

ORDINANCE NO. 2021-7

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT JONES  
AMENDING (TITLE 9) PUBLIC PEACE, MORALS AND WELFARE

The Town Council of the Town of Fort Jones does ordain as follows:

Section 1: The Town hereby amends its code by adding or amending the following as sections, attached hereto as Exhibit A:

- Chapter 9.04 Firearms
- Chapter 9.08 Curfew and Loitering
- Chapter 9.12 Noise
- Chapter 9.16 Consuming Alcoholic Beverages on Public Property
- Chapter 9.20 False Alarms

INTRODUCED at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 13th day of September, 2021, and adopted at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 11 day of October, 2021.

APPROVED:



Michelle DeCausmaker, Mayor

ATTEST:



Celeste McFall, City Clerk

The foregoing Ordinance No. 2021-7 was adopted at a regular meeting of the Town Council of the Town of Fort Jones, held on the 11th day of October, 2021 by the following vote:

AYES: DeCausmaker, M., Garcia, M., Banks, K., Beckwith, B., Sherfy, C.

NOES:

ABSENT:

ABSTAIN:



Celeste McFall, City Clerk

APPROVED AS TO FORM and LEGAL CONTENT:

Margaret Long, City Attorney

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

- 9.04 Firearms
- 9.08 Curfew and Loitering

Chapter 9.04

FIREARMS

Sections:

- 9.04.010      Firearms defined.
- 9.04.020      Discharge of firearms.
- 9.04.030      Exemptions and one-day permits.
- 9.04.040      Permits.

9.04.010 Firearms defined. "Firearm," as used in the ordinance codified in this chapter, includes any instrument or weapon commonly known as a pistol, revolver, gun, rifle, air gun, pellet gun or BB gun, or an instrument or weapon from which is expelled a projectile by the force of an explosion or other form of combustion. (Ord. -- §1, 19--)

9.04.020 Discharge of firearms. Every person who discharges a firearm within the city limits of the city is guilty of a misdemeanor and upon conviction thereof, punishable by a fine of not more than one thousand dollars or by such imprisonment for not more than six months, or by both such fine and imprisonment. (Ord. --- §2,19--)

9.04.030 Exemptions and one-day permits. This chapter shall not apply to duly appointed peace officers who are carrying out official duties while in the city, or any person summoned by such peace officer to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer. This chapter shall not apply to BB guns discharged on premises with the owner's consent. On application to the chief of police, any person may obtain a permit for the discharge of firearms, for a period not to exceed one day, providing that the person making such application give satisfactory evidence that the discharge of the firearm or firearms involved is not for unlawful purpose, and that reasonable precautions have been taken by the applicant to prevent injury to persons or property from the discharge of such firearms. (Ord. --§3,19--)

9.04.040 Permits. Any person may file an application with the city council for a permit to discharge a firearm within the city and the permit shall be issued by the city council at such time as the applicant give adequate evidence of the following:

A. That the discharge of the firearm or firearms involved is not for an unlawful purpose;

3. Penal Code Section 308b. (Furnishing tobacco or smoking paraphernalia to a minor)
4. Penal Code Section 308b. (Person under the age of 18 purchasing or receiving tobacco, etc.)
5. Penal Code Section 415. (Disturbing the peace)
6. Penal Code Section 594. (Vandalism)
7. Penal Code Section 602.1. (Blocking public access to a place of business)
8. Penal Code Section 647a,b,e,f. (Disorderly conduct - Solicit lewd conduct, solicit prostitution, panhandling, no purpose and refuse I.D., intoxicated and unsafe.)
9. Health and Safety Code Sections 11000 et seq. (Uniform Controlled Substances Act, Offenses and Penalties)

Section 9.08.020 Enforcement. Any minor may be stopped and questioned by any law enforcement officer. If, in the judgment of the officer, it is for the best interests of such minor or the community, the minor may be detained. However, a warning citation shall be issued to the minor and immediate efforts shall be made to communicate with the parents or persons having the custody, care, or control of such minor, and he shall be released providing no crime has been committed, or suspected of being committed, by such minor to the parent or adult persons having custody, care or control of the minor, unless the parent or person is deemed unfit to assume responsible control and custody of the minor. If the parent or person having the care, custody, or control of the minor is deemed so unfit, or is proven unable to exercise custody and control of the minor, the officer must contact the County Child Protective Services, and will detain the minor until a representative of that office arrives to take custody of the minor. If a crime has been committed, or suspected of being committed, the minor may be detained and taken to the County Juvenile Facility. A copy of the citation, including consequences of a second violation shall be mailed the parent or legal guardian, notifying the parent or legal guardian may be held liable for actual administrative and transportation costs, and that requires the parents or legal guardian to sign and return the notification.

Section 9.08.030 Exceptions. The provisions of Section 10 do not apply:

- A. When the minor is accompanied by his or her parent, guardian or other adult person having the care and custody of the minor; or
  - B. When the minor is upon an emergency errand directed by his or her parent or guardian or other adult person having the care and custody of the minor; or
  - C. When the minor is returning directly home from a meeting, entertainment, recreational activity or dance; or
  - D. When the presence of the minor is connected with his employment or business; or
  - E. When the minor has written permission of his parent or guardian to be out at such hour, such written permission to bear date when such permission is granted.
- A separate note of permission shall be drawn for each separate night that permission is granted. A general permission covering all times shall not be deemed a compliance with the provisions of this chapter.

Section 9.08.050 Presumption of Abetting by Parent.

When any minor is found to be in violation of the provisions of this chapter, it shall be presumed that the parent or legal guardian having the care and custody of said minor assisted, aided and abetted said minor in the violation of the provisions of this chapter.

(d) Upon the first violation of the ordinance described in subdivision (b), the law enforcement officer shall issue to the minor a warning citation regarding the consequences of a second violation of the ordinance. A designated representative of the governmental entity issuing the citation shall mail to the parents of the minor or legal guardian a notification that states that upon a second violation, the parents or legal guardian may be held liable for actual administrative and transportation costs, and that requires the parents or legal guardian to sign and return the notification. This notification shall include a space for the explanation of any circumstances relevant to an applicable exemption from the fee as provided by subsection (e). This explanation shall be reviewed by a designated representative of the governmental entity that issued the citation and notification. If the explanation is found to be insufficient, the representative may request a consultation with the parents or legal guardian for the purpose of discussing the circumstances claimed to be relevant to an applicable exemption.

(e) A fee for the actual costs of administrative and transportation services for the return of the minor to his or her place of residence, or to the custody of his or her parents or legal guardian, may be charged jointly or severally to the minor, his or her parents, or legal guardian, in an amount not to exceed those actual costs. Upon petition of the person required to pay the fee, the governmental entity issuing the citation shall conduct a hearing as to the validity of the fees charged, and may waive payment of the fee by the minor, his or her parents, or legal guardian, upon finding of good cause. If authorized by the governing body, the city, county, or city and county may charge this fee, in which case the city, county, or city and county may (1) provide for waiver of the payment of the fee by the parents or legal guardian upon determination that the person has made reasonable efforts to exercise supervision and control over the minor, (2) provide for a determination of the ability to pay the fee and provide that the fee may be waived if neither the minor nor the parents or legal guardian has the ability to pay the fee, (3) provide for the performance of community service in lieu of imposition of the fee, and (4) provide for waiver of the payment of the fee by the parents or legal guardian upon a determination that the parents or legal guardian has limited physical or legal custody and control of the minor.

(f) In a civil action commenced by a city, county, or city and county to collect the fee, a court may waive payment of the fee by the minor, his or her parents, or legal guardian, upon finding good cause.

SEC.2. Notwithstanding Section 17610 of the Government Code, of the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those cost shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed on million dollars (\$1,000.000.00), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

## Chapter 9.12

### NOISE

#### Sections:

<u>9.12.010</u>	<u>Purpose</u>
<u>9.12.020</u>	<u>Definitions</u>
<u>9.12.030</u>	<u>Property noise limits</u>
<u>9.12.040</u>	<u>Exceptions</u>
<u>9.12.050</u>	<u>Exceptions – Noise permits</u>
<u>9.12.060</u>	<u>Standards – Criteria</u>
<u>9.12.070</u>	<u>Appeal</u>
<u>9.12.080</u>	<u>Enforcement</u>
<u>9.05.090</u>	<u>Violations – Penalties</u>
<u>9.05.110</u>	<u>Violations – Additional remedies – Injunction</u>

#### **9.12.010 Purpose**

It is declared by the town, in the exercise of its power, to prohibit unnecessary, excessive and annoying noise levels from all sources. At certain levels, noises are detrimental to the health and welfare of the citizenry and, in the public interest, shall be systematically proscribed. It is the purpose of this chapter to prescribe standards for and to prohibit such unacceptable noises and to provide an effective and readily available remedy for violations of this chapter. The provisions of this chapter and the remedies contained herein shall be cumulative and are not intended to replace any otherwise available remedies for public, private or mixed nuisances, nor any other civil or criminal remedies otherwise available.

#### **9.12.020 Definitions**

As used in this chapter, unless the context otherwise clearly indicates, certain words and phrases used herein are defined as follows:

A. Ambient, Local. "Local ambient" is the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources, near and far. The ambient noise level is the level obtained when the noise level is averaged over a period of 15 minutes without inclusion of noise from isolated identifiable sources, at the location and time of day near that at which comparison is to be made.

B. "Emergency work" means essential activities necessary to restore property to a safe condition following a public calamity or work required to protect persons or property from imminent exposure to danger or work by private or public utilities when restoring service.

C. Noise Level Measurement. For the purpose of enforcement of the provisions of this chapter, noise levels shall be at the discretion of the responding officer.

#### **9.12.030 Property noise limits**

A. No person shall produce, suffer or allow to be produced by any machine, or device or any combination of the same a noise level above the local ambient Monday-Friday between the hours of 10:00 p.m. and 6:00 a.m., and Saturday-Sunday between the hours of 10:00 p.m. and 8:00 a.m.

B. Sound performances and special events shall be at the discretion of the responding officer.

C. Vehicle horns, or other devices primarily intended to create a loud noise for warning purposes, shall not be used when the vehicle is at rest, or when a situation endangering life, health, or property is not imminent.

D. Vehicle repair in such a manner that a reasonable person of normal sensitiveness residing in the area is caused discomfort or annoyance shall be limited to the hours between 6:00 a.m. and 10:00 p.m. Monday-Friday, 8:00 a.m. and 10:00 p.m. Saturday-Sunday.

E. The playing or operating of any radio, or other musical device or instrument in a manner that is disturbing or unreasonably loud to a reasonable person outside the facility or unit from which the noise emanates.

F. Disturbing or unreasonably loud shouting, screaming, profanity, wailing or other vocalizations that are disturbing or unreasonably loud to a reasonable person outside the facility or unit from which the noise emanates.

#### **9.12.040 Exceptions**

A. Emergency Vehicles. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency;

B. The noon whistle and chimes from places of worship;

C. Outdoor Gatherings and Entertainments. Provisions of this chapter shall not apply to occasional outdoor gatherings, public or private dances, shows and sporting and entertainment events, with 50 or more in attendance, with issuance of a noise permit.

#### **9.12.050 Exceptions – Noise permits**

Where the applicant can show that notwithstanding the application of all available noise abatement techniques, immediate compliance with the requirements of this chapter would be impractical or unreasonable, a conditional and/or limited noise permit may be granted an applicant, exceeding the particular project or activity from provisions of this chapter for a limited period, not to exceed six months, subject to renewal upon a further showing of good cause conditioned by a schedule for compliance and details of methods therefor in appropriate cases. The town clerk's office with approval from the chief of police shall issue said permit.

A. The town administrator and/or the chief of police is empowered to deny any such permit application.

B. The town administrator and/or the chief of police is empowered to approve an application subject to such conditions or limitations it deems advisable, taking into consideration the purpose and intent of this chapter.

#### **9.12.060 Standards – Criteria**

The standards which shall be considered in determining whether a violation of the provisions of FJMC 9.12.010 through 9.12.050 exists shall include, but not limited to, the following sources:

- A. The frequency of the noise;
- B. The intensity of the noise;
- C. Whether the nature of the noise is usual or unusual;
- D. Whether the origin of the noise is natural or unnatural;
- E. The proximity of the noise to residential sleeping facilities;
- F. The zoning of the area within which noise emanates;
- G. The time of day or night the noise occurs;
- H. The duration of the noise;
- I. Whether the noise is produced by commercial or noncommercial activity.

### **9.12.070 Appeal**

Any person aggrieved by the decision of any individual or officer empowered to administer the provisions of this chapter shall have the right to appeal the decision of any such officer to the town council, by filing with the town administrator/clerk a verified, written appeal no later than 10 days after decision has been rendered. The town administrator/clerk, as soon as reasonably possible, will schedule a regular or special meeting with the town council. No later than 10 days prior to scheduled meeting the town administrator/clerk shall send notice, certified mail, postage prepaid, return receipt requested to said person as to inform them of the scheduled meeting.

### **9.12.080 Enforcement**

The chief of police and/or his assigned officer shall have the duty of enforcing the provisions of this chapter, and such department are empowered to issue citations for violations.

### **9.12.090 Violations – Penalties**

A person violating any provisions of this chapter shall be deemed guilty of an infraction and shall be subject to the penalties provided by this code for infractions.

Each hour a violation is committed or permitted to continue shall constitute a separate offense.

### **9.12.110 Violations – Additional remedies – Injunction**

As an additional remedy, the operation or maintenance of any machine, animal or device, or any combination of the same, which operation or maintenance causes discomfort or annoyance to reasonable persons of normal sensitivity, or which endangers the comfort, repose, health or peace of residents in the area, shall be deemed and is declared to be a public nuisance and may be subject to abatement summarily by restraining order or injunction issued by a court of competent jurisdiction.



## Chapter 9.16

### CONSUMING ALCOHOLIC BEVERAGES ON PUBLIC PROPERTY

#### Sections:

<u>9.16.010</u>	<u>Drinking prohibited</u>
<u>9.16.020</u>	<u>Violation – Penalty</u>
<u>9.16.030</u>	<u>Open alcoholic beverage container</u>
<u>9.16.040</u>	<u>Exemption</u>

#### **9.16.010 Drinking prohibited**

No person shall drink within the town limits any alcoholic beverage, as defined in Section 23004 of the California Business and Professions Code, in or upon:

- A. Any street, alley, sidewalk, parkway, or any other public right-of-way; or
- B. Private property which is open to public view without the consent of the owner or control of said property.

#### **9.16.020 Violation – Penalty**

Any person violating the provisions of this chapter is deemed guilty of an infraction.

#### **9.16.030 Open alcoholic beverage container**

No person shall have in his or her possession any open beverage container, including a container where the seal has been broken, containing any alcoholic beverage, as defined in Section 23004 of the California Business and Professions Code, in any public place not licensed for the consumption of any alcoholic beverage while such person is in or upon:

- A. Any street, alley, sidewalk, parkway, or any other public right-of-way.
- B. Private property, which is open to public view, without the consent of the owner or person in lawful possession or control of said property.

#### **9.16.040 Exemption**

The chief of police or authorized designee may exempt any portion of this chapter as it deems necessary for special events.

## Chapter 9.20

### FALSE ALARMS

#### Sections:

<u>9.20.010</u>	<u>Purpose</u>
<u>9.20.020</u>	<u>Definitions</u>
<u>9.20.030</u>	<u>Police review of false alarms</u>
<u>9.20.040</u>	<u>Appeal procedures</u>
<u>9.20.050</u>	<u>Violations</u>

#### **9.20.010 Purpose**

The purpose of this chapter is to reduce the incidence of false alarms at business. This will give members of the police department more time to combat real crime, thereby furthering health, safety, and welfare of the people of Fort Jones.

#### **9.20.020 Definitions**

A. Alarm System. The phrase "alarm system" means any mechanical or electrical device which is designed or used for protection against an unauthorized entry into a building, structure, or facility, or for alerting others of the commission of an unlawful act within a building, structure, or facility and which emits a sound or transmits a signal or message when activated.

B. Alarm User. The phrase "alarm user" means any person, firm, partnership, corporation, or other entity that uses an alarm system at its alarm site.

C. Emergency. The word "emergency" means the commission or attempted commission of a robbery, or other imminent felony or felony-in-commission, or misdemeanor.

D. Excessive False Alarms. An alarm system shall be deemed to actuate excessive false alarms when there are three or more false alarms within a consecutive 365-day period.

E. False Alarm. The phrase "false alarm" means the activation of an alarm system which results in a response by the police department where an emergency does not exist. False alarms which fall into the following category shall not be counted against the alarm user: false alarms which the user can demonstrate were proximately caused by severe storms, earthquakes, or other violent acts of nature.

### **9.20.030 Police review of false alarms**

Any alarm user who has three or more false alarms in a consecutive 365-day period shall be charged a fee as provided in FJMC 9.20.050.

- A. The police department shall notify the alarm user by mail to such fact.
- B. Upon review of the report by the chief of police or authorized designee a determination will be made, based on information available, whether a fee will be assessed against the alarm user. If a finding to assess a fee is made, a notice of the fee shall be mailed to the alarm user. The notice shall specify the details of all excessive false alarms.

### **9.20.040 Appeal procedures**

A. Any user aggrieved by a decision of the chief of police or authorized designee made pursuant to FJMC 9.20.030 may, within 10 days of receipt of notice, appeal to the town administrator or authorized designee by filing a written notice of appeal.

B. The town administrator or authorized designee shall set a time and place for a hearing before the town council.

C. The decision of the town council shall be based upon the evidence presented, and it shall either:

1. Affirm the decision of the chief of police or authorized designee, in which case any fee imposed pursuant to FJMC 9.20.050(A)(1) through (3) shall be sustained.
2. Reverse the decision of the chief of police or authorized designee in whole or in part, in which case no fee shall be imposed.

### **9.20.050 Violations**

A. Penalties.

1. Fourth alarm shall result in a fine of \$50.00.
2. Fifth through ninth alarm, a fine of \$100.00.
3. Tenth through nineteenth alarm, a fine of \$500.00.

**B. Enforcement.**

1. All remedies shall be cumulative, and the use for one or more remedies by the town shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter. The amount of any fee due and owing shall be deemed a debt to the town. An action may be commenced in the name of the town in any court of competent jurisdiction for the amount of any delinquent fee. All fees shall be deemed delinquent 30 days from the date they are due and payable.

ORDINANCE NO. 2021-7

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT JONES  
AMENDING (TITLE 9) PUBLIC PEACE, MORALS AND WELFARE

The Town Council of the Town of Fort Jones does ordain as follows:

Section 1: The Town hereby amends its code by adding or amending the following as sections, attached hereto as Exhibit A:

- Chapter 9.04 Firearms
- Chapter 9.08 Curfew and Loitering
- Chapter 9.12 Noise
- Chapter 9.16 Consuming Alcoholic Beverages on Public Property
- Chapter 9.20 False Alarms

INTRODUCED at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 13 day of Sept, 2021, and adopted at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 10 day of October, 2021.

APPROVED:

Michelle DeCausmaker  
Michelle DeCausmaker, Mayor

ATTEST:

Celeste McFall  
Celeste McFall, City Clerk

The foregoing Ordinance No. 2021-7 was adopted at a regular meeting of the Town Council of the Town of Fort Jones, held on the 11 day of October, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

M. DeCausmaker, M. Garcia, K. Banks, B. Beckwith, C. Sherry

Celeste McFall  
Celeste McFall, City Clerk

APPROVED AS TO FORM and LEGAL CONTENT:

Margaret Long  
Margaret Long, City Attorney