

Recorded at \_\_\_\_\_ o'clock \_\_\_\_\_ .M. \_\_\_\_\_

Reception No. \_\_\_\_\_ Recorder \_\_\_\_\_

TOWN OF LA JARA, COLORADO

Ordinance No. 1989 - 1

TITLE AND PURPOSE:

AN ORDINANCE IMPOSING UPON FEE OWNERS-LESSORS ULTIMATE RESPONSIBILITY FOR TENANT'S NON-PAYMENT OF WATER AND/OR SEWER CHARGES

WHEREAS, in the past, the Town of La Jara has maintained billing for water and/or sewer charges in the names of persons occupying, as tenants, the premises to which such water and/or sewer services were provided, rather than billing for such services in the name of the fee owner thereof; and

WHEREAS, in some instances, and from time to time, the Town has experienced difficulty in collecting unpaid water and/or sewer charges from tenants who have vacated and surrendered the leased premises and who no longer reside within the incorporated limits of the Town of La Jara; and

WHEREAS, in some, but not all, instances, the fee owner of the leased premises to which such water and/or sewer services were provided has disclaimed any responsibility for the ultimate payment of water and/or sewer service charges with respect thereto; and

WHEREAS, in the interest of collecting the fees and rates for water and/or sewer services for the premises to which such were rendered, the Board of Trustees of the Town of La Jara deems it necessary and appropriate that, ultimately, the fee owner should be held responsible for the payment of the same and that the fee owner, as a consequence thereof, may provide, contractually or otherwise with the owner's lessees for the payment, reimbursement, or indemnification of any and all of such charges levied, assessed, and paid by the fee owner.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Trustees of the Town of La Jara, Colorado, as follows:

Section 1: Fee Owner Ultimately Responsible - Fees - Charges.

That, pursuant to Colo. Rev. Stat. §31-35-402(1)(f), et. seq., the Town of La Jara may collect, in advance or otherwise, from any owner of any real property connected to the Town's water and/or sewer facilities or receiving services therefrom, rates, fees, tolls, and charges, or any combination thereof for the services furnished by, or the direct or indirect connection with, or the use of, or any commodity from such water and/or sewage facility, or both, including, without limiting the generality of the foregoing, minimum charges for the availability of service, tap fees, disconnection fees, and reasonable penalties for any delinquencies, including, but not necessarily limited to, interest on delinquencies from any due date at a rate not exceeding 1% per month or fraction thereof, reasonable attorney's fees, and other costs of collection whenever any rate, fees, tolls, and charges, or any combination thereof, remain unpaid by such owner's tenant who occupied or who occupies said premises and who neglects, fails, and refuses and continues to neglect, fail, and refuse to pay the same after such rates, fees, tolls, charges, or any combination thereof have become due and payable and have been properly and lawfully assessed.

Section 2 -- Non-payment - Lien:

(1) Pursuant to Colo. Rev. Stat. §31-35-617 and with respect to the Town's sewage system, in the event any tenant of an owner neglects, fails, or refuses to pay when due, after assessment of the same by the Town of any rates and charges as fixed by the ordinances of the Town of La Jara and thereafter the owner, after notification of such tenant's neglect, failure, and refusal to pay the same, likewise neglects, fails, and refuses to pay when due and after assessment the rates and charges fixed by the Board of Trustees of the Town of La Jara for the connection with and use of said sewer, the user thereof shall

not be disconnected from said sewage system or refused the use of said sewer unless the user thereof is outside the municipal limits, but the rates and charges due therefor may be certified by the Clerk of the Town of La Jara to the Board of County Commissioners in which said delinquent owner's property is located on or before November 1st of each year and thereupon and until paid shall be a lien upon the real property so served by said sewage connection. The lien shall be levied, certified, received, or collected by sale, annually from year to year by the proper County officials, as are County taxes, and the proceeds thereof shall be remitted each month to the Town of La Jara.

(2) To the extent permitted by law, and with respect to the Town's water supply system, in the event any tenant of an owner neglects, fails, or refuses to pay when due, after assessment of the same by the Town of any rates and charges as fixed by the ordinances of the Town of La Jara and thereafter the owner, after notification of such tenant's neglect, failure, and refusal to pay the same, likewise neglects, fails, and refuses to pay when due and after assessment the rates and charges fixed by the Board of Trustees of the Town of La Jara for the connection with and use of said water, the user thereof may be, at the option of the Town, disconnected from said water system and refused the use of said water and, in addition, the rates and charges due therefor may be certified by the Clerk of the Town of La Jara to the Board of County Commissioners in which said delinquent owner's property is located on or before November 1st of each year and thereupon and until paid shall be a lien upon the real property so served by said water connection. The lien shall be levied, certified, received, or collected by sale, annually from year to year by the proper County officials, as are County taxes, and the proceeds thereof shall be remitted each month to the Town of La Jara.

(3) Savings Clause. If any part, section, or subsection of this Ordinance is, for any reason, held to be invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining sections of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more parts, sections, subsections, sentences, clauses, or phrases be declared invalid.

(4) Repeal. Any and all ordinances or parts of ordinances of the Town of La Jara, Colorado, in conflict or inconsistent therewith, are hereby repealed, PROVIDED, HOWEVER, that the repeal of any ordinance or parts of ordinances of the Town of La Jara, Colorado, shall not revive any other section of any ordinance or ordinances heretofore repeals or superceded. Section 3 -- Publication. The Town Clerk shall certify to the passage of this Ordinance, cause notice of its contents and passage to be published as provided by law, and shall cause copies of this Ordinance to be attached to each copy of Ordinance No. 1970-4 and any amending ordinance with respect thereto, previously adopted.

Section 4 -- Pronouns, Singular and Plural: Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural and words of the plural may be construed as denoting the singular, and words of one gender may be construed as denoting such other gender as is appropriate.

Section 5 -- Effective Date. This Ordinance shall be in full force and effect thirty days after its final passage and publication as provided by law.

INTRODUCED, READ, ADOPTED, AND ORDERED PUBLISHED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA THIS 9<sup>th</sup> DAY OF March, A.D. 1989.

TOWN OF LA JARA, COLORADO

BY: Vic E. Thomas  
Vic E. Thomas, Mayor

(TOWN SEAL)

ATTEST:

Helen J. Hutchins  
Helen J. Hutchins  
La Jara Town Clerk

First Publication: \_\_\_\_\_