



Board of Supervisors Memorandum

September 5, 2017

Ordinance 2017-21, Exploding Target Ordinance

Background

On August 1, 2017, the Board of Supervisors set a public hearing and final action of the proposed Exploding Target Ordinance offered by Supervisor Ramón Valadez for consideration on September 5, 2017.

The time between public notice that the ordinance was being considered and the present time has allowed for public participation. A member of the public, Mr. Todd Rathner, a member of the Arizona State Rifle and Pistol Association, participated in several discussions with me, Supervisor Valadez and Chief Civil Deputy County Attorney Andrew Flagg. Following these meetings, acceptable revisions were proposed for the ordinance. These are shown in the attached redline copy of the ordinance. A final version of the ordinance is also attached for Board review and adoption.

Previously, the Board received a significant amount of information regarding exploding targets and locations where their use is prohibited by rule or policy by the US Forest Service, National Park Service and Bureau of Land Management. Exploding target use is also prohibited on State Trust lands.

The ordinance modifications clarify where it would be permissible to use exploding targets at regulated firearm ranges with the permission of the owner/operator and on private lands where all appropriate setbacks are provided for the discharge of firearms pursuant to State and Federal regulations if countywide fire restrictions have not been enacted.

As you will recall, countywide fire restrictions occur for short and specific timeframes, primarily between late May and the summer rainy season that begins in the latter part of June.

Recommendation

I recommend the Board of Supervisors adopt Ordinance 2017-21 regarding exploding targets to protect public health, safety and welfare and to prevent wildfires and other fire events that may result from the use of exploding targets.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "C.H. Huckelberry".

C.H. Huckelberry
County Administrator

CHH/anc – August 31, 2017
Attachments

ORDINANCE NO. 2017-_____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
PIMA COUNTY, ARIZONA, RELATING TO THE PUBLIC
HEALTH, SAFETY, AND WELFARE, PROHIBITING THE
SALE, USE, EXPLOSION, AND POSSESSION OF MIXED
EXPLODING TARGETS *(All Districts)***

The Board of Supervisors of Pima County, Arizona, finds that:

1. The Pima County Board of Supervisors has authority under A.R.S. § 11-251(31) and A.R.S. § 11-251.05 to enact local ordinances to protect the public health, safety, and welfare of the residents of unincorporated Pima County.
2. The use of ~~an~~ a mixed exploding target was the cause of the recent Sawmill wildfire in Pima County, which burned over 46,000 acres and cost over \$5 million to fight. Pima County law enforcement has also investigated a case in which ~~an~~ a mixed exploding target was used to destroy a refrigerator by detonation, causing metal fragmentation to be thrown long distances outside the area of a wildcat shooting range, causing a fire and endangering the shooter and potential bystanders. In another case, a subject mixing an exploding target had an unintended explosion, setting his house on fire and injuring himself. Two other family members, including a child, were in the home at the time of the blast. On at least two other occasions, an exploding target mixture was purchased and the mixed exploding target was used as the main -explosive in criminal improvised explosive devices.
3. In addition to increasing the already high risk of wildfire, the use of mixed exploding targets also risks personal injury or death and property damage.
4. The sale, use, or possession of mixed exploding targets is detrimental to the public health, safety, and welfare of the residents of unincorporated Pima County.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

Section 1. Title 9 of the Pima County Code is amended to add a new chapter 9.80 to read as follows:

**Chapter 9.80
EXPLODING TARGETS**

9.80.010 - Short title.

This chapter may be cited and shall be known as the “Pima County Exploding Target Ordinance.”

9.80.020 - Declaration of policy.

The purpose of this chapter is to protect the general public from the hazardous use, sale, and unintended effects of mixed exploding targets. It is further the policy of Pima County that any mixed exploding target be safely used or destroyed in accordance with manufacturer recommendations.

9.80.030 - Definitions.

- A. “Minor” means a person under the age of eighteen.
- B. “Exploding Mixed exploding target” means a mixture or combination of chemicals that can explode, detonate, or deflagrate upon impact by firearms ammunition projectile. This includes commercial or homemade binary mixtures or synthesized energetic material.
- C. “Outdoor shooting range” means a permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting in an outdoor environment.
- BD. “Person” means any individual, corporation, association, partnership, firm, trustee, or legal representative.

9.80.040 – Exploding Mixed exploding targets prohibited; restrictions on sale.

- A. Except as otherwise provided by this section, it is unlawful to sell, offer, or expose for sale; use; explode; or possess any mixed exploding target, ~~or any chemical or material intended to be used as an exploding target.~~
- B. It is unlawful for any person to sell any product marketed for use as a mixed exploding target, or marketed for use as a component of a mixed exploding target (1) to a minor or (2) to a person who reasonably appears to be a minor without first requiring that person to display government-issued identification proving that the person is not a minor.

9.80.050 – Exceptions

Section 9.80.040 does not apply to the use of mixed exploding targets:

- A. On private land, provided that (1) any person using the mixed exploding target obeys all applicable state laws regarding the discharge of firearms and (2) there are no active fire restrictions in effect, as defined in A.R.S. § 37-1303(B) or 36 C.F.R. § 261.50 on any land located in Pima County;

B. At a regulated outdoor shooting range as defined in 9.80.030, provided that the mixed exploding target is used immediately by the person possessing it, and with the written permission of the owner, manager, managing authority, or agency.

C. On any public land (1) that is not actively under a fire restriction as defined in A.R.S. § 37-1303(B) or 36 C.F.R. § 261.50 and (2) on which the use of mixed exploding targets is not already prohibited by state or federal law, rule, or policy.

9.80.050-060 – Violations; restitution required.

- A. Upon a defendant's conviction for a violation of this chapter that causes economic loss to any person, the court shall order that, in addition to any monetary fine imposed, restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant's conduct.
- B. Restitution shall include any economic loss for which restitution may be ordered for a misdemeanor offense under Arizona law.

9.80.060-070 - Seizure.

The sheriff or other peace officer shall seize, remove, or cause to be removed, at the expense of the owner, ~~all precursors, chemicals, materials or substances~~ any product marketed for use as a mixed exploding target, or marketed for use as a component of a mixed exploding target which that were was, offered or exposed for sale in violation of this chapter, or any mixed exploding targets that were stored or possessed in violation of this chapter.

9.80.070-080 - Violation—Penalty.

A person violating a provision of this chapter is guilty of a class one misdemeanor.

9.80.080-090 – Severability.

If any provision of this chapter, or the application of any provision of this chapter, is invalid, that invalidity shall not affect other provisions or applications of this chapter. The provisions of this chapter are severable.

Section 2. The various County officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

Section 3. This ordinance is effective 30 days after the date of adoption.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this ____ day of _____, 2017.

Chair, Pima County Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Clerk of the Board

Deputy County Attorney

ORDINANCE NO. 2017-_____

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PIMA COUNTY, ARIZONA, RELATING TO THE PUBLIC
HEALTH, SAFETY, AND WELFARE, PROHIBITING THE
SALE, USE, EXPLOSION, AND POSSESSION OF MIXED
EXPLODING TARGETS (All Districts)**

The Board of Supervisors of Pima County, Arizona, finds that:

1. The Pima County Board of Supervisors has authority under A.R.S. § 11-251(31) and A.R.S. § 11-251.05 to enact local ordinances to protect the public health, safety, and welfare of the residents of unincorporated Pima County.
2. The use of a mixed exploding target was the cause of the recent Sawmill wildfire in Pima County, which burned over 46,000 acres and cost over \$5 million to fight. Pima County law enforcement has also investigated a case in which a mixed exploding target was used to destroy a refrigerator by detonation, causing metal fragmentation to be thrown long distances outside the area of a wildcat shooting range, causing a fire and endangering the shooter and potential bystanders. In another case, a subject mixing an exploding target had an unintended explosion, setting his house on fire and injuring himself. Two other family members, including a child, were in the home at the time of the blast. On at least two other occasions, an exploding target mixture was purchased and the mixed exploding target was used as the main explosive in criminal improvised explosive devices.
3. In addition to increasing the already high risk of wildfire, the use of mixed exploding targets also risks personal injury or death and property damage.
4. The sale, use, or possession of mixed exploding targets is detrimental to the public health, safety, and welfare of the residents of unincorporated Pima County.

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9.80.030 - Definitions.

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- C. "Outdoor shooting range" means a permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting in an outdoor environment.
- D. "Person" means any individual, corporation, association, partnership, firm, trustee, or legal representative.

9.80.040 – Mixed exploding targets prohibited; restrictions on sale.

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- B. It is unlawful for any person to sell any product marketed for use as a mixed exploding target, or marketed for use as a component of a mixed exploding target (1) to a minor or (2) to a person who reasonably appears to be a minor without first requiring that person to display government-issued identification proving that the person is not a minor.

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- B. At a regulated outdoor shooting range as defined in 9.80.030, provided that the mixed exploding target is used immediately by the person possessing it, and with the written permission of the owner, manager, managing authority, or agency.
- C. On any public land (1) that is not actively under a fire restriction as defined in A.R.S. § 37-1303(B) or 36 C.F.R. § 261.50 and (2) on which the use of mixed exploding targets is not prohibited by state or federal law, rule, or policy.

9.80.060 – Violations; restitution required.

- A. Upon a defendant's conviction for a violation of this chapter that causes economic loss to any person, the court shall order that, in addition to any monetary fine imposed, restitution to be paid by the defendant to any person who suffered an economic loss caused by the defendant's conduct.
- B. Restitution shall include any economic loss for which restitution may be ordered for a misdemeanor offense under Arizona law.

9.80.070 - Seizure.

The sheriff or other peace officer shall seize, remove, or cause to be removed, at the expense of the owner, any product marketed for use as a mixed exploding target, or marketed for use as a component of a mixed exploding target that was offered or exposed for sale in violation of this chapter, or any mixed exploding targets that were stored or possessed in violation of this chapter.

9.80.080 - Violation—Penalty.

A person violating a provision of this chapter is guilty of a class one misdemeanor.

9.80.090 – Severability.

If any provision of this chapter, or the application of any provision of this chapter, is invalid, that invalidity shall not affect other provisions or applications of this chapter. The provisions of this chapter are severable.

Section 2. The various County officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this ordinance.

Section 3. This ordinance is effective 30 days after the date of adoption.

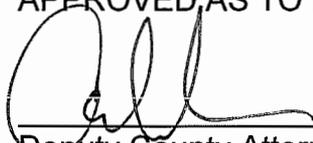
PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this ____ day of _____, 2017.

Chair, Pima County Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:



Deputy County Attorney
ANDREW FLAGG