

**ORDINANCE NO. 2003 - 2**

**TITLE AND PURPOSE:**

**AN ORDINANCE PROVIDING FOR MANDATORY MEASURES NECESSARY FOR THE CONSERVATION OF WATER IN THE TOWN OF LA JARA BY AMENDING ORDINANCE NO. 1970-4 OF THE TOWN AND ANY AMENDMENT THERETO; PROVIDING FOR MANDATORY WATER USE RESTRICTIONS AND PROVIDING FOR PENALTIES FOR THE VIOLATION OF SUCH RESTRICTIONS, AND DECLARING AN EMERGENCY.**

**WHEREAS**, in 1970, the Board of Trustees of the Town of La Jara adopted Ordinance No. 1970-4 concerning, among other things, the regulations and conditions by which the Town's water works were to be administered and regulated, and

**WHEREAS**, the second paragraph of SECTION 1.1 of Ordinance No. 1970-4 authorizes the Board of Trustees of the Town of La Jara to determine in what manner and upon what terms water may be taken from the Town's water system by any water consumer, and

**WHEREAS**, SECTION 1.25 of said Ordinance No. 1970-4 provides that the Town may furnish and provide water for persons or property outside the incorporated areas of the Town upon the terms and rates as set by the Board of Trustees of the Town, and

**WHEREAS**, the Town of La Jara and the surrounding areas of the San Luis Valley are experiencing the worst drought ever recorded since records of that nature have been kept, and

**WHEREAS**, the Board of Trustees of the Town of La Jara desires to protect and preserve the health, safety and welfare of its citizens in times of drought and impending drought by protecting and preserving, to the greatest extent possible, the water resources of the Town of La Jara, and

**WHEREAS**, the Board of Trustees finds and determines that it is necessary to establish and adopt mandatory measures to encourage the conservation of water and to establish certain restrictions and offenses, all as contained herein, in order to achieve a reduction of water usage by any and all users of Town water, whether within or without the incorporated limits of the Town,

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

**Section 1 - MANDATORY LAWN IRRIGATION AND WATERING RESTRICTIONS:**

(a) Beginning on the effective date of this Ordinance and on the 12<sup>th</sup> day of May of each subsequent year, and ending May 31, 2004, and on the 31<sup>st</sup> day of May of each subsequent year, it shall be unlawful for any consumer of municipal water or other person, or for the owner of any property using municipal water to cause, permit, suffer or allow any person to irrigate, sprinkle, or otherwise apply water from the municipal water system to any lawns or gardens or other area of land on which grass, gardens, or shrubs are grown except according to the following schedules:

<b>FOR ALL PREMISES LYING NORTH OF THIRD STREET OF LA JARA, OR ANY EXTENSION THEREOF TO THE EAST OR THE WEST IF PREMISES LIE OUTSIDE THE INCORPORATED LIMITS OF THE TOWN:</b>	<b>Monday, Wednesday, and Friday only from 5:00 a. m. to 10:00 a.m. and from 5:00 p.m. to 10:00 p.m.</b>
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**FOR ALL PREMISES LYING SOUTH OF THIRD STREET OF LA JARA, OR ANY EXTENSION THEREOF TO THE EAST OR THE WEST IF PREMISES LIE OUTSIDE THE INCORPORATED LIMITS OF THE TOWN, INCLUDING, BUT NOT LIMITED TO, PREMISES LYING SOUTH OF COUNTY ROAD W (commonly known as the "Peterson Road") AND WEST OF HIGHWAY 285**

**Tuesday, Thursday, and Saturday only from 5:00 a. m. to 10:00 a.m. and from 5:00 p.m. to 10:00 p.m.**

(b) The watering of lawns, gardens, and shrubs on days and times other than permitted days and times as hereinabove set forth is prohibited.

(c) Beginning on the effective date of this Ordinance and until its repeal or amendment thereof, it shall be unlawful for any consumer of municipal water or other person, or for the owner of any property using municipal water to cause, permit, suffer or allow any water derived from the municipal water system to be given, sold, delivered, or utilized to or by any consumer thereof in any area lying outside of the areas now being served by municipal water.

(d) Beginning on the effective date of this Ordinance and until its repeal or amendment thereof, it shall be unlawful for any consumer of municipal water or other person, or for the owner of any property using municipal water to cause, permit, suffer or allow any water derived from the municipal water system to be utilized in the washing of a motor vehicle except on the days and times of day as set forth in subsection (a) of Section 1 of this Ordinance applicable to the area in which such washing is to occur. For purposes of this Ordinance, the definition of a motor vehicle shall be as set forth in Colorado Revised Statutes § 42-1-102 (58), as amended.

(e) It shall be unlawful in the course of the washing of a motor vehicle as otherwise permitted by this Ordinance to conduct such activity utilizing a hose not having at the discharge end thereof a nozzle designed to restrict the flow of water while at the same time increasing the discharge pressure thereof.

(f) Beginning on the effective date of this Ordinance and until its repeal or amendment thereof, it shall be unlawful for any consumer of municipal water or other person, or for the owner of any property using municipal water to permit, suffer or allow any person not a full time resident of the area served by the municipal water system to engage in the washing of such non-resident person's motor vehicles with water derived from the municipal water system.

(g) The provisions of this Section shall apply to all real property within the incorporated limits of the Town of La Jara, whether publicly or privately owned, and all land outside of the incorporated limits of the Town of La Jara that is served by the Town's municipal water utility system.

(h) With respect to all land outside of the incorporated limits of the Town of La Jara that is served by the Town's municipal water utility system, the provisions of this section may be enforced by a suit for injunctive relief in any court of competent jurisdiction. Nothing contained herein shall prohibit the Town of La Jara from seeking the awarding of costs and reasonable attorney's fees in the event injunctive relief is granted.

#### **Section 2 - ENFORCEMENT AND PENALTIES:**

(a) The enforcement of this Ordinance shall be by the issuance of summonses and complaints in accordance with the Colorado Municipal Court Rules of Procedure.

(b) Any consumer or other person violating any of the provisions of this Ordinance, upon conviction, shall be punished by a minimum fine of not less than one hundred dollars (U.S.\$100.00), which fine shall not be suspended by the Municipal Court; upon a second conviction of such

consumer or other person for a violation of any of the provisions of this Ordinance, upon conviction, shall be punished by a minimum fine of not less than two hundred dollars (U.S.\$200.00), which fine shall not be suspended by the Municipal Court; upon a third and each subsequent conviction of such consumer or other person for a violation of any of the provisions of this Ordinance, upon conviction, shall be punished by a maximum fine of, but not less than, three hundred dollars (U.S.\$300.00), which fine shall not be suspended by the Municipal Court. Each day during which a violation of any provision of this Ordinance occurs or continues shall constitute a separate violation under this Ordinance. Upon a third or subsequent conviction of such consumer or other person for a violation of any of the provisions of this Ordinance, in addition to the fine imposed by this section, the Municipal Court may order the shutting off of such water user's water supply for a period of one week, being permitted, however, to limit water use for health and sanitary purposes only.

**Section 3 - RETENTION:** All of the terms and provisions of Ordinance No. 1970-4, and all of the terms and provisions of any subsequent ordinance or ordinances amending said Ordinance No. 1970-4 or any amendments thereto not otherwise amended by this Ordinance shall remain in full force and effect without deletion or amendment thereto.

**Section 4 - SAVINGS CLAUSE:** If any part, section, or subsection of this Ordinance is, for any reason, judicially determined to be invalid or unenforceable, such determination shall not affect the validity of the remaining section or sections of this Ordinance. The Board of Trustees of the Town of La Jara hereby declares that it would have passed this Ordinance in each part, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentences, clauses, or phrases be declared invalid, it being the intent of the Board of Trustees of the Town that such invalid or unenforceable provision are severable.

**Section 5 - REPEAL:** Any part of Ordinance No. 1970-4, or any part or all of any subsequent ordinance amending said Ordinance No. 1970-4 in conflict or inconsistent with the terms and provisions of this ordinance are hereby repealed, **PROVIDED, HOWEVER**, that the repeal of any ordinance or parts of ordinance of the Town of La Jara shall not revive any other section of any ordinance or ordinances theretofore repealed or superceded in full. Temporary Ordinance No. 2002-1 is hereby repealed in its entirety.

**Section 6 - DEVIATIONS FROM THE TERMS AND PROVISIONS HEREOF MAY BE PERMITTED BY AN APPROPRIATE RESOLUTION OF THE BOARD OF TRUSTEES;** In the interest of avoiding the cost and necessity of adopting and publishing a subsequent Ordinance that is intended to supplement, amend, or delete any one or more the terms and provisions of this Ordinance from time-to-time and as changing circumstances may require pertaining only, however, to the permitted days and hours of watering or such other water restrictions as by this Ordinance provided, nothing contained herein shall be construed to limit or prohibit the Board of Trustees at any time to supplement, amend, or delete any term and provision of this Ordinance from time-to-time and as changing circumstances may then warrant, but pertaining only to the permitted days and hours of watering or such other water restrictions as the Board of Trustee may desire to impose, and may do so by the adoption of a Resolution by a majority of the members of the Board of Trustees at which a quorum is present at any Special or Regular Meeting of the Board, after public notice as provided by law. Any such change of any term or provision of the Ordinance by the adoption of a Resolution as herein provided shall not, however, become effective until due and sufficient notice has been given to water users of the La Jara municipal water system in such form and manner as the Board of Trustees may hereafter provide. In all other respects, the terms and provisions of this Ordinance, including, but not limited to, the penalty provisions as herein set forth shall require a subsequent amending Ordinance.

**Section 7 - FUTURE AMENDMENTS TO THIS ORDINANCE AS CIRCUMSTANCE MAY REQUIRE:** Nothing contained herein shall be construed to limit or prohibit the Board of Trustees at any time to adopt any and all amendments to this Ordinance that the Board of Trustees deems necessary and advisable as circumstances may require in light of the extreme and continuing drought being experienced by the Town of La Jara and its surrounding areas.

**Section 8 - PUBLICATION:** The Town Clerk shall certify to the passage of this Ordinance, cause notice of its contents and passage to be provided by law, and shall cause copies of this Ordinance to be attached to the previously adopted Ordinance No. 1970-4 and any other ordinance or ordinances amending said Ordinance No. 1970-4, or any subsequent amending ordinances.

**Section 9 - EMERGENCY ENACTMENT:** Whereas, the Board of Trustees of the Town of La Jara finds and determines that this Ordinance is necessary for the immediate preservation of the health, safety and welfare of the citizens of the Town of La Jara in a time of drought and impending drought to protect and preserve, to the greatest extent possible, the water resources of the Town of La Jara, this Ordinance 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 REGULAR MEETING OF THE BOARD OF BOARD OF TRUSTEES, AFTER PUBLIC NOTICE THEREOF AS REQUIRED BY LAW, AT WHICH A QUORUM OF THE BOARD OF TRUSTEES WAS PRESENT THIS 12TH DAY OF JUNE, 2003.

THE BOARD OF TRUSTEES OF THE  
TOWN OF LA JARA

(TOWN SEAL)

By: *Austin Valdez*  
Austin Valdez, Mayor

Attest:

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

APPROVED AS TO FORM:

*Raymond J. Valdez*  
Raymond J. Valdez, Town Attorney

Date of Publication: June 20, 2003