

TOWN OF LA JARA
ORDINANCE NO. 2000-5

AN ORDINANCE CONCERNING REVENUE, AND IMPOSING A SALES TAX ON THE SALE OF TANGIBLE PERSONAL PROPERTY AT RETAIL AND THE FURNISHING OF TAXABLE SERVICES IN THE TOWN OF LA JARA, COLORADO, AND IMPOSING A USE TAX FOR THE PRIVILEGE OF USING OR CONSUMING IN LA JARA, COLORADO ANY CONSTRUCTION AND BUILDING MATERIALS AND FOR STORING, USING OR CONSUMING MOTOR AND OTHER VEHICLES ON WHICH REGISTRATION IS REQUIRED, PURCHASED AT RETAIL, AND PROVIDING FOR AN ELECTION ON THE PROPOSALS HEREIN CONTAINED.

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

This Ordinance may be known and cited as the Town of La Jara Sales and Use Tax Ordinance.

ARTICLE I - SALES TAX

Purpose

The purpose of this Article is to impose a sales tax upon the sale at retail of tangible personal property and the furnishing of certain services in the Town of La Jara, Colorado, pursuant to the authority granted to incorporated towns of the State of Colorado by Article 2 of Title 29, Colorado Revised Statutes, as amended. This Article shall be so construed and interpreted as to effectuate the general purpose of making it uniform with the sales tax of the State of Colorado, levied by Article 26 of Title 39, C.R.S., as amended.

Definitions

For the purpose of this Article, the definition of words herein contained shall be as said words redefined in Section 39-26-102, C.R.S., as amended, and said definitions are incorporated herein.

Licenses

(a) It shall be unlawful for any person to engage in the business of selling tangible personal property at retail, or to furnish certain services as herein specified, without first having obtained a license therefore, which license shall be granted and issued by the Town Clerk, and shall be in force and effect until the thirty-first day of December of the year in which it is issued, unless sooner revoked. Such license shall be granted or renewed only upon application stating the name and address of the person desiring such license, the name of such business and location, and such other facts as the Town Clerk may require.

(b) It shall be the duty of each such licensee on or before January first of each year during which this Article remains in effect to obtain a renewal thereof if the licensee remains in 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 licensee's prior license.

(c) For each license issued, a fee of Ten Dollars shall be paid, which fee shall accompany the application. Another fee of Ten Dollars shall be paid for each year or fraction thereof for which said license is renewed; provided that only one-half of said Ten Dollar fee shall be charged on licenses issued after July first of any year.

(d) In case business is transacted at two or more separate places by one person, a separate license for each place of business shall be required.

(e) Each license shall be numbered and shall show the name and place 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.

(f) Any license may be revoked for cause as provided in Section 39-26-103, C.R.S., as amended, which provision is incorporated herein by this reference.

(g) Any person engaged in the business of selling tangible personal property at retail, or the furnishing of certain services as herein specified, without having first secured a license therefore as provided in this Article, shall be guilty of a violation of this Article.

Property and Services Taxed

(a) There is hereby levied and there shall be collected and paid a sales tax in the amount as in this Article provided, upon the sale at retail of tangible personal property and furnishing of certain services, as provided in Section 39-26-104, C.R.S., as amended.

(b) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S., as amended.

(c) The gross receipts from sales 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., as amended, regardless of the place to which delivery is made.

(d) No sales tax shall apply to the sale of construction and building materials, as the term is used in Section 29-2-109,

C.R.S., as amended, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to such local government evidencing that a local use tax has been paid or is required to be paid.

(e) No sales or use tax shall apply to the sale of food purchased with food stamps. For the purposes of this paragraph "food" shall have the same meaning as provided in 7 U.S.C. Section 2012(g), as such section exists on October 1, 1987, or is thereafter amended.

(f) No sale or use tax shall apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants, and children, 42 U.S.C. Section 1786. For the purposes of this paragraph, "food" shall have the same meaning as provided in 42 U.S.C. Section 1786, as such section exists on October 1, 1987, or is thereafter amended.

(g) No sales tax shall apply to the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule city and county, city or town equal to or in excess of that sought to be imposed by the Town of La Jara, Colorado. A credit with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule city and county, city, or town. The amount of the credit shall not exceed the sales tax imposed by the Town of La Jara, Colorado.

(h) Notwithstanding any other provision of this Article, 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 town, city or county sales tax if the materials are delivered by the retailer or his agent to a site within the limits of such town, city, or county.

Exemptions

(a) There shall be exempt from taxation under the provisions of this Article, all of the tangible personal property and services which are exempt under the provisions set forth in Article 26, Title 39, C.R.S., as amended, which exemptions are incorporated herein by this reference, except the exemption allowed by Section 39-26-114(11), C.R.S., as amended, for the purchases of machinery or machine tools, and except the exemption of sales and purchases of electricity, coals, gas, fuel oil and coke as provided in Section 39-26-114(1)(a)(XXI), C.R.S., as amended, and except the exemption for sales of food specified in Section 39-26-114(1)(a)(XX), C.R.S., as amended.

(b) All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from sales tax when such sales meet both of the following conditions:

- (1) The purchaser is a nonresident of, or has its principal place of business outside of the Town; and
- (2) Such tangible personal property is registered or required to be registered outside the limits of the Town under the laws of the State of Colorado.

Amount of Tax

(a) There is hereby imposed upon all sales of tangible personal property and the furnishing of certain services, as specified in Property and Services Taxed Section of this Article, a three per cent (3.0%) sales tax upon the sale at retail of tangible personal property and the furnishing of certain services as provided herein.

General Provisions

(a) For the purposes of this Article, 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 or to a common carrier for delivery to a destination outside the limits of the Town.

(b) In the event a retailer has no permanent place of business in the Town, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Article shall be determined by the provisions of Article 26 of Title 39, C.R.S., as amended, and by rules and regulations promulgated by the Department of Revenue of the State of Colorado.

Collection, Administration and Enforcement

(a) The collection, administration, and enforcement of the sales tax imposed by this Article shall be performed by the Executive Director of the Department of Revenue of the State of Colorado in the same manner as the collection, administration, and enforcement of the Colorado State Sales Tax. Accordingly, the provisions of Articles 26 and 21 of Title 39 and Article 2 of Title 29, C.R.S., as amended, and all rules and regulations promulgated by the Executive Director of the Department of Revenue pertaining to such collection, administration, and enforcement, are incorporated herein by this reference.

(b) At the time of making his return of the tax, as required by this Article, every retailer shall be entitled to subtract from

the tax so remitted a sum equal to three and one-third percent (3 1/3%) of said tax as his fee, said fee to be known as the "Vendor's Fee."

(c) If said retailer shall be delinquent in remitting said tax, he shall forfeit the "Vendor's Fee," unless good cause can be shown for such delinquent remittance.

Revenues Derived - Disposition

The disposition of sales and use tax revenues generated by the terms and provisions of this ordinance shall be used within the various budgets of the Town of La Jara, and the Town of La Jara shall be authorized to collect and spend all such revenues from such sales and use tax and any investment earnings thereon without regard to any spending, revenue-raising, or other limitations contained within Article X, Section 20 of the Colorado Constitution, such amounts to constitute voter-approved revenue and spending changes.

ARTICLE II - USE TAX

Purpose

The purpose of this Article is to impose a use tax of three percent (3.0%) thereof, for the privilege of using, or consuming in the Town of La Jara, Colorado, any construction and building materials, purchased at retail, and for storing, using, or consuming in the town any motor and other vehicles on which registration is required, purchased at retail.

Limitations

In no event shall the use tax imposed by this ordinance extend or apply:

(a) To the storage, use or consumption of any tangible personal property, the sale of which is subject to a retail sales tax imposed by the Town of La Jara.

(b) To the storage, use, or consumption of any tangible personal property purchased for resale in the Town of La Jara either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

(c) To the storage, use or consumption of tangible personal property brought into the Town of La Jara by a non-resident thereof for his own storage, use, or consumption while temporarily within the town; however, this exemption does not apply to the storage, use, or consumption of tangible personal property brought into this state by a non-resident to be used in the conduct of a business in this state;

(d) To the storage, use or consumption of tangible personal property by the United States government or the State of Colorado, or its institutions or political subdivisions, in their governmental capacities only, or by religious or charitable organizations in the conduct of their regular religious or charitable functions;

(e) To the storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance or commodity, which tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded or furnished and the container, label, or the furnished shipping case thereof;

(f) To the storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a legally imposed sales or use tax of another statutory or home rule town, city, or city and county equal to or in excess of that imposed by this article. A credit shall be granted against the use tax imposed by this article with respect to person's storage, use, or consumption in the town or city of other tangible personal property purchased by him in a previous statutory or home rule town, city, or city and county. The amount of the credit shall be equal to the tax paid by him or her by reason of the imposition of a sales or use tax of the previous statutory or home rule town, city, or city and county on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this article;

(g) To the storage, use, or consumption of tangible personal property and household effects acquired outside of the Town of La Jara and brought into it by a non-resident acquiring residency;

(h) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a non-resident of the Town of La Jara and he purchased the vehicle outside of the Town of La Jara for use outside the Town of La Jara and actually so used it for a substantial and primary purpose for which it was acquired and he registered, title, and licensed said motor vehicle outside of the Town of Jara;

(i) To the storage, use, or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of such use tax;

(j) To the storage, use of consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let, or entered into at any time prior to the effective date of this use tax ordinance;

Motor and Other Vehicle Use Tax Collection

1. The three per cent (3.0%) use tax provided for herein shall be applicable to every motor vehicle for which registration is required by the laws of the State of Colorado, and no registration shall be made of any motor or other vehicle or which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents until any tax due upon the use, storage, or consumption thereof pursuant to this ordinance has been paid.

2. The use tax imposed by this ordinance shall be collected by the authorized agent of the Department of Revenue in this county.

3. The proceeds of said use tax shall be paid to the Town of La Jara periodically in accordance with an agreement entered into by and between the Town of La Jara and the Department of Revenue.

Construction and Building Materials Use Tax Collection

1. The collection of the use tax for construction and building materials shall be administered by the Board of Trustees of the Town of La Jara, Colorado.

2. The collection and administration of the use tax imposed by this ordinance shall be performed by the Board of Trustees of the Town of La Jara, in substantially the same manner as the collection, administration and enforcement of the Colorado Sales and Use Tax.

ARTICLE III - ELECTION

This Ordinance is adopted by the Board of Trustees of the Town, following the submission of a ballot question concerning whether the Town of La Jara's Sales and Use Tax should be increased as in said ballot question provided at an election held on November 7, 2000, the result of which was an affirmative vote in favor of the increase as certified by the election official conducting the election, such being the Clerk and Recorder of Conejos County, Colorado.

ARTICLE IV - EFFECTIVE DATE

This Ordinance shall become effective and in force at 12:01 a.m. on the first day of January 1, 2001. As soon as practical after said approval, the Board of Trustees of the Town shall request the Executive Director of Revenue of the State of Colorado to collect, administer, and enforce this Ordinance as herein provided and shall at the time of said request submit a true and complete certified copy of this Ordinance and all necessary proceedings in connection herewith to the Executive Director of the Department of Revenue.

ARTICLE V - 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 application of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

ARTICLE VI - EMERGENCY

The Board of Trustees hereby finds, determines and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of the public health or safety and the same shall be in full force and effect after publication and final passage as by law provided.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED THIS 9th DAY OF November, 2000.

ATTEST:

TOWN OF LA JARA

Helen J. Hutchins
Helen J. Hutchins, Town Clerk

Larry Buh
Larry Buh, Mayor

I hereby certify that this copy is a true and accurate copy of ordinance No. 2000 - 7 as recorded in the records of the Town of La Jara, Colorado.

(S E A L)

Helen J. Hutchins
Town Clerk and Recorder