

TITLE AND PURPOSE:

AN ORDINANCE CONCERNING OFFENSES AGAINST THE PERSON; OFFENSES AGAINST PROPERTY; OFFENSES RELATING TO MORALS; OFFENSES - GOVERNMENTAL OPERATIONS; OFFENSES AGAINST PUBLIC PEACE, ORDER, AND DECENCY; OFFENSES RELATING TO ALCOHOLIC BEVERAGES; PROVIDING A PENALTY FOR A VIOLATION THEREOF, AND REPEALING ANY AND ALL ORDINANCES 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 defining offenses, to define adequately the act and mental state which constitute each offense, and to give fair warning to all persons concerning the nature of the conduct prohibited and the penalties authorized upon conviction; to forbid the commission of offenses and prevent their reoccurrence, and to punish a convicted offender by assuring the imposition of a sentence he deserves in relation to the seriousness of his offense.

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees 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) "Alcoholic Beverages" means any fermented malt beverage (3.2% alcohol by weight or less), malt, vinous or spiritous liquors (3.2% by weight or more).
- (2) "Assault" means an intentional, unlawful attempt, or offer, coupled with the apparent present ability to make forceful contact with the person of another, under circumstances which create a reasonable apprehension of imminent forceful contact.
- (3) "Battery" means an intentional, unlawful making of forceful contact with the person of another.
- (4) "Bodily Injury" means physical pain, illness, or any impairment of physical or mental condition.
- (5) "Conceal" means to place or attempt to place out of view in such manner and circumstances as to indicate an intent to prevent others from seeing or discovering the presence of the thing concealed.
- (6) "Criminal negligence". A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, fails to perceive a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
- (7) "Deadly weapon" means any firearm, whether loaded or unloaded, knife, bludgeon, or other weapon, device, instrument, material, or substance, whether animate or inanimate, which, in the manner it is used or intended to be used, is capable of producing death or serious bodily injury.
- (8) "Fight" means to voluntarily assault or batter or attempt to assault or batter another under circumstances where the actor reasonably could avoid the opportunity or necessity to assault or batter the other person.
- (9) "Firearm" means any instrument used in the propulsion of shot, slug, shell or bullets or other objects or projectiles capable of inflicting pain, bodily injury or property damage, by the action of gunpowder exploded or burned within it, or by the action of compressed air within it, or by the power or action of springs, and including what are commonly known as air rifles, air pistols, and B-B guns.
- (10) "Intentionally" or "with intent." All offenses defined in this Ordinance in which the mental culpability requirement is expressed as "intentionally" or "with intent" are declared to be specific intent offenses. A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by this Ordinance, or any provision thereof, defining the offense. It

is immaterial to the issue of specific intent whether or not the result actually occurred.

- (11) "Knowingly" or "willfully". All offenses defined in this Ordinance in which the mental culpability requirement is expressed as "knowingly" or "willfully" are declared to be general intent offenses. A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "willfully" with respect to a result of his conduct when he is aware that his conduct is practically certain to cause the result.
- (12) "Lewd and Indecent Exposure" means performing an act or simulating an act of:
 - (a) Sexual intercourse, flagellation or any sexual acts which are prohibited by law;
 - (b) The touching, caressing or fondling of the breast, buttocks, anus, or genitals;
 - (c) The displaying of the pubic hair, anus, vulva or genitals;
 - (d) The displaying of the post-pubertal human female breast below a point immediately above the top of the areola, or the displaying of the post-pubertal human female breast where the nipple only or the nipple and areola only are covered; or
 - (e) The open display of urination or excretory functions in any public or private place other than in or upon a toilet facility provided for such purpose.
- (13) "Litter" means all matter foreign to the place upon which said matter is deposited wherein the matter is not made appurtenant to, or otherwise lawfully kept, maintained or stored at said place, including by way of illustration and not limitation refuse, garbage, trash, debris, or other waste materials, solid or liquid, of every form, size, kind and description.
- (14) "Loiter" means to be dilatory, to stand idly around, to linger, delay, wander about, to remain, abide, or tarry in public places.
- (16) "Person" means any natural person, corporation, association, partnership, limited partnership, joint venture, or firm.
- (15) "Public or Private Property" includes, but is not limited to, the right-of-way of any road or highway, any body of water or water-course, including frozen areas, any park, open space, playground, or building, any recreation area, and any residential property.
- (16) "Public Place" means a place to which the public or a substantial segment of the public has access, and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playground, and the common areas of public and private buildings and facilities.
- (17) "Public view" means a place which can be seen by ordinary unaided human vision from a public place.
- (18) "Recklessly". A person acts recklessly when he consciously disregards a substantial and unjustifiable risk that a result will occur or that a circumstance exists.
- (19) "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, loose discarded or unused material, and all other waste material of any kind of nature whatsoever.
- (20) "Serious bodily injury" means bodily injury which involves a substantial risk of death, serious permanent disfigurement, or protracted loss or impairment of the function of any part of the body.
- (21) "Sexual Intercourse" means contact between the genitalia, anus, or female breast of one person and any part of another person for purposes of immediate sexual gratification of any person; and, contact between the genitalia, anus, or female breast of one person and any part of any animal for purposes of sexual gratification of any person.
- (22) "Tamper" means to change the condition of anything so that its operation or tendency to perform its intended function will be altered.

- (23) "Town" is the Town of La Jara, County of Conejos in the State of Colorado.
- (24) "Town Council" or "Town Board" is the Board of Trustees of the Town of La Jara.
- (25) "Willfully," see "Knowingly."

OFFENSES AGAINST THE PERSON

Section 2 - Assault and Battery: It shall be unlawful to commit an assault or battery upon the person of another.

Section 3 - Menacing: It shall be unlawful to commit the offense of menacing. A person commits the crime of menacing if, by any threat or physical action, he knowingly place or attempts to place another person in fear of imminent serious bodily injury.

OFFENSES AGAINST PROPERTY

Section 4 - Theft: It shall be unlawful to commit theft. A person commits theft when he knowingly obtains or exercises control over anything of value of another without authorization or by threat or deception; and

- (a) Intends to deprive the other person permanently of the use or benefit of the thing or value; or
- (b) Knowingly uses, conceals, or abandons the thing of value in such a manner as to deprive the other person permanently of its use or benefits; or
- (c) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently or its use and benefits; or
- (d) Demands any consideration to which he is not legally entitled as a condition of restoring the thing of value to the other person; and
- (e) Where the value of the thing involved is less than \$300.00.

Section 5 - Concealment of Goods - Shoplifting: It shall be unlawful for any person to willfully conceal unpurchased goods, wares, or merchandise owned or held by and offered or displayed for sale by any store or other mercantile establishment, whether the concealment be on his own person or otherwise and whether on or off the premises of said store or mercantile establishment. Such concealment constitutes prima facie evidence that the person intended to commit the offense of theft.

Section 6 - Questioning of Person Suspected of Shoplifting Without Liability: If any person conceals upon his person or otherwise carries away any unpurchased goods, wares, or merchandise held or owned by any store or mercantile establishment, the merchant or any employee thereof or any police officer, acting in good faith and upon probable cause based upon reasonable grounds therefor, may detain and question such person, in a reasonable manner for the purpose of ascertaining whether the person has committed shoplifting. Such questioning of a person by a merchant, merchant's employee, or police officer does not render the merchant, merchant's employee, or police officer civilly or criminally liable for slander, false arrest, false imprisonment, malicious prosecution, or unlawful detention.

Section 7 - Criminal Mischief: Any person who knowingly damages the real or personal property of one or more other persons in the course of a single criminal episode commits the offense of criminal mischief.

Section 8 - Trespassing: It is unlawful for a person to enter upon any property within the town owned or occupied by another without license or privilege to do so, or to remain upon any such property after having been requested to leave by the owner of the property or by any person having charge of the property. Property is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein.

Section 9 - Defacing Property: It is unlawful for any person to deface or to cause, aid in, or permit the defacing of any public or private property without the consent of the owner of such property.

Section 10 - Littering of Public or Private Property: (a) It is unlawful for a person to deposit, throw, or leave any litter on any public or private property or on any waters.

(b) It shall be an affirmative defense that:

- (1) Such property is an area designated by law for the disposal of such material and the person is authorized by the proper public authority to so use the property; or
- (2) The litter is placed in a receptacle or container installed on such property for that purpose; or
- (3) Such person is the owner or tenant in lawful possession of such property, or he has first obtained written consent of the owner or tenant in lawful possession, or the act is done under the personal direction of said owner or tenant.

(c) It is in the discretion of the court, upon the conviction of any person and the imposition of a fine under this section, to suspend any or all of the fine upon the condition that the convicted person gather and remove from specified public property or specified private property, with prior permission of the owner or tenant in lawful possession thereof, any litter found thereon, or upon the condition that the convicted person pick up litter at a time prescribed by and a place within the jurisdiction of the court for not less than eight hours or for not less than sixteen hours upon a second or subsequent conviction.

(d) Whenever litter is thrown, deposited, dropped, or dumped from any motor vehicle in violation of this section, the operator of said motor vehicle is presumed to have caused or permitted the litter to be so thrown, deposited, dropped, or dumped therefrom.

OFFENSES RELATING TO MORALS

Section 11 - Public Indecency: (a) It shall be unlawful for a person to commit the offense of public indecency. Any person who performs any of the following in a public place or where the conduct may reasonably be expected to be viewed by members of the public commits public indecency.

- (1) An act of sexual intercourse; or
- (2) An act of deviate sexual intercourse, or
- (3) A lewd exposure of the body done with intent to arouse or to satisfy the sexual desire of any person, or
- (4) A lewd fondling or caressing of the body of another person.

Section 12 - Indecent Exposure: It shall be unlawful for a person to commit the offense of lewd and indecent exposure. A person commits lewd and indecent exposure if he knowingly performs an act or simulates an act of:

- (a) Sexual intercourse, flagellation or any sexual acts which are prohibited by law;
- (b) The touching, caressing or fondling of the breast, buttocks, anus, or genitals;
- (c) The displaying of the pubic hair, anus, vulva or genitals;
- (d) The displaying of the post-pubertal human female breast below a point immediately above the top of the areola, or the displaying of the post-pubertal human female breast where the nipple only or the nipple and areola only are covered; or
- (e) The open display of urination or excretory functions in any public or private place other than in or upon a toilet facility provided for such purpose.

OFFENSES - GOVERNMENT OPERATIONS

Section 13 - Resisting Arrest: (a) It shall be unlawful for any person to knowingly prevent or attempt to prevent any police officer acting under color of his official authority from effecting an arrest of the actor or another by:

- (1) Using or attempting or threatening to use physical force or violence against the police officer or another; or
- (2) Using or attempting to use any other means which creates a substantial risk of causing physical injury to the police officer or another; or
- (3) Running from, eluding, or concealing oneself or another from, or attempting to run from, elude, or conceal oneself or another from, a police officer or officers attempting to effect an arrest.

(b) It is no defense to prosecution under this section that the police officer was attempting to make an arrest which in fact was unlawful, if he was acting under color of his official authority, and was not resorting to unreasonable or excessive force giving rise to the right of self-defense. A police officer acts "under color of his official authority" when, in the

regular course of assigned duties, he is called upon to make, and does make, a judgment in good faith based upon surrounding facts and circumstances that an arrest should be made by him.

Section 14 - Interference with Police Officer or Fireman: (a) It shall be unlawful for any person to commit the offense of obstructing a peace officer or fireman. A person commits the offense of obstructing a peace officer or fireman when, by using or threatening to use violence, force, or physical interference, or obstacle, he knowingly obstructs, impairs, or hinders the enforcement of the penal law or the preservation of the peace by a peace officer, acting under color of his official authority, or knowingly obstructs, impairs, or hinders the prevention, control, or abatement of fire by a fireman, acting under color of his official authority.

(b) It is no defense to a prosecution under this section that the peace officer or fireman was acting in an illegal manner, if he was acting under color of his official authority.

(c) It shall be unlawful for any person to offer or endeavor to assist any person who, because of a misdemeanor or civil matter, is in the custody of a peace officer, member of the police department, or a person duly empowered with police authority, to escape or to attempt to escape from custody.

(d) It shall be unlawful for any person to rescue or to attempt to rescue any person who, because of a misdemeanor or civil matter, is in the custody of a peace officer, a member of the police department, or a person duly empowered with police authority.

Section 15 - Refusing to Aid a Police Officer: It shall be unlawful for any person eighteen years of age or older, upon command by a person known to him to be a police officer, to unreasonably refuse or fail to aid the police officer in effecting an arrest, securing the custody of an arrestee, or preventing the commission by another of any offense.

OFFENSES AGAINST PUBLIC PEACE, ORDER, DECENCY

Section 16 - Disorderly Conduct: (a) It is unlawful for a person to commit the offense of disorderly conduct. A person commits disorderly conduct if he intentionally, knowingly, or recklessly;

(1) Makes a coarse and obviously offensive utterance, gesture, or display in a public place and the utterance, gesture, or display tends to incite an immediate breach of the peace; or

(2) Abuses or threatens a person in a public place in an obviously offensive manner; or

(3) Makes unreasonable noise in a public place or near a private residence that he has no right to occupy; or

(4) Fights with another in a public place except in an amateur or professional contest of athletic skill; or

(5) Not being a peace officer, discharges a firearm in a public place.

(6) Not being a peace officer, displays a deadly weapon in a public place in a manner calculated to alarm.

(b) It is an affirmative defense to prosecution under subsection (a) of this Section 16 that the actor had significant provocation for his abusive or threatening conduct.

Section 17 - Harassment: (a) It shall be unlawful for a person to commit the offense of harassment. A person commits harassment if, with intent to harass, annoy, or alarm another person, he:

(1) Strikes, shoves, kicks, or otherwise touches a person or subjects him to physical contact; or

(2) In a public place directs obscene language or makes an obscene gesture to or at another person; or

(3) Follows a person in or about a public place; or

(4) Engages in conduct or repeatedly commits acts that alarm or seriously annoy another person and that serve no legitimate purpose; or

(5) Initiates communication with a person, anonymously or otherwise by telephone, in a manner intended to harass or threaten bodily injury or property damage, or makes any comment, request, suggestion, or proposal by telephone which is obscene; or

(6) Makes a telephone call or causes a telephone to ring repeatedly, whether or not a conversation ensues, with no purpose of legitimate conversation; or

(7) Makes repeated communication at inconvenient hours or in offensively coarse language; or

(8) Repeatedly insults, taunts, or challenges another in a manner likely to provoke a violent or disorderly response.

(b) As used in this Section, unless the context otherwise requires, "obscene" means a patently offensive description of ultimate sexual acts or solicitation to commit ultimate sexual acts, whether or not said ultimate sexual acts are normal or perverted, actual or simulated, including masturbation, cunnilingus, fellatio, anilingus, or excretory functions.

(c) Any act prohibited by subparagraph 5 of subsection (a) this section may be deemed to have occurred or to have been committed at the place at which the telephone call was either made or received.

Section 18 - Loitering: (a) It shall be unlawful for a person to commit the offense of loitering. A person commits the offense of loitering if he:

- (1) Loiters for the purpose of begging; or
- (2) Loiters for the purpose of unlawful gambling with cards, dice, or other gambling paraphernalia; or
- (3) Loiters for the purpose of engaging or soliciting another person to engage in prostitution or deviate sexual intercourse; or
- (4) With intent to interfere with or disrupt the school program or with intent to interfere with or endanger schoolchildren, loiters in a school building or on school grounds or within one hundred feet of school grounds when persons under the age of eighteen are present in the building or on the grounds, not having any reason or relationship involving custody of, or responsibility for, a pupil or any other specific, legitimate reason for being there, and having been asked to leave by a school administrator or his representative or by a peace officer; or
- (5) Loiters with one or more persons for the purpose of unlawfully using or possessing a controlled substance as defined in Colo. Rev. Stat. §12-22-303 (7).

(b) It shall be an affirmative defense that the defendant's acts were lawful and he was exercising his rights of lawful assembly as a part of peaceful and orderly petition for the redress of grievances, either in the course of labor disputes or otherwise.

(c) The Board of Trustees of the Town hereby finds that the general assembly of the State of Colorado finds and declares that the state has a special interest in the protection of children and, particularly, in protecting children who attend schools because required to do so by the "School Attendance Law of 1963", article 33 of title 22, C.R.S., and the prohibition of loitering in subparagraph (4) of subsection (a) this section is enacted in furtherance of these interests.

Section 19 - Invasion of Privacy: (a) It shall be unlawful for any person to look into the windows, doors, skylights, or other opening of any person's domicile or to defeat or attempt to defeat the privacy-preserving purpose of any device or structure without the permission of the person being observed, the owner or possessor of the domicile, or their agents:

- (1) by concealing oneself in such manner to prevent detection by the person being observed; or
- (2) From within the real property surrounding the domicile; or
- (3) From without with the use of magnifying devices such as binoculars, monoculars, telescopes, spy glasses and other vision enhancing devices.

OFFENSES RELATING TO ALCOHOLIC BEVERAGES

Section 20 - OPEN CONTAINERS: (a) It shall be unlawful for any person to possess or have under his control any alcoholic beverage in an open container or in a container, the seal of which is broken, in any public place within the Town of La Jara.

(b) Nothing in this section shall prohibit having open containers of alcoholic beverages:

- (1) In any premises of a duly-licensed vendor of alcoholic beverages whose license allows consumption on the premises;
- (2) In public areas where authorized by a properly issued special events permit;
- (3) Pursuant to a permit issued by the Town;
- (4) By owners, agents of owners of real property or their invitees within the confines of said property;

(c) Notwithstanding the foregoing provisions, drinking alcoholic beverages in any vehicle on public streets or property is hereby prohibited.

(d) It shall be unlawful for any person or persons to drink, have in an open container or have in a container, the seal of which is broken, any

intoxicating liquor or fermented malt beverage while in a vehicle which is moving, parked, stopped, or standing on any street, roadway, or other public way in the Town, or for the driver, owner, or person in control of any vehicle to permit any person or persons to drink, have in an open container or have in a container, the seal of which is broken, intoxicating liquor or fermented malt beverages therein while the same is being driven, or is stopped, standing or parked on any street, roadway, or other public way in this Town.

OFFENSES RELATING TO PUBLIC NUISANCES

Section 21 - Noise Prohibited Generally:

(a) The making of unnecessary noises upon, near, or adjacent to the streets, highways, and other public places in the Town is declared to be a public nuisance. The enumeration of the particular offenses defined in this section shall not be construed as limiting the generality of this section, or limiting the offenses to the particular offenses enumerated in this section.

(b) It is unlawful for any person to make, continue, or cause to be made or continued any unnecessary or unusual noise between the hours of 7 o'clock A.M. and 7 o'clock P.M., which either annoys, injures, or endangers the comfort, repose, health, or safety of others, or to make, continue, or cause to be made or continued between the hours of 7 o'clock P.M. and 7 o'clock A.M., whether in the operation of any machine or the exercise of any trade or calling, or otherwise, any noise which either annoys, injures, or endangers the comfort, repose, health or safety of others, unless the making and continuing of the same is necessary for the protection or preservation of property or the health, safety, life, or limb of some person.

Section 22 - Sound Production or Reproduction Devices, Restriction, and Exception: (a) It is unlawful for any person to use, operate, or permit to be played any radio receiving set, musical instrument, television, phonograph, drum, or other machine or device for the production or reproduction of sound in such a manner as to cause to be made or continued any unnecessary or unusual noise, which either annoys, injures, or endangers the comfort, repose, health, or safety of others, unless the making of such noise is necessary for the protection or preservation of property or the health, safety, life, or limb of some person.

(b) Prima Facie Violation. The operation of any such set, instrument, television, phonograph, machine, or device at any time in such a manner as to be plainly audible at the places described under the following respective circumstances shall be prima facie evidence of a violation of this section:

- (1) In the case of a detached, single-family dwelling, the property line of the real property upon which the source of the sound is located;
- (2) In the case of any structure which consists of more than one dwelling unit, any place where the person charged with a violation of this ordinance does not have the right to exclude others;
- (3) In the case of a vehicle in any public place or within public view, a distance of 25 feet from said vehicle.

(b) This section shall not apply to any person who is participating in any activity for which a permit has been issued by the Town, so long as said person is conducting his activity within the confines and purposes of said permit.

(c) For purposes of this section, the term "dwelling unit" means one room or rooms connected together for occupancy. If there is more than one utility meter, address to the property, or kitchen, or if separate entrances are used or if there is a lock-able, physical separation among rooms in the dwelling unit such that each room or rooms on each side of the separation could be used as a dwelling unit, multiple dwelling units are presumed to exist; except that this presumption may be rebutted by evidence that the residents of the dwelling share utilities and keys to all entrances to the property and that they share a single common bathroom as the primary bathroom, or share a single common kitchen as the primary kitchen.

PROVISIONS APPLICABLE TO OFFENSES GENERALLY

Section 23 - Fines and Penalties: (a) Any person convicted in the Municipal Court of the Town of a violation of any term, provision, or section of this Ordinance may be imprisoned in the Conejos County Jail or such other suitable place as shall be provided by said Town for a period not to exceed 90 days, or fined an amount not to exceed Three Hundred Dollars (\$300.00), or both; PROVIDED, HOWEVER, that no person under the age of 18 years as of the

date of the offense for which he was convicted shall be subject to the imposition of a jail sentence except as otherwise provided by the "Colorado Children's Code;" PROVIDED FURTHER, that any lesser penalty than that which is permitted herein may be expressly provided by Ordinance of the Town, and in such cases, such lesser penalty shall be controlling upon the Municipal Court.

(b) Nothing herein shall be construed to limit the power of the Municipal Court to take such action as it may deem appropriate, in the sound exercise of its discretion, to summon, try and punish any person who may be found in contempt of said court.

Section 24 - COMMITMENT FOR FAILURE TO PAY FINE: (a) Every person against whom a fine or penalty shall be assessed under this Ordinance who shall refuse or neglect to pay the same when demanded, upon execution ordered by the Municipal Judge, may be committed in default thereof to the Conejos County Jail, or such other suitable place as shall be provided by the Town under the direction of the proper officer until said fine or penalty is fully paid and satisfied, or the person has served the maximum incarceration period for the offense of which such person was convicted, whichever first occurs. Such satisfaction shall be made at the rate of Ten Dollars (\$10.00) per twenty-four hour day or at such rate the Court deems appropriate in its discretion. Any such person may be required to do any reasonable work. The foregoing notwithstanding, in the discretion of the Municipal Judge, a stay of execution may be granted to enable the defendant to pay the fine or penalty at a later date or in installment payments. In case the defendant shall refuse or neglect to comply with the terms of the stay of execution, then execution may issue and the defendant may be committed to the Conejos County jail, as hereinabove provided, until such fine, penalty, or judgment is fully paid or otherwise satisfied.

(b) Upon the failure or neglect by a person to pay a fine as directed by the Municipal Court, the Court shall inquire as to the grounds for said person's neglect or failure to pay such fine. Should the Court be satisfied that the grounds for said person's failure to pay the fine is solely indigency, the Court shall not incarcerate said person; PROVIDED, HOWEVER, that the person who owes the fine has the burden of going forward and persuasion on the issue of indigency.

(c) A person against whom a fine shall be assessed under this Ordinance may elect to satisfy such penalty or fine through a work program within the Town, SUBJECT, HOWEVER, that approval is first given by the Municipal Judge. The rate of restitution shall be at the rate of Three Dollars and Eighty Cents (\$3.80) per hour, or as determined by the Town, but at a rate not less than the prevailing federal minimum wage, for such work. The supervision and assignment of work is to be by the Town Maintenance Supervisor.

Section 25 - Restitution: The Municipal Court is hereby granted full power and authority to order payment of restitution to the damaged party by the person responsible for damage under all sections of this Ordinance.

SAFETY PROVISIONS

Section 26 - 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 article, section, subsection, part, subpart, paragraph, subparagraph, sentence, clause, word, or phrase thereof irrespective of the fact that any one or more of the other articles, sections, subsections, parts, subparts, paragraphs, subparagraphs, sentences, clauses, words, or phrases thereof be declared invalid or unconstitutional

Section 27 - Repeal of All Prior Ordinances in Conflict Herewith: All Ordinances or parts of Ordinances in conflict with or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 28 - 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 12th. day of July, 1990.

THE BOARD OF TRUSTEES OF THE TOWN OF LA JARA

BY: James T. DePalmer
Mayor

(TOWN SEAL)

ATTEST:

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

Date of Publication: July 26, _____, 1990.