

**ORDINANCE NO. 2006 -- 1**

**AN ORDINANCE PROVIDING FOR AND COMPELLING THE REMOVAL OF WEEDS, BRUSH AND JUNK OF ALL KINDS, CERTAIN STRUCTURES FROM LOTS AND TRACTS OF LAND AND FROM THE ALLEYS BEHIND AND FROM THE SIDEWALK AREAS IN FRONT OF SUCH PROPERTY WITHIN THE TOWN OF LA JARA, COLORADO.**

**DECLARATION OF POLICY AND PURPOSE:**

**WHEREAS**, the Board of Trustees of the Town of La Jara hereby finds, determines, and declares that weeds, brush, junk of all kinds, and certain abandoned and dilapidated structures on lots and tracts of land within the Town and from the alleys behind and from the sidewalk areas in front of such property constitute a public nuisance and are detrimental to the safety, health and general welfare of the inhabitants and property of the Town of La Jara, and

**WHEREAS**, it is further declared to be the purpose of the Board of Trustees in the passage of this Ordinance to promote the public pride and public spirit; to attract to this Town tourists, travelers, and permanent residents with a view toward broadening the economic well-being and general welfare; and to preserve and enhance the natural and scenic beauty of this Town.

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

**ARTICLE I – DEFINITIONS**

**SECTION 1.1 DEFINITIONS:** For purposes of this Ordinance, the following terms shall have the meaning set forth below, unless the contexts otherwise indicates, in the interpretation and implementation of this Ordinance:

- (A) *Police Chief* means the Chief of Police of the La Jara Police Department.
- (B) *Fire Chief* means the chief of the La Jara Fire Department.
- (C) *Junk* means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked motor vehicles, appliance, or parts thereof; iron, steel, and other old or scrap ferrous or nonferrous material except as such is used by commercial business establishments or places of business in the ordinary and usual course of business.
- (D) *Public Nuisance* means any dilapidated building of whatever kind that is unused by the owner or uninhabited because of deterioration or decay, which conditions constitutes a fire hazard or subjects adjoining property to damage by storm, soil erosion, or rodent infestation, or that become a place frequented by trespassers and transients seeking a temporary

hideout or shelter, or junk as defined in subsection © of this section or weeds as defined in subsection (G) of this section.

- (E) *Owner* shall mean the owner as shown upon the tax rolls of Conejos County, Colorado, whether person, firm or corporation; any agent or representative of the owner; and any occupant of the premises.
- (F) *Property* shall mean and includes, in addition to the owner's lot or tract of land, whether improved or vacant, the area to the center of any alley abutting the lot or tract of land, if any, all easements of record, and the sidewalk, curb, gutter and parking areas of any street abutting such lot or tract of land.
- (G) *Weed* shall mean Bindweed, Dandelion, and all weeds, grass, brush, or other rank or noxious vegetation that is in excess of 8 inches in height and shall specifically include: Canada Thistle, Russian Knapweed, Redroot Pigweed, Common Sunflower; Kochia Weed, Iron Weed, Hoary Cress (White Top or White Weed as it is commonly known in this locality), Marihuana, or other plants or offending vegetation that is regarded as a common nuisance. This list is not exclusive, but rather is intended to be indicative of those types of plant that are considered noxious and a detriment to the public health and safety, but does not include flower gardens, plots of shrubbery, and vegetable gardens
- (H) *Town* shall mean the Town of La Jara, a political subdivision of the state of Colorado.
- (I) *Town Clerk* shall mean the person employed or appointed by the Board of Trustees of the Town to keep the books and records of the Town on a day-to-day basis.
- (J) *Town Manager* shall mean the person appointed or employed by the Board of Trustees of the Town to manage the day-to-day administrative duties of the Town such to include, but not limited to, supervision of all department and department heads in the day-to-day discharge of their respective duties and functions.

## ARTICLE II

### SECTION 2.1 WEEDS, CUTTING AND REMOVAL

2.1.1 It shall be unlawful for the owner of any property, lot, block or parcel of land within the Town of La Jara to allow or permit weeds to grow uncontrolled or to remain when grown upon the property or on or along any alleys or sidewalk areas abutting the same. Any waste from all destroyed or cut weeds shall be disposed of so that the premises are clean and orderly, and the spread of such weed is prevented.

SECTION 2.2 - PUBLIC NUISANCE - REMOVAL - ABATEMENT

2.2.1 It shall be unlawful for any owner of property to maintain thereon any public nuisance as such term is defined in subsection (D) of Article I hereinabove. Any public nuisance as such term is defined shall be removed, destroyed, or abated so that the premises are clean and orderly and no longer constitute a public nuisance or are no longer dangerous or hazardous to the safety of persons and property from lots and tracts of land with in the Town of La Jara.

SECTION 2.3 DUTIES OF POLICE AND FIRE CHIEFS.

2.3.1 It shall be the duty of the Chief of Police of the Town of La Jara to enforce all laws and ordinances of the State of Colorado and of the Town of La Jara relating to the removal of weeds, brush, junk of all kinds and public nuisances of all kinds and structures that constitute or may constitute a public nuisance or a health hazard or are dangerous or hazardous to the safety of persons or property within the areas of the Town of La Jara as described in this Ordinance.

SECTION 2.4 INSPECTION

2.4.1 It shall be the duty of the Police Chief and the members of his department to inspect or cause of be inspected on a regular basis not less frequently than 7 days, or as often as the Police Chief shall deem necessary, all lots and tracts of land within the Town of La Jara and the alleys behind and the sidewalk areas in front of such property for the purpose of ascertaining and causing to be corrected any condition constituting a public nuisance or any condition liable to be a health hazard, or dangerous and hazardous to the safety of persons or property, or obtaining information relative to the violation of any provisions of this Ordinance. Any individual conducting such an inspection shall carry on his person properly authorized police department identification that shall be shown, upon request, to the owner, lessee, agent or occupant of any lot, tract, or structure prior to the inspection of the same.

2.4.2 The Police Chief or police department members shall have the authority to enter into all such lots, tracts of land, and old, dilapidated and uninhabited structures and upon all such premises, except the interiors of any public or private and occupied buildings, or any structure or building appurtenant to such building that is likewise occupied, within the Town of La Jara at reasonable times or such times as such lots, tracts, or structures are open for the purpose of examination of all such lots, tracts, structures, or premises in conformity with the duties imposed by this Ordinance, and is shall be unlawful for any person to interfere with the Police Chief or any member of his department to conduct an inspection in the discharge of their duties, or to hinder or prevent him from entering into or upon, or from inspecting any lot, tract, alley, or sidewalk, building, establishment, enclosure, or premises in the discharge of his duties.

2.4.3 Inspection practices shall include the inspection of all lots, tracts of land and structures within the Town of La Jara and all alleys behind and sidewalk areas in front of such property to determine that there is not thereon a condition that constitutes a public nuisance, and to cause all weeds, brush, and junk of all kinds to be properly removed and disposed of, and to make issue such orders and in the inspecting officer deems necessary under the circumstance.

SECTION 2.5 TOWN REMOVAL AND ASSESSMENT.

2.5.1 If any persons shall fail or refuse to comply with any order issued by Police Chief or any member of his department concerning the removal of weeds, junk, or public nuisance as herein defined, the Police Chief or any member of his department who conducted the inspection

and issued the order shall notify the Town Manager accordingly. The Town Manager shall, thereupon, issue a written notice that shall be served personally or by certified mail, return receipt requested, upon the owner or agent in charge of such property, requiring the weeds to be cut or the junk or public nuisance to be removed, destroyed, or abated within seven days after mailing or delivery of such notice. If the weeds are not cut, or if the junk is not removed, or the public nuisance removed, destroyed, or abated within the stated time and maintained in compliance for the remainder of the calendar year, the Town of La Jara may cut the weeds, remove the junk, or remove, destroy, or abate the public nuisance and assess the whole cost thereof, including twenty-five percent (25%) for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the Town pursuant to this Ordinance shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the Town to said owner or agent. The Town shall have the right to proceed for the collection of unpaid charges for weed, junk, or public nuisance abatement in the manner provided by law for collection of debts and claims on behalf of the Town, including, without limitation, collection and lien procedures provided in this section.

2.5.2 In addition to any other means provided by law for collection, if any such assessment is not paid with thirty (30) days after it is made and notice thereof is mailed, the same may be certified by the La Jara Town Clerk to the Treasurer of Conejos County and placed by the Treasurer upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with ten percent penalty thereon to defray the cost of collection, as provided by the laws of the state of Colorado.

2.5.3 If the owner of the property or agent for such owner shall fail to pay the charges associated with weed or junk or removal, destruction, or abatement of a public nuisance within the prescribed 30-day period, a notice of the assessment shall be mailed by the Town Clerk to the owner or agent for such owner notifying the owner that the failure to pay the assessed amount within ten (10) days of the date of the letter shall cause the assessment to become a lien against the property.

2.5.4 Failure to pay the amount for weed or junk or removal or destruction or abatement of a public nuisance as described in Section 2.5.1. *et.seq.* hereinabove shall cause such assessment to become a lien against such lot, block, or parcel of land associated with and benefiting from said services, and shall have priority over all liens, except general taxes and prior special assessments; and the same may be effected at any time after such failure to so pay by recordation with the Clerk and Recorder of Conejos County of a certification by the Town Clerk of the Town of La Jara setting forth the costs to be charged against the property, the date(s) of service and descriptions(s) of services giving rise to such charges). This lien and collection procedure is supplemental to, and additional to any collection procedures described elsewhere within the Ordinance.

## SECTION 2.6 -ADMINISTRATIVE REVIEW OF ASSESSMENT

2.6.1 Any owner who disputes the amount of such assessments made against such owner's property may, within thirty (30) days of receipt of notice of such assessment, petition the Town Manager if one is so employed by Town, and if not, the Town Clerk, for a revision or modification of such assessment.

2.6.2 Such petition shall be in writing, delivered to the Town Manager if one is so employed by the Town, and if not, to the Town Clerk, and the facts and figures submitted shall be submitted under oath, either in writing or orally at a hearing scheduled by the Board of Trustees of the Town or by the Town Manager, as the case may be. Unless the petition specifically requests a hearing, the Town Manager if one is so employed, or the Board of Trustees, as the case may be, shall make his or its determination based upon the facts submitted in writing with the petition and the facts presented by the Town's staff. The hearing, if any, shall take place at the Board of Trustees' meeting room at the La Jara Town Hall unless an alternate location is chosen to accommodate a larger gathering. Notice of such hearing and the proceedings shall otherwise be in accordance with rules and regulations issued by the Board of Trustees to insure substantive procedural and due process. The petitioner shall have the burden of proving that a revision or modification is necessary in order to preserve substantial justice.

2.6.3 Within thirty (30) days after the filing the petition, the Town Manager or the Board of Trustees, as the case may be, shall make findings of fact based upon all relevant information and shall make a decision based upon such findings and, if appropriate, modify such assessment accordingly. Such decision shall be, for appeal purposes, considered as a final order of the Town Manager or the Board of Trustees, as the case may be.

2.6.4 Every decision of the Town Manager or of the Board of Trustees, as the case may be, shall be in writing, and notice thereof shall be mailed to or served upon the petitioner within fourteen (14) days from the date of such decision. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this Ordinance.

2.6.5 Every owner remains liable for violations or responsibilities imposed upon an owner by this Ordinance even though an obligation is also imposed on the occupant of the premises and even though the owner has, by agreement, imposed on the occupant the duty of maintaining the premises.

### **ARTICLE III – FINE AND PENALTIES**

3.1.1 Notwithstanding the collection procedures set forth above in Section 2.5 *et seq.* of Article II hereof, the following penalties, herewith set forth in full, shall apply to the Ordinance:

3.1.2 Any persons who shall violate any provision of this Ordinance or who shall fail or refuse to obey any lawful order or direction of the Town Manager or the Board of Trustees made under or pursuant to this Ordinance, or in carrying out any of its provisions shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined as hereinafter provided for each and every offense, and each day that any violation of any provision of this Ordinance shall exist, shall constitute a separate and distinct offense.

3.1.3 Except as may be provided herein above, every person convicted of a violation of any provision set forth in this Ordinance shall be punished by a fine of not less than \$\_\_\_\_\_ for the first violation, which fine shall not be suspended or deferred by the Municipal Court; not less than \$\_\_\_\_\_ for the second violation, which fine shall not be suspended or deferred by the Municipal Court; and not more than \$300.00 for the third violation, which fine shall not be suspended or deferred by the Municipal Court; or by imprisonment not exceeding ninety (90) days or by both such fine and imprisonment.

## ARTICLE IV – ADDITIONAL PROVISIONS

### SECTION 4.1 – SAVINGS CLAUSE

4.1.1 If any part, section, subsection of this Ordinance is, for any reason, held invalid, 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 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.

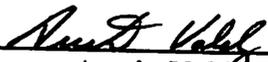
### SECTION 4.2 - REPEAL

4.2.1 Any or all ordinances or part of ordinances of the Town of La Jara in conflict or inconsistent herewith are hereby repealed, PROVIDED, HOWEVER, that the repeal of any ordinance or parts of ordinances of the Town of La Jara shall not revive any other sections of any ordinance or ordinances heretofore repealed or superseded. Ordinance No. 1975-8 PROVIDING FOR COMPELLING THE REMOVAL OF WEEDS, BRUSH AND JUNK OF ALL KINDS, CERTAIN STRUCTURES FROM LOTS AND TRACT OF LAND AND FROM THE ALLEYS BEHIND AND FROM THE SIDEWALK AREAS IN FRONT OF SUCH PROPERTY WITHIN THE TOWN OF LA JARA as adopted by the Board of Trustees of the Town of La Jara is hereby specifically repealed in its entirety.

### SECTION 4.3 – EFFECTIVE DATE

4.3.1 WHEREAS, in the opinion of the Board of Trustees of the Town of La Jara, an emergency exists and this ordinance is necessary for the immediate preservation of the public peace, health, safety and welfare, this ordinance shall be in full force and effect immediately after its final passage and publication.

INTRODUCED, READ, AND PASSED at a regular meeting of the Board of Trustees as which a quorum was present on the 8<sup>th</sup> day of June, 2006, and ordered published in accordance with the provisions of 31-16-105, C.R.S.

/s/   
Austin Valdez, Mayor

(S E A L)

*Janice E Coombs*  
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Janice Coombs, Town Clerk