



PROTECTION OF NONGAME BIRDS

Texas Parks and Wildlife Code (PWC) - Chapter 64 contains the primary state statutes that provide protections for nongame birds in Texas. PWC §64.002, regarding protection of nongame birds, provides that no person may:

- 1) catch, kill, injure, pursue, or possess, dead or alive, or purchase, sell, expose for sale, transport, ship, or receive or deliver for transportation, a bird that is not a game bird;
- 2) possess any part of the plumage, skin, or body of a bird that is not a game bird; or
- 3) disturb or destroy the eggs, nest, or young of a bird that is not a game bird.

PWC §64.003, regarding destroying nests or eggs provides that no person may:

destroy or take the nest, eggs, or young of any wild game bird, wild bird, or wild fowl protected by this code except as provided by this code.

Texas Parks & Wildlife Department (TPWD) interprets the prohibition of disturbance or destruction of a nest to be an offense if a nest is active. An active nest is a nest that contains an egg, nestling, or is being used by a nestling or fledgling. This applies to any type of nest including those associated with cavity-nesters (ex. woodpeckers), and ground nesters (ex. killdeer, nightjars, turkeys). In the case of colonial nesting waterbirds, every nest in the colony is considered active if any nest in the colony is active. Regardless of whether a nest structure is active or inactive, a physical nest structure may not be taken, collected, or possessed at any time. In the case of other colonial nesting birds such as swallows, it may be possible to avoid disturbing an active nest when removing other, separate, non-adjacent, non-active nest structures.

The purpose of this document is to assist with compliance of Chapter 64 of the Texas Parks and Wildlife Code. This document is only intended to provide general guidance for common situations encountered while conducting otherwise lawful activities. It will be at the discretion of TPWD Law Enforcement to determine whether a violation has occurred and a citation is warranted.

In addition to complying with Chapter 64, individuals and companies should also comply with all applicable federal, state, and local laws, such as the Endangered Species Act, the Bald and Golden Eagle Protection Act, and the Migratory Bird Treaty Act.

To report suspected violations related to native nongame bird protections, call Operation Game Thief at 1-800-792-GAME(4263).

PARKS AND WILDLIFE CODE – CHAPTER 64 COMPLIANCE SCENARIOS

- **Barn swallows are nesting on top of light fixtures found on the balcony of a hotel resort. After receiving several complaints from guests, hotel management wants to remove the nests, which contains eggs. Can the hotel remove the nests?**
 - Because eggs are present, the nests are considered active; therefore removing the nests could result in a Chapter 64 enforcement action. To avoid a violation, hotel management may remove inactive nests as long as they do not disturb active nests. Hotel management can implement deterrent actions targeting swallows to prevent future nest construction, as long as they do not disturb any active nests.

- **A commercial landscaper discovers several dozen old white-winged dove nests while working in a client's yard during the winter months. The nests are removed and destroyed. Is this a violation of Chapter 64?**
 - No. This is not a violation of Chapter 64 because the nests were neither active nor collected for possession.

- **In the winter, a utility company made plans to remove electrical poles. In May, when work begins, they discover an active hawk nest on one of the structures slated for removal. Can they remove the pole or nest because the work was pre-planned?**
 - Removal of the structure, if it results in disturbance of the nest, eggs, or nestlings, could result in law enforcement action under Chapter 64.

- **A homeowner has scheduled routine trimming of trees in his yard. Before the work is done, a large group of herons established nests in those trees. Can the trees be trimmed even if the nests are untouched?**
 - Trimming in and among trees containing active nests, even without disturbance to the physical nest, would disturb the nesting activities of the herons and could result in a Chapter 64 citation. Loss of eggs and proof of injury or death to hatchlings is not necessary to prove "disturbance" that results in a Chapter 64 violation. However, vegetation management, or in this case tree trimming, prior to the onset of egg laying would have been lawful.

- **A homeowner found a dead blue jay in the yard and discarded it directly in the trash. Is this a violation of Chapter 64?**
 - Provided that the following are true, this action would not result in a Chapter 64 violation:
 1. The homeowner didn't cause the death of the blue jay.
 2. The bird was immediately discarded.
 3. The homeowner did not keep any feathers or other parts of the bird.

- **A heronry has established in a neighborhood. Does Chapter 64 prohibit everyday activities from occurring (i.e. mowing, trash collection, and pressure spraying sidewalks) after the onset of active nesting?**

- No, these activities would not be considered a violation of Chapter 64.
- **A municipality is attempting to prevent the establishment of a heronry using auditory, visual, and chemical deterrent methods. Is this a violation of Chapter 64?**
 - Certain actions can be lawfully taken to prevent or discourage the establishment of nuisance rookeries in urban areas, including vegetation management, noise deterrents, and visual deterrents. When recommendations are carefully followed, these measures can be effective and legal. However, deterrence and management practices must cease once the first egg is laid in any nest within a colony.
- **A highway overpass was covered in cliff swallow nests. In October, scheduled maintenance or construction activities destroyed inactive nests. Was this a violation of Chapter 64?**
 - The activity took place outside of the nesting season (March 15-Sep 15 in most parts of the state), and the nests were not active. No birds, eggs, or nestlings were disturbed, injured, or killed. Therefore, there was no violation of Chapter 64. However, if this same maintenance or construction activity occurred during the cliff swallow breeding season and nests were active, the staff member or contractor (depending on who conducted the activities) could be cited under Chapter 64 if active nests were disturbed as a part of that activity.
- **A rancher traps and humanely euthanizes several brown-headed cowbirds between March and May. Is this a violation of Chapter 64?**
 - No. Although brown-headed cowbirds are native to Texas, Chapter 64 contains provisions to allow the control of certain species. The brown-headed cowbird is a species for which lethal control is legal without a state permit when found committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in numbers and in a manner that constitutes a health hazard or other nuisance.
- **Several house sparrow nests are found behind signs on a city building. Can city workers remove the active nests?**
 - Yes, Chapter 64 specifically authorizes the destruction of house sparrows and their nests.
- **A real estate developer has purchased a tract of land and will develop a new subdivision. There are various abandoned buildings on the property. One building has a black vulture nest from a previous nesting season that is not active, and another building has an active barn owl nest. Which building, if any, can the developer demolish without violating Chapter 64?**
 - The developer can demolish the building containing the inactive vulture nest. However, the developer cannot demolish the building containing the active barn owl nest since doing so will destroy the nest, eggs, or young and could result in an enforcement action under Chapter 64.

For information regarding best management practices to avoid and minimize impacts to native nongame birds, please visit TPWD's Wildlife Habitat Assessment Program's [Planning Tools and Best Management Practices webpage](#).

Egret Rookeries

When nesting birds become a problem

What is a rookery?

A rookery occurs when large numbers of egrets or herons nest together in a concentrated area (colonial-nesting). A rookery can consist of one species or several species. Several species are found in rookeries, but cattle egrets are typically the most abundant. Most rookeries go unnoticed, however, when these birds choose to nest in or near a residential neighborhood, the result can sometimes be problematic because of noise, smell, or damage caused by vegetation disturbance or excrement.

When is nesting season?

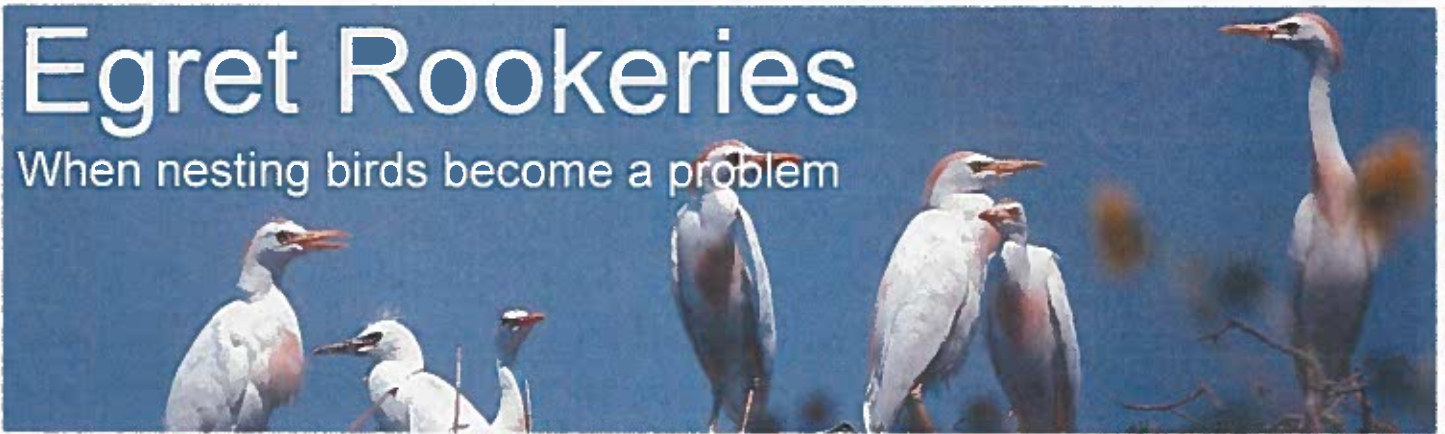
Some species, such as the yellow-crowned night heron, can arrive as early as February. Birds that arrive early in the season act as "scouts" and identify safe and suitable nesting locations. These birds are nervous and easier to scare off. Birds that arrive later, usually in March, look for locations chosen by others and are harder to deter. Most colonial-nesting waterbirds typically leave by mid-October.

What can be done?

Colonial-nesting waterbirds are protected by both federal and state laws (Migratory Bird Treaty Act, and Texas Parks and Wildlife Code Chapter 64, respectively). Harassment techniques can be used to encourage the adult birds to relocate before eggs are laid, provided that no birds are injured or killed. Once the first egg has been laid in any nest in the rookery, the law severely limits what can be done to deter the birds. Typical daily activities such as mowing, garbage collection, and pressure spraying sidewalks can continue as planned. However, any actions intended to disturb the birds or actions that would present a disturbance must stop. The most effective tool in rookery management is preventing the colony from becoming established.

Prevention

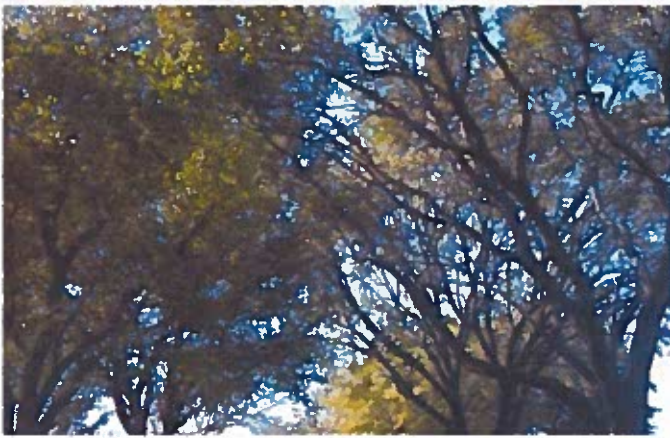
Trimming trees is the most effective way to prevent rookery establishment. Herons and egrets are attracted to areas with mature trees with dense canopy cover. Overlapping branches allow the birds to move easily through the trees. Trees should be trimmed outside of the breeding season so that there is less than 70% canopy cover. Reducing canopy cover greatly reduces the chances that birds will choose the area as a nesting site. This should be planned during winter months and finished prior to the arrival of birds.



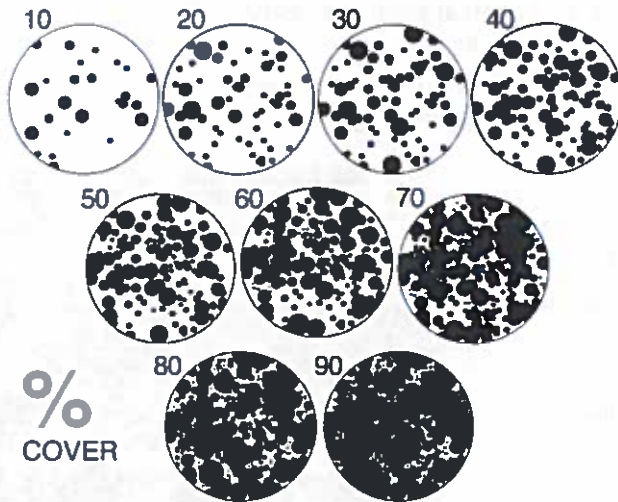
Cattle egret chick in a rookery. Cattle egrets are typically the last to arrive at rookeries.



A rookery established in a suburban neighborhood. The street and sidewalks are covered in bird droppings. Prevention of rookery establishment is the best approach.



The trees on the left side are untrimmed while the trees on the right have been trimmed to reduce canopy cover, which deters egrets from nesting.



To determine percent canopy cover, stand beneath the group of trees and look up. The area of sky blocked by leaves and branches represented by the black is the percent canopy cover. To deter egrets from nesting, less than 70% canopy is recommended.

Harassment Techniques

Harassment may begin as soon as birds first arrive, but before birds are nesting. If detected early, birds are nervous and easier to scare off. Below are some examples of harassment techniques that can be used:



Scare eye balloons



Noisemakers (air horns, pyrotechnics, etc)



Mylar tape

Other methods include water spray that does not injure birds and removing early nesting material from trees (do not remove nests with eggs).

Who to call:

For permits: U.S. Fish & Wildlife Service Migratory Birds Office at 505-248-7882 or USDA Wildlife Services at 866-487-3297.

For additional information: U.S. Fish & Wildlife Service, Arlington Office 817-277-1100 or Texas Parks & Wildlife Department, DFW Urban Wildlife Office 972-293-3841.

What will the City do?

- Continue providing normal City services such as solid waste disposal, street sweeping, mowing of greenbelts in areas affected by rookeries.
- Provide additional street sweeping and power-washing of public right of ways that are affected.
- Help identify if eggs are present in nests to determine if scare tactics can take place.
- Legally remove eggs or dead or injured birds that have fallen to the ground.
- Coordinate informational meetings for residents regarding the Migratory Bird Treaty Act.
- Provide updates and information to the community.

Contact Information

For questions, bird sightings in trees, and general information regarding migratory birds:

Pam Nelson, Community Services Director
pnelson@thecolonytx.gov or (972)624-3958, or

Chris Chandler, Asst. Police Chief
cchandler@thecolonytx.gov or (972)624-3938

To report dead or injured birds (24 hrs./day):

The Colony Animal Services Department, (972)370-9250,
or The Colony Police Non-Emergency, (972)625-1887.

For additional information contact:

Texas Parks and Wildlife Dept. Urban Wildlife Biologist
at (972)293-3841

U.S. Fish and Wildlife Services Division of Migratory Bird
Management at (703)358-1714, or U.S.D.A. Wildlife
Degradation Permit Application Info at (817)978-3146.
<https://www.thecolonytx.gov/Migratory-Birds>

Common Migratory Birds



Cattle Egret



Yellow-Crowned
Night Heron



Snowy Egret



Great Blue Heron



Great Egret



Little Blue Heron

Migratory Birds In Our Community



Migratory Birds: What can YOU do?

BEFORE NESTING SEASON BEGINS: (December - February)

- Be on the lookout for "sentry" birds. They are the first to arrive looking for good nesting places. Report sightings to your neighbors and to the City by contacting Pam Nelson, Community Services Director, at (972)624-3958 or pnelson@thecolonytx.gov.

- Familiarize yourself with the variety of birds found in Texas. Each species has a different breeding period. Be on the lookout for these birds beginning at these times - **February:** Yellow-Crowned Night Heron; **March:** Cattle Egret, Great Egret, Great Blue Heron, Little Blue Heron, Snowy Egret.
- Nesting season is typically March - October. Pre and post nesting season is typically November - February.
- Do not kill, harass, relocate, move or attempt to scare away the birds by any means during nesting season.

WHEN BIRDS FIRST ARRIVE: (January - April)

- Use a combination of scaring devices before birds lay eggs.
- As soon as you see birds on or near your property, begin using scare tactics.

- Use noisemakers, water spray or shine lights at night.

- Hang "scare eye" balloons or other moving objects in trees.
- Use long poles, tennis balls or water hoses to disturb early nesting material - **BEFORE EGGS ARE LAID.**

- After presence of eggs have been verified, all scare tactics must cease.
- Do not harm birds or eggs. These birds and eggs are protected by the Migratory Bird Treaty Act.

IF A ROOKERY IS ESTABLISHED: (March - September):

- Continue normal maintenance of your property (mowing, weed-eating, edging, watering, etc.)
- Power wash or spray down your sidewalks, lawns, landscaping, home, etc. to dissipate bird waste.
- Call The Colony Animal Services at (972)370-9250 or The Colony PD Non-Emergency at (972)625-1887 (24 hours a day) to report fallen eggs, injured, or dead birds. Animal Services will pick them up.
- **DO NOT** attempt to handle birds, and **DO NOT** do anything to intentionally disturb the birds or their nests!

AFTER NESTING SEASON ENDS: (October - January)

- Remove any old, abandoned nests.
- Get your trees trimmed! Remove deadwood, and thin tree canopy to allow sunlight between limbs and other trees. Keep them trimmed and thinned- the birds like nesting in thick canopied trees.

- Be a good neighbor and help those who may have special needs and/or team up with your neighbors when hiring a tree trimming service and ask for discount rates for group service.

- Be watchful and report these bird arrivals anywhere in your neighborhood in late winter/early spring to the City. They may not be your problem at the time, but that can change quickly!



Egret/Heron Deterrent Starter Kits

The City of The Colony is providing this starter kit to hopefully help deter migratory birds from nesting and establishing rookeries in your neighborhood. **Use of the items in these kits is not a guarantee to prevent birds from establishing nesting sites!!** However, experts have recommended these items to aid in a combined list of actions that you as homeowners must take to deter nesting. The City will not replenish these supplies but we have included purchasing information at the end of these instructions if you need additional items.

Recommended Deterrent Actions

1. **Tree trimming (not provided)** – It is **YOUR responsibility to get your tree canopies thinned!** This is a critical action needed in deterring the birds from coming back, and **must be done before they nest.**
2. **Report Sightings-** please notify us immediately so we can alert others around you to begin the deterrent activities. This will take a combined effort from everyone, so please talk to your neighbors and get them involved. Schedule shifts and help each other with all these efforts whenever possible!
3. **Scare Eye Balloons** – package of (3) provided. Inflate these and use the fishing line in your kit to secure these to the highest points possible in your trees. The big eyes are supposed to be scary to birds, **but won't be effective if they can't see them from treetops.**
4. **Mylar Tape-** cut into 3 ft. long pieces, put a hole in the end, and use the fishing line to hang the strips from various high points in your trees or on other structures on your property (tie with several knots). The tape needs to be visible to the birds and able to move freely in the wind. The shiny look is a deterrent to them. You can also hang old CDs or other shiny objects that will move in the wind from trees.
5. **Fishing Line-** the fishing line provided is 40-50 lb test, so should not break or wear easily. Try tying something with some weight to one end and throw it up and over branches to get the balloons and tape up higher in the trees. **Do not throw anything upward that could harm birds if they are present!**
6. **Tennis balls** – can be used with an eyebolt screwed into one end of the ball to tie the fishing line to and throw up and over branches for hanging deterrent objects. Can also be used to knock nesting material down before the first eggs are laid, or to scare the birds. **Never throw the ball or any other object directly at the birds!**
7. **Water hose high pressure nozzle** – use to spray water upward into the trees to make birds uncomfortable before nests are established. Can also be used to help clean-up bird waste on your property.
8. **Noise makers (not provided)** – Loud, sharp noises such as airhorns, children's cap guns, banging metal objects together, whistles, etc. can also help scare away birds. If you use noisemakers, be respectful of your neighbors as they may have dogs or children who are sensitive to loud, sharp noises. **Also, notify PD Non-emergency (972-625-1887) of your**

name and address if are using any noisemakers that sound or look like guns or firecrackers.

9. **Predatory bird noises** - The City has purchased a sound system that plays predatory bird noises that could help as a deterrent that we will deploy if needed.
10. **City staff** – city employees have already been checking your neighborhoods to see if there are any signs of the birds returning. If they do appear, we will come to the neighborhood periodically and use screamer and banger guns to help scare the birds. ***However, you cannot count on this action alone to keep rookeries from being established. It will take a combined effort from everyone affected with ALL the actions listed above to be successful!***

Suppliers:

Purchased on Amazon-

Hose Nozzle - A1002P1 Garden Hose Heavy Duty Brass Shut Off Garden Hose Connector with High Pressure Brass Jet Sweeper Nozzle Sprayer by SOMMERLAND \$7.99

Scare Eye Balloons - Bird-X Scare-Eye Bird Repellent Predator Eyes Balloons, Pack of 3 by Bird-X \$10.99

Mylar Tape- LinkBro Bird Repellent Device [150ft x 2in] Bird Scare Tape, Effective and Humane Way to Scare Pest Birds Away, Ultra Reflective Material by LinkBro \$6.99

Purchased at Walmart – (sporting goods section)

Tennis balls

Fishing line – 40 lb test line

Remember, once the first egg is laid, all scare tactics must cease immediately!!

Any questions or to report sightings, please call:

Pam Nelson at 972-624-3958

Jackie Kopsa at 972-624-3969

Animal Services – 972-370-9250 or 972-625-1887