



December 3, 2014

Dunedin City Commission
542 Main Street
Dunedin, Florida 34698

Dear Dunedin City Commission,

We were alerted to a proposed revision to Chapter 10 of the Dunedin Code of Ordinances. The United States Association of Reptile Keepers (USARK) is a registered non-profit membership organization representing breeders, hobbyists, conservationists, pet owners, academics, and scientists who work with or in the reptile industry.

We are aware that you plan to add the language bracketed below to your current Code:

"It shall be unlawful for any person to keep, harbor or maintain any live poisonous snakes [or constrictor snakes greater than four (4) feet in length] within the city, either as domestic pets or for a commercial purpose."

If you are unaware, only the Florida Fish and Wildlife Conservation Commission (FWC) has authority to write laws regarding native and non-native wildlife. You will be violating the Constitution of the State of Florida if you proceed to pass a ban on constrictor snakes. In fact, you have already disregarded the law by passing a ban on "poisonous snakes" (which should read "venomous snakes" to be accurate).

Section 9, Article IV of the Constitution of the State of Florida prevents the state legislature, counties or municipalities from promulgating statutes or local ordinances that regulate or prohibit the possession of wild animals (this includes native and non-native wildlife and captive wildlife).

For reference, Section 9, Article IV of the Florida Constitution is below:

Fish and wildlife conservation commission.—There shall be a fish and wildlife conservation commission, composed of seven members appointed by the governor, subject to confirmation by the senate for staggered terms of five years. The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, and shall also exercise regulatory and executive powers of the state with respect to marine life, except that all license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the commission shall be prescribed by general law. The commission shall establish procedures to ensure adequate due process in the exercise of its regulatory and executive functions. The legislature may enact laws in aid of the commission, not inconsistent with this section, except that there shall be no special law or general law of local application pertaining to hunting or fishing. The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing shall be as provided by

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www.USARK.org | info@USARK.org





law. Revenue derived from license fees for the taking of wild animal life and fresh water aquatic life shall be appropriated to the commission by the legislature for the purposes of management, protection, and conservation of wild animal life and fresh water aquatic life. Revenue derived from license fees relating to marine life shall be appropriated by the legislature for the purposes of management, protection, and conservation of marine life as provided by law. The commission shall not be a unit of any other state agency and shall have its own staff, which includes management, research, and enforcement. Unless provided by general law, the commission shall have no authority to regulate matters relating to air and water pollution.

In the Florida Supreme Court, it has been upheld that a municipality may not enforce ordinances relating to the preservation or control of wildlife within its corporate limits. Other cases have even shown that FWC has, within its exclusive control, authority over the state legislature in regards to wildlife.

In summary, Section 9, Article IV bestows FWC with the exclusive authority to exercise all of the state's regulatory power over all wildlife, including captive native and non-native animals kept as pets. Hence, a municipality is precluded from regulating or prohibiting the possession of wildlife within its corporate limits.

Regarding constrictor snakes, FWC has restrictions on possession of "conditional reptiles" (previously known as "reptiles of concern"). This regulation properly addresses matters concerning these reptiles.

In light of this information, we're confident that you will not proceed to add the constrictor language to your Code. Also, your current prohibition of "poisonous snakes" should be removed from the Code to be in accordance with the State Constitution.

Venomous snakes are regulated by FWC. Residents possessing these animals must meet strict requirements including licensing, disaster plans, documented experience, etc. Having a ban on these snakes in your Code is a violation of the Constitution of the State of Florida.

Thank you for your time and understanding on this matter. Please contact us if we can be of assistance. Have a good day.

Sincerely,

Phil Goss

President of USARK

President@USARK.org