs, as determined by the director, the applicant shall relocate the prairie dogs to the receiving site at its own expense. The applicant shall notify the director whether the applicant intends to complete the relocation itself, or whether it intends to allow the receiving site to manage the relocation and reimburse the receiving site for its costs.
 - a. An applicant undertaking responsibility to relocate the prairie dogs shall submit a relocation plan to the city, including all information the director determines necessary, and including any other approvals and permits necessary to facilitate the relocation.
 - b. If an applicant instead chooses to allow the receiving site to manage the relocation, the receiving site shall have 90 days after such choice is made to relocate the prairie dogs. The receiving site shall provide an itemized estimate of all reasonable costs of relocation to the applicant and the city. In this circumstance, the applicant would agree with the receiving site to pay such costs. Only reasonable relocation costs shall qualify for reimbursement. Any further non-nominal charges to accept prairie dogs are ipso facto unreasonable.
 5. *Relocation.* Prairie dogs may be removed and relocated as described in the applicable relocation plan.
 6. Should no landowner accept the prairie dogs that are the subject of the major prairie dog management permit application, or should any prairie dogs remain on the property after an attempt to relocate the prairie dogs targeted in the permit application, the director shall issue the permit, subject to all applicable fees. As an alternative to destroying the prairie dogs under the permit, the applicant may, but is not required to, donate them to a facility which uses them to rehabilitate the black-footed ferret.
 7. The director may condition the approval of a relocation plan or a major prairie dog management permit on the construction of a fence built to specifications necessary to restrict prairie dog entry, where the property that is the subject of the application has applied successively for major prairie dog management permits so as to indicate a neglect to actively manage prairie dogs on the property.
- C. *Duration and extension.* A prairie dog management permit shall be valid for a period of one year. An applicant may request an extension of up to one year, and the director shall grant the request if the applicant has diligently pursued the management during the initial term but has been unable to complete the management due to unforeseen circumstances.
- D. *Birthing period restriction.* No relocation of prairie dogs shall occur between April 1 and June 1.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019; Ord. No. [O-2019-51](#), § 5, 9-10-2019)

7.06.060. - Staff approval of relocators.

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

- A. The relocator has at least three years of experience relocating prairie dogs.
- B. The relocator provides references for, and documentation of, two successful prairie dog relocation projects.
- C. The relocator's team must include, at least as an on-call consultant, a natural resources professional who has experience in wildlife biology and plant ecology.
- D. The relocator must provide a list of all methods used during relocation, including, but not limited to:
 1. Number of traps,
 2. Days of pre-baiting,
 3. How often traps are monitored,
 4. Days of trapping,
 5. Method of transportation of prairie dogs to receiving site, and
 6. Facility for holding live prairie dogs.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019)

7.06.070. - Notice.

Notice by landowner of prairie dog management. No landowner shall allow the extermination of prairie dogs without posting notice on the property, in a form approved by the director, for at least 14 days prior to such management. If the property owner uses only humane methods to exterminate prairie dogs, as approved by the director and natural resources manager, no notice is required.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019; Ord. No. [O-2019-51](#), § 6, 9-10-2019)

7.06.080. - Fees.

- A. *Application fee.* At time of application, an applicant for a major prairie dog management permit shall pay an application processing fee of \$500.00, to offset administrative costs associated with issuing and monitoring these permits. This application fee shall be in addition to any other mitigation cost or payment required in conjunction with approved prairie dog management practices. There is no application fee for a minor prairie dog management permit.
- B. *Habitat restoration fee.* At time of issuance of a permit for extermination, an applicant for a major prairie dog management permit shall be invoiced for a fee of \$1,200.00 per acre of active prairie dog habitat lost, prorated for any partial acres of lost habitat. The revenues from this fee shall be used for acquiring additional public land to serve as prairie dog habitat, conducting relocation of prairie dogs to suitable habitat, creating new habitat or improving existing habitat for prairie dogs, monitoring the success of these activities, protection of existing prairie dog colonies, educating the public regarding prairie dogs, or funding prairie dog-related research, and may be used to offset the administrative costs of the foregoing. All revenues accruing to the city under this paragraph shall be placed in the prairie dog habitat restoration fund established in chapter 4.71. There is no habitat restoration fee for a minor prairie dog management permit.

- C. The director shall waive the habitat restoration fee in situations where a landowner establishes to the satisfaction of the director and the natural resources manager that the landowner would be entitled to destroy prairie dogs inhumanely but instead has used only humane methods to destroy the prairie dogs targeted under an extermination permit. This waiver includes those landowners who have used a combination of relocation and humane methods in lieu of inhumane methods.
- D. Unless the fee is waived as described above, the applicant shall pay the fee to the city upon taking an action authorized by the permit. Failure to timely pay such fee shall be a violation of this chapter.

(Ord. No. [O-2019-01](#), § 2, 1-8-2019; Ord. No. [O-2019-51](#), § 7, 9-10-2019)

7.06.090. - Rules and regulations.

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

(Ord. No. [O-2019-01](#), § 2, 1-8-2019)

7.06.100. - Forms.

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

(Ord. No. [O-2019-01](#), § 2, 1-8-2019)

7.06.110. - Appeal.

Appeals shall be permitted as follows:

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

1. *To the city manager.* The applicant may appeal to the city manager, under the procedures listed in chapter 2.98, any action, decision, refusal, denial, or order by the director or natural resources manager that finally disposes of a request or application under this section. The city manager shall reverse the decision upon finding that the decision misapplied or misinterpreted this section.
2. *To the city council.* An applicant who receives an unfavorable written decision from the city manager on appeal may then appeal the matter to the city council by filing a notice of appeal as described in subsection 15.02.040.K.6, within seven days from the date of the city manager's decision. The council shall hear and decide on the appeal generally under the procedures detailed in subsections 15.02.040.K.10, 11.a—c, and 12. The council shall reverse the decision of the city manager upon finding that the decision misapplied or misinterpreted this section.

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

(Ord. No. [O-2019-01](#), § 2, 1-8-2019)

7.06.120. - Violation—Penalty.

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

(Ord. No. [O-2019-01](#), § 2, 1-8-2019)

7.06.130. - Responsible enforcement entities.

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

(Ord. No. [O-2019-01](#), § 2, 1-8-2019)