

Ordinance - Street Gang Affiliation

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A BILL FOR AN ORDINANCE ORDINANCE NO. 94-1

A COUNTY WIDE ORDINANCE RELATING TO STREET GANG AFFILIATIONS AND/OR PARTICIPATION IN GANG ACTIVITIES, PREVENTION OF SAID GANG ACTIVITIES AND ENFORCEMENT PROVISIONS FOR VIOLATIONS BY INDIVIDUALS 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 gangs, 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 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 STREET GANG AFFILIATIONS AND/OR PARTICIPATION IN GANG ACTIVITIES, PREVENTION OF SAID GANG ACTIVITIES AND ENFORCEMENT PROVISIONS FOR VIOLATIONS BY INDIVIDUALS FOR UNINCORPORATED ARAPAHOE COUNTY."

The County Commissioners find and declare that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, or handicap, to be secure and protected from intimidation, and physical harm caused by the activities of violent groups and individuals. It is not the intent of this ordinance to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The County Commissioners hereby recognize the constitutional right of every citizen to harbor and express beliefs of any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

The County Commissioners, however, further 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 seek the eradication of criminal activity by street gangs by focusing upon patterns of criminal gang activity; and upon the organized nature of street gangs, which together, are the chief source of terror created by street gangs.

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.

"Criminal Street Gang" 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.

"Pattern of Criminal Gang Activity" means the commission, attempted commission, or solicitation by a particular street gang of two (2) or more of the offenses listed in any provision found in Title 18 of the Colorado Revised Statutes, provided at least one (1) of those offenses occurred after the effective date of this ordinance, and the last of those offenses occurred within three (3) years after the prior offense, and the offenses are committed on separate occasions.

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

"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 any person to actively participate in any criminal street gang with knowledge that its members engage in or have engaged in a pattern of criminal gang activity, or to willfully promote, further, or assist in any criminal conduct by members of that gang as defined by either this ordinance or state law.

It shall be a violation of this ordinance for any person to engage in an illegal act which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct of gang members, as defined by either this ordinance or state law.

B) GANG RELATED NUISANCES

It shall be a violation of this ordinance for any building or place to be used by members of a criminal street gang for the purpose of the commission of the offenses listed in this ordinance or Title 18 of the Colorado Revised Statutes, and every building or place, wherein or upon which criminal conduct by gang members takes place, is declared a nuisance and shall be enjoined, abated, prevented, and damages recovered whether it is a public or private nuisance.

C) UNLAWFUL ENCOURAGEMENT OF GANG ACTIVITY

It shall be a violation of this ordinance for any persons to commit any act or omit the performance of any duty, which act or omission causes or tends to cause or encourage any person under the age of eighteen (18) years to come within the provisions of this ordinance, or which act or omission, or by threats, commands or persuasion, induces or endeavors to induce any person under the age of eighteen (18) years to fail or refuse to conform to a lawful order, or to do or to perform any act or to follow any course of conduct as would cause or manifestly tend to cause any such person to become or to remain a person within the provisions of this ordinance.

D. GANG-RELATED THREATS

It shall be a violation of this ordinance for any member of a street gang to willfully threaten to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement is to be taken as a threat, even if there is not intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution.

E. 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.

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:

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.

Marjorie Page, Clerk to the Board
SEAL