

TITLE AND PURPOSE:

AN ORDINANCE CONCERNING THE INCINERATION OF TRASH; THE DISPOSAL OF HAZARDOUS MATERIAL; PROVIDING A PENALTY FOR A VIOLATION THEREOF, AND REPEALING ANY AND ALL ORDINANCES OR PARTS THEREOF IN CONFLICT THEREWITH.

WHEREAS, the Board of Trustees of the Town of La Jara, Colorado, finds and determines that, in the interest of preserving the public peace, health, safety and welfare within the incorporated limits of the Town, it is necessary and appropriate that an Ordinance should be enacted concerning the incineration of trash within the Town, and the unauthorized disposal of hazardous substances, to define adequately what constitutes trash and hazardous substances, and to give fair warning to all persons concerning the nature of the conduct prohibited and the penalties authorized upon conviction.

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

SECTION 1 - Definitions: For purposes of this Ordinance, the following terms shall have the meaning set forth below, unless the context otherwise indicates. The word "shall: is mandatory and not merely directory or discretionary.

- (1) "Combustible" means any substance that has a flash point above eighty degrees Fahrenheit to and including one hundred and fifty degrees, as determined by the Tagliabue open cup tester. This definition shall not apply to the flammability or combustibility of solids and of the contents of self-pressurized containers which shall be determined by methods generally applicable to such materials or containers and established by regulations issued by the department.
- (2) "Corrosive substance" means any substance which, in contact with living tissue, will cause destruction of tissue by chemical action, but shall not refer to action on inanimate surfaces.
- (3) "Department" means the Colorado Department of Health.
- (4) "Flammable substance" is a substance which has a flash point above twenty degrees Fahrenheit to and including eighty degrees Fahrenheit as determined by the Tagliabue open cup tester. This definition shall not apply to the flammability or combustibility of solids and of the contents of self-pressurized containers which shall be determined by the methods generally applicable to such materials or containers and established by regulation issued by the department.
- (5) "Hazardous substance" means any substance or mixture of substances which:
 - (a) Is toxic;
 - (b) Is corrosive;
 - (c) Is an irritant
 - (d) Is a strong sensitizer;
 - (e) Is flammable or combustible; or
 - (f) Generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.
- (6) "Irritant" means any substance not corrosive within the meaning of subparagraph 2 above which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.
- (7) "Strong sensitizer" means a substance which will cause, on normal living tissue, through an allergic or photodynamic process, hypersensitivity which become evident on reapplication of the same substance and which is designated as such by the department.

(8) "Trash" or "Refuse" means and includes any grass clippings, leaves, hay, straw, manure, shavings, excelsior, paper, ashes, containers, boxes, glass, cans, bottles, garbage, waste, inoperative vehicles or parts thereof and discarded building and construction materials, including, but not limited to, plaster, broken concrete, bricks, cinder blocks, stones, wood, roofing material, wire or metal binding, sacks or loose discarded or unused material, and all other waste material of any kind or nature whatsoever.

(9) "Toxic" shall apply to any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

Section 2 - Outside Burning Prohibited: No person shall kindle or maintain any bonfire or burn or permit to be burned any trash, refuse, wood, or weeds, brush, plants or other combustible or flammable material anywhere within the limits of the Town of La Jara or anywhere on town property outside of the town limits, except when:

(1) The burning is in the course of an agricultural operation in the growing of crops as a gainful occupation and presents no fire hazard to other property in the vicinity;

(2) The burning is for the noncommercial cooking of food for human beings;

(3) The burning is a smokeless flare or a safety flare used to indicate some danger to the public; or

(4) The burning is a training fire conducted by the Fire Department, or a training fire conducted by another fire department and approved in writing by the Town's Fire Marshall.

Section 3 - Burning in Outside Incinerators. No person shall burn any combustible trash, refuse, or material in any incinerator other than as specified in this section. Burning is permitted in an incinerator only under the air pollution control regulations adopted by the County of Conejos, if any, and if none, by the state of Colorado having state-wide application. All incinerators shall be located in accordance with the zoning requirements of the Town and shall be placed so as not to constitute a fire hazard to adjacent buildings or structures.

Section 4 - Exceptions: Sections 3 and 4 as hereinabove set forth shall not apply to any fire authorized by the fire marshal upon finding that such fire would not be detrimental or injurious to the public health, safety, or welfare.

Section 5 - Unauthorized Disposal of Hazardous Substances: No person shall dispose of any hazardous material or substance by dumping or pouring on the ground or into a storm drain or sanitary sewer or any connection thereto.

Section 6 - Penalties The following penalties, herewith set forth in full, shall apply to this Ordinance.

(a) It is unlawful for any person to violate any of the provisions stated or adopted in this Ordinance.

(b) Every person convicted of a violation of any provision stated or adopted in the Ordinance shall be punished by a fine not exceeding Three Hundred Dollars (\$300.00), or by imprisonment in the Conejos County Jail, or by both such fine and imprisonment.

Section 7 - Application: This Ordinance shall apply to all areas within the incorporated limits of the Town of La Jara, and to every other public way or public place or public property, either within or without the incorporated limits of the Town, the use of which the Town has jurisdiction and authority to regulate.

Section 8 - Severability: If any article, section, subsection, part, subpart, paragraph, subparagraph, sentence, clause, word, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason by a Court of competent

jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and every section, subsection, part, subpart, paragraph, subparagraph, sentence, clause, word, or phrase thereof irrespective of the fact that any one or more of the other, sections, subsections, parts, subparts, paragraphs, subparagraphs, sentences, clauses, words, or phrases thereof be declared invalid or unconstitutional.

Section 26 - Repeal of all Prior Ordinances In Conflict Herewith: All Ordinances or parts of Ordinances in conflict with or inconsistent with the provision of this Ordinance are hereby repealed.

Section 27 - Emergency Enactment - Effective Date: Whereas, for the reasons set forth in the Preamble of this Ordinance, the Board of Trustees 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 thereof as by law provided.

INTRODUCED, READ, APPROVED, ADOPTED AND ORDERED PUBLISHED BY THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA AT A REGULARLY-SCHEDULED MEETING OF THE BOARD AT WHICH A MAJORITY OF THE BOARD WAS PRESENT THIS 11th DAY OF DECEMBER, 1997.

THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA

By: Larry Buhr
Larry Buhr, Mayor Pro-tem

(TOWN SEAL)

ATTEST:

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

Date of Publication: Dec 11, 1997.