

Persson & Cohen, P.A.

Attorneys and Counselors At Law

David P. Persson
Andrew H. Cohen
Kelly M. Fernandez*
Maggie D. Mooney-Portale*
R. David Jackson
Regina A. Kardash*

Telephone (941) 306-4730
Facsimile (941) 306-4832
Email: kfernandez@swflgovlaw.com

* Board Certified City, County and Local Government Law

Reply to: *Lakewood Ranch*

M E M O R A N D U M

DATE: November 1, 2017
TO: City Council
FROM: Kelly M. Fernandez, Assistant City Attorney
SUBJECT: Regulation of shark fishing from City pier

Article IV, Section 9 of the Florida Constitution establishes the Fish and Wildlife Conservation Commission for the purpose of exercising the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. However, Section 68-1.005 "State Preemption of Power to Regulate," of the Florida Administrative Code provides as follows:

The power to regulate the taking or possession of marine life, as assigned to the Fish and Wildlife Conservation Commission by Article IV, Section 9 of the Florida Constitution, is expressly reserved to the Commission. This reservation does not prohibit a local government from prohibiting, for reasons of protecting the public health, safety, or welfare, saltwater fishing from real property owned by that local government.

Thus, saltwater fishing from a pier owned by a local government can be restricted by ordinance. The following local governments are known to currently have Code provisions prohibiting shark fishing from a pier: Deerfield Beach, Flagler Beach, Jacksonville Beach, Lake Worth, Naples, and St Augustine Beach. I have attached Naples' pier regulations as an example.

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

St. Petersburg
111 Second Avenue NE, Suite 536
St. Petersburg, Florida 33701

Venice
217 Nassau Street S.
Venice, Florida 34285