

MEMORANDUM

To: Melissa Manriquez, Clerk of the Board
Pima County Board of Supervisors

Date: February 16, 2024

Re: Agenda Item for 3/5/24 Meeting

From: Rex Scott
District 1 Supervisor
Pima County Board of Supervisors

Please place the following item on the agenda for the Board of Supervisors meeting March 5, 2024.

BOARD OF SUPERVISORS

Hearing - Code Text Amendment

ORDINANCE NO. 2024-____, an Ordinance of the Board of Supervisors of Pima County, Arizona, relating to Law Enforcement; amending the Pima County Code, Title 9.

ORDINANCE 2024- _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF PIMA
COUNTY, ARIZONA, RELATING TO LAW ENFORCEMENT;
AMENDING THE PIMA COUNTY CODE, TITLE 9**

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, FINDS THAT:

1. The Board of Supervisors has authority under A.R.S. § 11-251.05 to adopt ordinances necessary or proper to carry out the duties, responsibilities, and functions of the county.
2. The Pima County Sheriff and Pima County Attorney, as county officers, have a duty to preserve the peace and prosecute criminal proceedings under A.R.S. §§ 11-441 and 11-532, respectively.
3. The county also has a duty to take action to preserve the health of the county and the health and safety of its inhabitants. See, e.g., A.R.S. §§ 36-183.02, 11-251(17).
4. The Sheriff and County Attorney are responsible for enforcing A.R.S. § 13-3102(A)(5), prohibiting the sale or transfer of firearms to prohibited possessors.
5. Under A.R.S. § 13-3101(A)(7), prohibited possessors include people convicted of a felony or domestic violence offense, people who have been involuntarily committed for mental health treatment, and undocumented aliens.
6. Firearm-related violence by prohibited possessors is a threat to public order and to the health and safety of the county and its inhabitants. Most prohibited possessors abide by the removal of their right to possess a firearm unless or until it is restored. However, prohibited possessors commit a significant number of firearm-related crimes in Pima County. And, people who are prohibited from possessing firearms for reasons related to their mental health are at a higher risk of suicide if they are able to illegally obtain a gun.

7. Prohibited possessors routinely obtain firearms from straw purchasers who buy firearms on their behalf or with the intent of selling them illegally. Reporting requirements assist with the apprehension and prosecution of straw purchasers, preventing or deterring them from claiming that a firearm they bought and transferred to a prohibited possessor was lost or taken in an unreported theft as well as preventing or deterring prohibited possessors from falsely claiming that their firearms were lost or stolen when law enforcement moves to remove them.
8. Although A.R.S. § 13-3108 prohibits the enactment of any local ordinance relating to the transportation, possession, carrying, sale, transfer, purchase, acquisition, gift, devise, storage, licensing, registration, discharge or use of firearms, a reporting requirement for the loss or theft of a firearm relates to none of these issues. The Arizona Court of Appeals found in *City of Tucson v. Rineer* that A.R.S. § 13-3108 only prohibits local firearms regulations with respect to those issues specifically identified in § 13-3108.
9. A U.S. District Court within the Ninth Circuit found that a city ordinance requiring gun owners to maintain liability insurance was not preempted by general state laws regarding firearm possession, “[w]ithout any means by which handgun possession can be revoked, the Ordinance cannot be interpreted to be entering the field of residential handgun possession... .” *National Association for Gun Rights, Inc. v. City of San Jose*, 632 F.Supp.3d 1088, 1100 (N.D. Cal. 2022). Likewise, a reporting requirement for the loss or theft of a firearm that does not provide means by which firearm possession could be revoked does not enter the field of firearm possession.
10. It is in the best interest of the county to amend the Pima County Code by adding a requirement that the loss or theft of a firearm be reported to law enforcement.

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

SECTION 1. A new Chapter 9.85 of the Pima County Code is enacted, reading as follows:

CHAPTER 9.85 LOSS OR THEFT OF FIREARM—MANDATORY REPORTING

9.85.010 Declaration of policy. The purpose of this chapter is to protect the inhabitants of Pima County by aiding local law enforcement and the County Attorney in the enforcement of A.R.S. § 13-3102(A)(5) and preventing the commission of crimes using firearms obtained in violation of that statute. This chapter in no way affects the possession, transfer, or storage of firearms because this chapter does not provide means by which firearm possession could be revoked or transferred, nor does it seek to regulate the storage of firearms.

9.85.020 Definitions.

A. "Firearm" is defined as in A.R.S. § 13-3101.

B. "Person" is defined as in A.R.S. § 13-105.

9.85.030 Mandatory reporting of loss or theft of firearm.

A. Except as otherwise provided in this chapter, it is unlawful for any person to fail to report to a local law enforcement agency the knowing loss or theft of a firearm.

B. The report of a loss or theft of a firearm pursuant to section A must be made in the jurisdiction in which the loss or theft occurred and within forty-eight hours of the time the person knew or reasonably should have known that the firearm had been lost or stolen.

C. Every person reporting a lost or stolen firearm pursuant to section A must report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

9.85.040 False reporting. It is unlawful for any person to report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false.

9.85.050 Exemptions. This chapter does not apply to:

A. Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

B. Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

C. Any firearms dealer or manufacturer licensed under federal law and subject to the reporting requirements of 18 U.S.C. 923(g)(6).

9.85.060 Violation—Penalty. A person violating a provision of this chapter is guilty of a petty offense and is subject to a penalty of \$300.00 for each violation.

SECTION 2. This Ordinance is effective 30 days after the date of adoption.

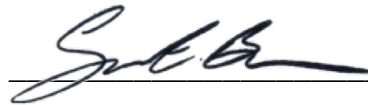
PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this _____ day of _____, 2024.

Chairman, Pima County Board of Supervisors

ATTEST:

Clerk of the Board

APPROVED AS TO FORM



Deputy County Attorney