

ORDINANCE NO. 1981 - 1

AN ORDINANCE CONCERNING REVENUE, TO ENACT A SALES TAX ORDINANCE IMPOSING A SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL OR THE FURNISHING OF SERVICES AS PROVIDED IN COLORADO REVISED STATUTES 1973, 39-26-104, AS AMENDED, UPON APPROVAL OF THE QUALIFIED ELECTORS OF THE TOWN OF LA JARA AND TO PROVIDE FOR THE SUBMISSION OF THIS ORDINANCE AT A SPECIAL ELECTION OF QUALIFIED ELECTORS IN THE TOWN OF LA JARA AND PROVIDING PENALTIES AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA, COLORADO, AS FOLLOWS:

Section 1. PURPOSE: The purpose of this Ordinance is to impose a sales tax on the sale of the tangible personal property at retail or the furnishing of services as provided in Paragraph (D) of sub-section (1) of Section 105, Article 2, Title 20, Colo. Rev. Stat. 1973, as amended, upon every retailer in the Town of La Jara.

Section 2. DEFINITIONS. For the purposes of this Ordinance, the definitions of words herein contained shall be as defined in Section 102, Article 26, Title 30, Colo. Rev. Stat. 1973, as amended, and said definitions are incorporated herein by this reference.

Section 3. LICENSES:

3-1. It shall be unlawful for any person or legal entity to engage in the business of selling tangible personal property at retail within the incorporated Town without first having obtained a license therefor. Such license shall be granted and issued by the Town Clerk and shall be in force and effect until the 31st day of December of the year in which it is issued, unless sooner revoked.

3-2. Such license shall be granted and renewed only upon application stating the name and address of the person desiring such a license, the name of such business and the location and such other facts as the Town Clerk may require.

3-3. It shall be the duty of each licensee on or before January 1st of each year during which this Ordinance remains in effect to obtain a renewal thereof if the licensee remains in the retail business or is liable to account for the tax herein provided, but nothing herein contained shall be construed to empower the Town Clerk to refuse such renewal except revocation for cause of the licensee's prior license.

3-4. In case business is transacted at one or more separate premises by one person, a separate license for each place of business shall be required.

3-5. Any person engaged in the business of selling tangible personal property at retail in the Town of LA JARA without having secured a license therefor, except as specifically provided herein, shall be guilty of a violation of this Ordinance.

3-6. Each license shall be numbered and shall show the name, residence, place and character of business of the licensee and shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable.

3-7. No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this Ordinance.

3-8. For each license issued under this Ordinance, a fee of TEN DOLLARS (\$10.00) shall be paid, which fee shall be paid for each year or fraction thereof for which said license is renewed; provided that only one-half (½) of said TEN DOLLAR fee shall be charged on licenses issued after July 1st of any year. No license shall be transferable.

Section 4. SCHEDULE OF TAX.

4-1. There is hereby imposed on all sales of tangible personal property at retail or the furnishing of services as provided in Colo. Rev. Stat. 1973, 39-26-104, as amended, a tax equal to two percent (2%) of gross receipts. The tangible personal property and services taxable by this Ordinance shall be the same as the tangible personal property and services taxable pursuant to Colo. Rev. Stat. 1973, 39-26-104, as amended. The imposition of the tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue or by separate ordinance of the Town of La Jara. If any vendor, during any reporting period, shall collect as a tax an amount in excess of two percent (2%) of his total taxable sales, he shall remit to the Director of Revenue the full amount of the tax herein imposed and also such excess.

4-2. The collection and administration and enforcement of this sales tax shall be performed by the Director of Revenue of the State of Colorado in the same manner as a collection, administration and enforcement of the Colorado State Sales Tax. The provisions of Article 26 of Title 39, Colo. Rev. Stat. 1973, as amended hereafter, and all rules and regulations promulgated by the Director of Revenue shall govern the collection, administration and enforcement of the sales tax imposed by this Ordinance.

Section 5. VENDOR'S FEE. Vendor (Retailer) shall be entitled as Collection Agent for the Town of La Jara to withhold a collection fee in the amount of three and one-third percent (3 1/3%) from the total amount due by Vendor to the Town of La Jara each month.

Section 6. GENERAL PROVISIONS AND EXEMPTIONS FROM TAXATION.

6-1. For the purpose of collection, administration and enforcement of this Ordinance by the Director of Revenue, the provisions of Colo. Rev. Stat., 1973, as amended, 39-26-114, shall be deemed applicable and incorporated into this Ordinance.

6-2. The amount subject to tax under this Ordinance shall not include the State Sales and Use Tax imposed by Article 26, Title 39, Colo. Rev. Stat., 1973, as amended.

6-3. For the purpose of this Ordinance, there shall be imposed a tax on the sale of tangible personal property at retail or the furnishing of services as provided in Paragraph D of Sub-section 1 of Section 105, Article 2, Title 29, Colo. Rev. Stat., 1973, as amended.

6-4. For the purpose of this Ordinance, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of the Town of La Jara or to a common carrier for delivery to a destination outside the limits of the Town of La Jara. The gross receipts from such sale shall include delivery charges when such charges are subject to the State Sales and Use Tax imposed by Article 26 of Title 39, C.R.S. 1973, regardless of the place to which delivery is made. If a retailer has no permanent place of business in the

Town of La Jara, or has more than one place of business, the place at which the retail sales are consummated for the purpose of a sales tax imposed by this Ordinance shall be determined by the provisions of Article 26 of Title 39, C.R.S. 1973, and by rules and regulations promulgated by the Department of Revenue. Notwithstanding any other provision of Article 2 of Title 29, the value of construction and building materials on which a Use Tax has previously been collected by an incorporated town, city, or county shall be exempt from the La Jara Sales Tax if the materials are delivered by the retailer or his agent to a site within the limits of the Town of La Jara.

6-5. For the purpose of this Ordinance, the tangible personal property and services taxable pursuant to this Ordinance shall be the same as the tangible personal property and services taxable pursuant to §39-26-104, C.R.S. 1973, and subject to the same exemptions as those specified in §39-26-114, C.R.S. 1973, except the exemption allowed by §39-26-114(11), C.R.S. 1973, for purchases of machinery or machine tools, the exemption of sales and purchases of electricity, coal, gas, fuel oil, or coke as provided in §39-26-114(1)(a)(XXI), C.R.S. 1973, and the exemption for sales of food specified in §39-26-114(1)(a)(XX), C.R.S. 1973.

6-6. For the purpose of this Ordinance, all sales of personal property on which a specific ownership tax has been paid or is payable to be exempt from the Town Sales Tax when such sales meets both of the following conditions:

A. The purchaser is a non-resident or has his principle place of business outside of the Town of La Jara; and,

B. Such personal property is registered or required to be registered outside the limits of the Town of La Jara under the laws of the State of Colorado.

Section 7. ELECTION AND AMENDMENTS.

7-1. Before this sales tax Ordinance shall become effective, it shall be submitted to and receive the approval of a majority of the qualified electors of the Town of La Jara, voting in a special election to be held on the 24th day of February, 1981.

7-2. The Board of Trustees may amend, alter or change this Ordinance, except as to the two percent (2.0%) rate of tax herein imposed subsequent to adoption by a majority vote of the Board of Trustees. Such amendment, alteration or change need not be submitted to the electors of the Town of La Jara for their approval.

Section 8. PENALTY. Any person convicted of violating any of the provisions of this Ordinance shall be punished by a fine not to exceed THREE HUNDRED DOLLARS (\$300.00) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

Section 9. EFFECTIVE DATE. This Ordinance shall take effect on July 1, 1981, and shall apply to all retail sales, unless exempt, made on or after that date.

Section 10. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Ordinance are declared to be severable.

Section 11. REASONS FOR EMERGENCY. In order to provide for the collection of sales tax by the Director of Revenue by July 1,

1981, and because the revenue is necessary to provide needed services and improvements in the Town of La Jara, the Board of Trustees finds that an emergency exists.

Section 12. EMERGENCY. Based on the reasons set out in Section 11, the Town Board hereby finds, determines and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of the public health and safety and the same shall be in full force and effect immediately upon adoption and the publication as by law provided.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA THIS 14th day of January, A.D., 1981.

TOWN OF LA JARA, COLORADO

BY: *Wenceslao Gonzalez*
Mayor

(TOWN SEAL)

ATTEST:

Helen G. Hutchins
La Jara Town Clerk

STATE OF COLORADO)
)
COUNTY OF CONEJOS) ss.
)
TOWN OF LA JARA)

Certified to be a full, true and correct copy of the original in my custody.

DATED: 1/14/81

Helen G. Hutchins
Clerk

(TOWN SEAL)