

## **Guidance regarding acceptable forms of local government approval for Gopher Tortoise Conservation and 10 or Fewer Burrows (off-site) relocation permits**

**This document is intended to provide guidance to permittees, Authorized Gopher Tortoise Agents, local governments, and FWC staff on implementing the local government approval requirement as part of the Gopher Tortoise Permitting Guidelines and permit conditions.**

*The overarching purpose of requiring proof of local government approval prior to capturing and relocating gopher tortoises from development sites is to:*

- prevent unnecessarily relocating tortoises should the development project not occur; and,
- avoid/minimize the likelihood of tortoises from neighboring properties recruiting onto the development site.

### **CURRENT FWC REQUIREMENTS:**

***FWC permits include the following condition for all (off-site) relocation permits:***

*“Captures/ relocations may be conducted only if written local government approvals have been obtained for land clearing or grading, or construction activities and provided to the Gopher Tortoise Permit Coordinator prior to commencing relocation activities.”*

***Gopher Tortoise Permitting Guidelines, p. 10 (April 2008 – revised January 2017):***

*“Demonstration of need for a permit will require 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). The actual capture and relocation authorized by the permit shall be conditioned upon the permittee submitting proof of local government approvals for clearing, grading or construction activities (if required at the local government level) to the FWC prior to commencing capture and relocation activities. Local governments may have requirements that an applicant demonstrate that FWC permits have been issued, or even that FWC permit requirements have been met, before issuing their final local government approval. Only in these situations, the FWC will accept a letter or email from the local government development review staff that indicates local government approval is pending but won’t be issued until after gopher tortoises are relocated; or the FWC will provide letters of intent or special conditions to permits, if necessary, that can be used to demonstrate agency concurrence with a proposed project. For projects that do not require local government approval, the FWC will accept a valid authorization or permit (e.g., environmental resource permit, dredge and fill permit) from an entity or agency that would allow commencement of clearing, grading or construction of the project. Relocating gopher tortoises from a development site should be the final action taken prior to commencement of clearing, grading, or building activities. This is to minimize tortoises from recruiting back to the development site if relocated prematurely, and to prevent unnecessarily relocating tortoises should the development project not occur. Therefore, if site clearing for construction is delayed for any reason, FWC recommends that the permittee not submit the final after action report or void the relocation permit until clearing commences and they have ensured no tortoises have moved onto the site. If site construction does not commence within 90 days from the date of the most recent 100% gopher tortoise survey or*

capture activities, a new gopher tortoise burrow survey must be completed to ensure gopher tortoises have not moved in and, if found, a valid permit must be obtained, amended, or acted on to capture and relocate all tortoises prior to commencing any site clearing. Silt fencing should be installed and maintained for the duration of the project in order to prevent tortoises from moving onto the development site. Permits are not issued to move tortoises off a property where no development activity is planned.

**ACCEPTABLE FORMS OF LOCAL GOVERNMENT APPROVAL:**

Any of the following approval levels will satisfy FWC's requirement of local government approval and will comply with the permit condition and the Gopher Tortoise Permitting Guidelines (specific to the underlined text above):

- A permit or other authorization from the local government to commence clearing, grading, or construction activities;
- Final site plan approval by the local government that allows clearing, grading or construction to commence;
- A conditional construction permit issued by the local government;
- A letter from the local government to the FWC stipulating the intent of that local government to issue authorization for clearing, grading or construction to commence, but the approval will not be issued until after the gopher tortoises have been relocated from the site;
- A permit, letter or email from the local government stipulating that the site must be fenced with silt fence prior to issuance of clearing, grading or final construction approvals, and gopher tortoise burrows are located within 25 feet of where the silt fence must be installed; or
- A mass grading or environmental resource permit (ERP) issued by the Florida Department of Environmental Protection or one of 5 water management districts (i.e., Northwest, Suwannee, St. Johns River, Southwest Florida, or South Florida), that authorizes clearing or grading with an approved preliminary or final site plan.

Some projects (e.g., Florida Department of Transportation road projects, rail projects, utility company corridor construction or maintenance activities, and public universities) are not required to obtain local government approval before commencing clearing, grading or construction activities. Also, some local governments do not issue an authorization or permit before clearing can commence within a project development site. For those projects, the FWC will accept either a copy of the authorization or permit (e.g., ERP, FDEP permit, FERC authorization, etc.) from the entity or agency with jurisdiction over the activity or project site, or documentation from the permittee that no prior authorization from another entity is required before commencing clearing, grading or construction.