

*Ordinance-Gang Graffiti Violation by Parents*

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**A BILL FOR AN ORDINANCE**

**ORDINANCE NO. 94-3**

**A COUNTY WIDE ORDINANCE RELATING TO MINORS AND STREET GANG AFFILIATIONS, AND/OR PARTICIPATION IN GANG ACTIVITIES, GRAFFITI, GANG GRAFFITI AND TAGGING, VIOLATIONS BY PARENTS, GUARDIANS OR OTHER PERSONS HAVING LEGAL CUSTODY OR CARE OF SUCH MINORS, PREVENTION OF SAID GANG ACTIVITIES AND ENFORCEMENT PROVISIONS FOR VIOLATIONS BY PARENTS FOR UNINCORPORATED ARAPAHOE COUNTY**

WHEREAS, pursuant to Colorado Revised Statutes 30-15-401, the Board of County Commissioners of Arapahoe County has the power to adopt ordinances for control or licensing of those matters of purely local concern; and

WHEREAS, pursuant to Colorado Revised Statutes 30-15-401, matters of purely local concern include the prevention and suppression of riots, routs, affrays, disturbances, and disorderly assemblies in any public or private place; and

WHEREAS, it has come to the attention of the Board of County Commissioners of Arapahoe County, that residents have experienced problems with minors involved with gangs, gang activity and the criminal activities, disturbances and vandalism associated with said gangs; and

WHEREAS, it has come to the attention of the Board of County Commissioners of Arapahoe County, that residents have experienced problems with graffiti, gang graffiti and tagging by minors in relation to gang activity and the criminal activities, disturbances and vandalism associated with said gangs; and

WHEREAS, it is the opinion of the Board of County Commissioners that parents and/or legal guardians have a responsibility to supervise and control their minor children; and

WHEREAS, it is the opinion of the Board of County Commissioners of Arapahoe County that in order to preserve the public peace, health, safety, and welfare of the citizens of Arapahoe County, they should take the following action.

NOW, THEREFORE BE IT ORDAINED, by the Board of County Commissioners of Arapahoe County, the following:

**SECTION I. LEGISLATIVE DECLARATION - DEFINITIONS, APPLICABILITY:**

**A) LEGISLATIVE DECLARATION**

This ordinance shall be known and may be cited as "A COUNTY WIDE ORDINANCE RELATING TO MINORS AND STREET GANG AFFILIATIONS, AND/OR PARTICIPATION IN GANG ACTIVITIES, GRAFFITI, GANG GRAFFITI AND TAGGING, VIOLATIONS BY PARENTS, GUARDIANS OR OTHER PERSONS HAVING LEGAL CUSTODY OR CARE OF SUCH MINORS, PREVENTION OF SAID PARENTS ACTIVITIES AND ENFORCEMENT PROVISIONS FOR VIOLATIONS BY INDIVIDUALS FOR UNINCORPORATED ARAPAHOE COUNTY."

The County Commissioners find that the citizens of Arapahoe County are concerned as a result of violent street gangs whose members threaten, terrorize and commit a multitude of crimes against the peaceful citizens of their neighborhoods. These activities, both individually and collectively, present a clear and present danger to public order and safety and are not constitutionally protected. The County Commissioners find that the number of gang related crimes is increasing. It is the intent of the County Commissioners in enacting this ordinance to place responsibility upon the parents of minor children involved in the aforementioned activities to take constructive measures to prevent their children from committing acts of violence and/or other illegal activities.

In addition, it is the intent of the Board of County Commissioners in enacting this ordinance to place responsibility upon the parents and/or legal guardians to aid in the prevention of destruction of public or private property by the application of graffiti, gang graffiti and/or tagging by minors.

## B) DEFINITIONS

As used in this ordinance the following words are defined as follows:

"Board" - means the Board of County Commissioners of Arapahoe County, Colorado

"Gang Activity" - means any ongoing organization, association, or group of three (3) or more persons, whether formal or informal, which is involved in the commission of one (1) or more of the criminal acts enumerated in this ordinance or Title 18 of the Colorado Revised Statutes, which has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern or criminal gang activity. Parents of minor children belonging to gangs are subject to this ordinance.

"Gang Graffiti" - defacing of public or private property by members of gangs by means of painting, drawing, writing, etching, carving with knives, carving with scribes, or any similar method, without written permission of the property owner.

"Graffiti" - means the defacing of public or private property by means of painting, drawing, writing, etching, carving with knives, carving with scribes, or any similar method without the written permission of the property owner.

"Parent" - means the natural parents of minor children under the age of eighteen (18) years of age who reside with said children and/or those persons who have legal custody of minor children under the age of eighteen (18) years of age who reside with said children.

"Property Owner" - a person owning, leasing, occupying or having control or possession of any property within Unincorporated Arapahoe County.

"Sheriff" - means the Sheriff of Arapahoe County, Colorado or the Undersheriff in the absence of the Sheriff

"Tag" or "Tagging" - graffiti placed upon public or private property by one or more individuals.

"Unincorporated Arapahoe County" - that portion of Arapahoe County, Colorado not within the corporate boundaries of a municipality.

#### C) APPLICABILITY

This ordinance shall apply to all portions of unincorporated Arapahoe County.

### **SECTION II. REGULATIONS AND VIOLATIONS**

#### A) GANG ACTIVITY.

It shall be a violation of this ordinance for a parent or a legal guardian to knowingly fail to prevent their minor children from participating in gang activity as defined by this ordinance. Prosecution of this ordinance shall be predicated upon proof beyond a reasonable doubt that the parent or legal guardian knew or should have known that their minor children's conduct was likely to result in their minor children coming within the purview of this ordinance.

The parent or legal guardian shall have the affirmative defense of the inability to control their minor children despite reasonable efforts to do so.

#### B) GRAFFITI PROHIBITED.

It shall be a violation of this ordinance for a parent or a legal guardian to knowingly fail to prevent their minor children from painting, spray painting, drawing, writing, etching, "Tagging", carving, or by any similar method whatsoever, defacing any public or private property except with the written permission of the owner of said property.

#### C) VIOLATIONS.

Any person who violates this ordinance commits a class 2 petty offense and upon conviction thereof, shall be punished by a fine of not more than three hundred dollars for each separate violation. The penalty assessment procedure provided in Section 16-2-201, C.R.S. may be followed by any arresting officer for any such violation.

The court may suspend the fine against said parent or legal guardian and the court may require the mandatory attendance of a parent or legal guardian at a parental responsibility training program administered through the Colorado State Department of Social Services. If mandatory attendance of a parent or legal guardian is provided as a condition for suspension of the fine as herein provided and the parent or legal guardian fails to successfully complete such training, the county court may subject the parent or legal guardian to the monetary penalties as provided herein.

In determining whether prosecution of a parent or legal guardian under the provisions of this ordinance is appropriate, the District Attorney's Office may consider the following criteria:

1. Review of a detailed description and/or relevant police reports which state the acts or circumstances which have brought a minor child within the purview of this ordinance.
2. The number and type of warnings given to the parent or legal guardian and by whom regarding said minor's activities.

3. Whether any parenting programs have been completed by the parent or legal guardian in relation to said minor.
4. The statements and attitudes of the parent or legal guardian and the minor child during the investigation.
5. The parent's or legal guardian's present actual ability or inability to supervise and control the offending minor child.
6. The experience and training of officers involved in the investigation regarding the minors activities.
7. Neighborhood complaints or other corroboration of the problem with the minor child and/or the parents or legal guardian.

### **SECTION III. ENFORCEMENT**

The provisions of this ordinance shall be enforced by the Arapahoe County Sheriff.

### **SECTION IV. DISPOSITION OF FINES**

All fines for violations of this ordinance shall be paid into the General Fund of Arapahoe County upon conviction.

### **SECTION V. SEVERABILITY**

If any one or more of the provisions of this ordinance are determined by a court of law to be invalid, such determination shall not affect the validity of the remaining provisions of this ordinance.

### **SECTION VI - SAFETY CLAUSE**

The ordinance shall take effect upon the adoption. This is necessary for the immediate preservation of the public safety and public health, due in part to the need to control activity subject to this ordinance as soon as possible.

### **BOARD OF COUNTY COMMISSIONERS ARAPAHOE COUNTY, COLORADO**

John J. Nicholl, Chairman

I, Marjorie Page, Clerk and Recorder of Arapahoe County and Clerk to the Board of County Commissioners, do hereby attest and certify that the Ordinance was introduced, read, and ordered published at a regular meeting of the Board of County Commissioners on the 26th day of April, 1994. At a public hearing held on the 17th day of May, 1994, the Ordinance was taken under advisement. The Ordinance was adopted, approved and ordered published as adopted on May 17, 1994.

ATTEST:

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Marjorie Page, Clerk to the Board

**BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS  
ARAPAHOE COUNTY, COLORADO**

INTRODUCED, READ AND ORDERED PUBLISHED ON THE 26th day of April, 1994 at a regular meeting of the Board of County Commissioners.

Date of initial publication: May 5, 1994

TAKEN UNDER ADVISEMENT AFTER PUBLIC COMMENT AT A PUBLIC HEARING HELD on the 17th day of May, 1994.

ADOPTED, APPROVED AND ORDERED PUBLISHED AS ADOPTED the 17th day of May, 1994.

Date of publication after adoption: May 26, 1994.

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Marjorie Page, Clerk to the Board

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