



MEMORANDUM

Date: August 23, 2017

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **Additional Information Regarding Proposed Explosive Targets Ordinance – the Ordinance Prohibiting the use of Exploding Targets in the Unincorporated Area of Pima County**

This item was continued to the September 5, 2017 Board of Supervisors meeting to allow input from an individual affiliated with the National Rifle Association (NRA), Mr. Todd Rathner.

Supervisor Ramón Valadez and I met with Mr. Rathner on July 25, 2017 to discuss the ordinance and a series of questions were raised (Attachment 1). These questions were addressed by the Chief Civil Deputy County Attorney (Attachment 2).

In addition, I requested that the Natural Resources, Parks and Recreation Department conduct a survey to determine whether any of the public or private gun ranges in Pima County allow exploding targets. The response is shown in Attachment 3.

In summary, it appears several of the issues raised by the NRA representative have been resolved.

Since exploding targets are not allowed in almost all public and private gun ranges in Pima County, this reinforces the potential ban.

In addition, in 2014, the US Forest Service conducted a test to determine if exploding targets can be demonstrated to cause ignition. Tests were conducted on 10 targets with various configurations of combustible material located next to the exploding target. Of the 10 tests, 3 produced rapid flaming ignition of nearby fuel materials.

Furthermore, the cause of the April 2017 Sawmill Fire, which burned nearly 47,000 acres on the west side of the Santa Rita Mountains, is suspected to be the result of target shooting using an exploding target. The total cost to extinguish this fire – exclusive of the environmental cost – is in excess of \$7.3 million. The table below shows the various resources required to extinguish the Sawmill Fire and their corresponding cost.

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Category	Cost
Camp Personnel	\$ 750,383
Line Personnel	222,662
Equipment	1,466,780
Crews	890,797
Camp Support	1,466,085
Aircraft	2,514,933
Total	\$7,311,640

The reported association of exploding targets and wildfire ignitions has provoked various state and federal agencies to establish legislation or rules to prohibit the use and discharge of explosives. The Bureau of Land Management (BLM) signed Fire Prevention Order: AZ910-2015-0001 on June 30, 2015. The order prohibits the use/discharge of explosives of any kind, which includes exploding targets on BLM areas, lands, roads, waterways and trails in the State of Arizona until rescinded by the BLM Arizona State Director. The US Forest Service signed Order Number R03-004 on June 1, 2017, which prohibits the use of an explosive in the Apache-Sitgreaves National Forest, Coconino National Forest Service, Coronado National Forest, Kaibab National Forest, Prescott National Forest and Tonto National Forest.

Supervisor Valadez and I are scheduled to meet with Mr. Rathner again on August 29, but we have not received any additional written comments or concerns regarding adoption of the proposed ordinance.

Given the information above, the responses to the questions raised by the NRA and the lack of additional concerns, modifications to the proposed ordinance appear unnecessary.

CHH/mjk

Attachments

c: Carmine DeBonis, Deputy County Administrator for Public Works
Nanette Slusser, Assistant County Administrator for Public Works
Chris Cawein, Director, Natural Resources, Parks and Recreation

ATTACHMENT 1



MEMORANDUM

Date: July 26, 2017

To: Andrew Flagg
Chief Civil Deputy County Attorney

From: C.H. Huckelberry
County Administrator 

Re: **Proposed Ordinance Regarding Exploding Targets**

Supervisor Ramón Valadez and I met with Mr. Todd Rather, who is affiliated with the National Rifle Association. Mr. Rathner expressed concerns regarding the proposed Ordinance on exploding targets. As you know, the proposed Ordinance was continued for 30 days to allow review. Please review the following issues Mr. Rathner raised to determine if modifications to the Ordinance are warranted.

1. Lawful possession and transport of the materials that may become an explosive target. Concern was expressed that if an individual would be stopped for a minor traffic violation and had these materials in their possession, it would be a violation of the Ordinance. It appears the ordinance prohibits the material once they become explosive. Perhaps to accommodate this concern a "nothing shall prohibit" clause could be inserted in the Ordinance that would not prohibit the possession or transport of materials or chemicals that would become explosive targets, provided they are safely separated and unmixed.
2. Vehicle Search. This concern again rose regarding the concept that someone could be stopped by law enforcement for a minor traffic violation, the materials be discovered in the vehicle that could be used to make an explosive target, and such would then allow a search of the vehicle to occur when it would not otherwise be warranted without this Ordinance.

In a related concern, the issue was raised was about whether this Ordinance would apply to incorporated municipalities or other jurisdictions within Pima County.

3. Safe and allowable uses of binary targets. Another issue raised was that there are authorized licensed and/or permitted gun/rifle ranges that may allow the use of binary targets under controlled circumstances and by direct supervision approved range operators, commonly known as Range Masters. Could such an exception to the use of exploding targets be provided in the proposed Ordinance?

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4. Applicable only to land where there are fire restrictions. An issue was raised that indicated the primary objective of the Ordinance was to prevent wildfires that were cited in the Ordinance, and would it not be easier to simply prohibit the use of binary targets anywhere there is an authorized fire restriction imposed by the land manager. In such cases, use of binary or exploding targets would be expressly prohibited. However, when there is no fire restriction or regulation on the lands in question, the use of binary or exploding targets could be permitted provided the responsible land manager gave their expressed approval.
5. Disposal of mixed materials. Concern was expressed that someone who may be using explosive targets may not fully use all of the mixed materials. How would the individual safely dispose of the binary and/or mixed materials and chemicals? Such may be beyond the scope of the Ordinance, but perhaps it could be addressed by requiring the approval of an appropriate fire official for disposal of any mixed materials and/or chemicals.
6. Notice to first responders. Again, this may be beyond the scope of an ordinance, but concern was expressed regarding first responders – either police or fire – who may be responding to an emergency incident where there may be mixed binary explosive materials and/or targets. How is such notice provided to first responders so an appropriate, safe response is executed?

After you have reviewed these issues, please schedule an appointment with Supervisor Valadez and me to discuss how best to resolve these concerns, either through clarification or revision of the proposed Ordinance regarding exploding targets.

CHH/mjk

c: The Honorable Ramón Valadez, District 2 Member, Board of Supervisors
Todd Rathner, Rathner and Associates

ATTACHMENT 2



MEMORANDUM

Pima County Attorney's Office
Civil Division
32 North Stone Ave, Suite 2100
Phone 520.724.5700 Fax 520.620.6556

To: C.H. Huckelberry, County Administrator

From: Andy Flagg, Chief Civil Deputy County Attorney 

Date: August 9, 2017

Subject: Response to Your July 26, 2017 Memorandum; Proposed Ordinance Regarding Exploding Targets

You asked about several issues raised by Mr. Todd Rathner regarding the Proposed Exploding Targets Ordinance. This memorandum responds to those issues (I have regrouped and reworded the issues slightly).

1. Does a person violate the Ordinance by transporting materials that may become an explosive target?

No. The Ordinance defines "exploding target" very narrowly as a "mixture or combination of chemicals that can explode, detonate, or deflagrate upon impact by firearms ammunition projectile." Before being mixed or combined, the individual components of the target would *not* qualify as an "exploding target," and therefore their possession would not violate the Ordinance. Moreover, once mixed, the targets must be detonated on site and cannot be transported under federal law except by a businesses licensed to deal in explosives or users with federal user permits. 27 C.F.R. § 555.26(A).

2. Can law enforcement search a vehicle stopped for a minor traffic violation based on possession of materials that may become an explosive target?

Not based on the possession of the materials. As explained above, possession the components of a target before mixture or combination does not violate the Ordinance, and therefore would not be a basis for a search. If the materials are already mixed, then the occupant would be in violation of the Ordinance and also likely federal law (unless the occupant was a licensee or permittee).

3. Would this Ordinance apply within municipalities in Pima County?

No; unless the municipalities formally consent. A County ordinance adopted under A.R.S. § 11-251.05 is effective in municipalities within the County only if:

prior to the ordinance becoming effective within the boundaries of a city or town, the city or town council . . . consider[s] the ordinance and, if the council finds that the subject matter of the ordinance is not either a matter of local concern or governed by an existing city or town ordinance, the council . . . approve[s] by resolution the application or enforcement of such ordinance within the boundaries of the city or town.

A.R.S. § 11-251.05(D).

4. Can the Ordinance include an exception allowing use of exploding targets at licenses or permitted gun or rifle ranges under the supervision of Range Masters?

Yes. The exception should specify the type of licensed or permitted facility at which the use would be permitted.

5. Can the Ordinance apply only to land where fire restrictions are in effect?

Yes. Fire restrictions can be imposed by the Arizona State Forester or the United States Forest Service. Fire restrictions imposed by the Arizona State Forester may apply to State land or private land, as designated in the restriction. A.R.S. § 37-1303(B). United States Forest Service restrictions only apply to lands that are within the Forest Service's jurisdiction, as designated in the restriction. 36 C.F.R. § 261.50. If the Ordinance is amended to apply only when fire restrictions are in effect, it should specify the source of the fire restriction and whether the ban would apply to all land in unincorporated Pima County for the duration of the restriction, or just to the land that is subject to the restriction.

6. What is the proper method of disposing of targets after mixture or combination?

As your memorandum suggests, I believe this question is beyond the scope of the Ordinance. But I do reiterate, as noted above, that transporting targets after mixture or combination is a violation of federal law unless the person transporting them is a federal licensee or permittee. It is my understanding that exploding targets are usually detonated on-site.

7. How would first responders receive notice that an emergency may involve exploding targets?

Again, as you suggest, this is beyond the scope of the Ordinance. I would assume that any notice to the first responders would depend on the information contained in the emergency report and any factual investigation conducted in response.

c: Hon. Ramón Valadez, Pima County Supervisor, District 2

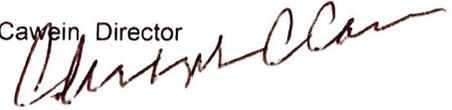
ATTACHMENT 3

MEMORANDUM

Date: August 10, 2017

To: CH Huckelberry, County Administrator

From: Chris Cawein, Director



Subject: **Use of Exploding Targets and the Allowance of Exploding Targets at Public and Private Gun Ranges in Pima County**

This memo is in response to your memo dated August 9, 2017, directing me to assess the current use of exploding targets at public and private gun ranges across Pima County, as such target use relates to the County Ordinance currently being considered by the Board of Supervisors that would ban the use of exploding targets. First, as for our four (4) County gun ranges, we do not allow the use of exploding targets by the public. Other gun ranges contacted across the County include:

- Three-Points Range (state owned range west of Three Points run by the Tucson Rifle Club in agreement with the Arizona Game and Fish Department)
- Pima Pistol Club Range (private range located near Catalina)
- Tucson Trap and Skeet Club Range (private range located southwest of Tucson)
- Marana Shooting Club Range (private range located in Avra Valley area within the Town of Marana)
- Marksman Indoor Ranges (private indoor ranges located in east and west Tucson)

Only one range noted above, Marana Shooting Club Range, allows the use of exploding targets on their range by participating members (membership currently is about 70 shooters). Range is open less than ten days per month, and use is by reservation only. The club contact indicated that the Range when open is supervised at all times by an onsite Range Safety Officer. Furthermore, he indicated they require that when exploding targets are used, the targets be placed at least 75 yards from the firing line. Common exploding target size used at the club's range is one pound or less. The range is on private land, and operated in agreement between the club and landowner.

All other ranges contacted indicated that exploding targets, as defined in the draft ordinance, are not allowed for general public use on the respective ranges. Furthermore, the various range contacts did not express major concerns relative to a ban on general public use of exploding targets.

The Tucson Rifle Club contact did indicate that several years back they did have a club supervised specialty rimfire shooting event wherein small amounts of exploding target compound were strategically placed on targets. Successful hits to those target areas caused an auditory feedback effect for shooters and the

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crowd. The club did this activity with full knowledge by the Arizona Game and Fish Department, the owner of the range and entity that the club is under agreement with to run the range.

The Pima Pistol Club contact indicated that they have had one event in the last five years during which an exploding target compound was used. The event was club organized and involved a manufacturer demonstration in relation to a law enforcement training exercise. Furthermore, they indicated that the use of the exploding target involved a weakened compound mix, and was supervised by a Club Board Member licensed by the federal government to handle explosives.

The Tucson Trap and Skeet Club contact indicated that the club was approached about two years to sponsor an event wherein small radio controlled target aircraft with exploding targets attached (ref. www.gnatusa.com) are flown in front a controlled firing line of shotgunners who shoot at the flying targets trying to hit and knock them out of the air. Hits to the aircraft cause pyrotechnic charges to explode causing visual effects. Tucson Trap and Skeet Club declined to sponsor the event at that time.

Other than the noted agreement above for the Tucson Rifle Club with a State landownership entity to run a specific State owned range relative to agreement terms and restrictions, we could not ascertain the need for any other regulatory authority (i.e. license or permit) to allow the use of exploding target on gun ranges. As already noted to you via memo from Deputy County Attorney Andy Flagg, any transportation of explosives related to the use of exploding targets is governed strictly under federal law.

In discussions with the various range contacts, it was indicated that there might be law enforcement agency use at some of the ranges that could involve the possession and use of such exploding targets or related chemical compounds for training purposes. Given this, and the above noted controlled/supervised past events involving exploding target use at gun ranges, consideration should be given to having the ordinance exempt such controlled and legitimate uses of exploding targets at gun ranges in the County.

Should you have any questions or need additional information please do not hesitate to contact me. Thank you.

CCC:lo

Cc: Robert Padilla, Deputy Director, NRPR
Joe Barr, Recreation Division Manager, NRPR
Leonard Ordway, Shooting Sports Program Manager, NRPR