

First Reading 08 / 06 / 2013 Referred to Council Meeting ___/___/___ Tabled ___/___/___ Withdrawn ___/___/___ Defeated ___/___/___  Motion: Larry Wright Second: Ken Cady  District 1 Jason Reeves Aye Rod Brusius Absent District 2 Steve Jungwirth Aye Ken Cady Aye District 3 Gordon Garvens Absent Larry Wright Aye  Vote: 4 to 0 Motion Carried Unanimously	Second Reading 09 / 03 / 2013 Referred to Council Meeting ___/___/___ Tabled ___/___/___ Withdrawn ___/___/___ Defeated ___/___/___  Motion: Steve Jungwirth Second: Jason Reeves  District 1 Jason Reeves Aye Rod Brusius Aye District 2 Steve Jungwirth Aye Ken Cady Aye District 3 Gordon Garvens Aye Larry Wright Aye  Vote: 6 to 0 Motion Carried Unanimously	Adoption 09 / 03 / 2013 Referred to Council Meeting ___/___/___ Tabled ___/___/___ Withdrawn ___/___/___ Defeated ___/___/___  Motion: Rod Brusius Second: Jason Reeves  District 1 Jason Reeves Aye Rod Brusius Aye District 2 Steve Jungwirth Aye Ken Cady Aye District 3 Gordon Garvens Aye Larry Wright Aye  Vote: 6 to 0 Motion Carried Unanimously
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**ORD: 130806-C#459 AN ORDINANCE AMENDING CHAPTER 9.12.070 LOUD AND UNNECESSARY NOISE PROHIBITED AND 12.24.010 (B)(2) PARK REGULATIONS SOUND DEVICES AND AMPLIFICATION SYSTEMS FOR THE CITY OF OMRO, COUNTY OF WINNEBAGO, STATE OF WISCONSIN**

Section 1:

WHEREAS, the following ordinance regarding noise and hours of amplified music allowance is in discrepancy with the amplified music time allowed in the parks regulations § 12.24.010(B)(2).

**9.12.070 Loud and Unnecessary Noise Prohibited**

- A. It is unlawful for any person to make, continue or cause to be made or continued any loud and unnecessary noise. It is unlawful for any person to knowingly or wantonly to use or operate, or cause to be used or operated, any mechanical device, machine, apparatus or instrument for intensification or amplification of the human voice or any sound or noise in any public or private manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.
- B. Types of Loud and Unnecessary Noises. The following acts are declared to be loud, disturbing and unnecessary noises in violation of this section, but this enumeration shall not be deemed to be exclusive:
- C. Radios, phonographs, similar devices. The using, operating or permitting to be played, used or operated any radio receiving set; musical instrument, phonograph or other machine or device for the producing or reproducing of sound in a loud and unnecessary manner. The operation of any set, instrument, phonograph, machine or device between the hours of ten p.m. and seven a.m. in a manner as to be plainly audible at the property line of the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- D. Permits for Amplifying Devices.
  - 1. Permit Required. The use of loudspeakers or amplifying devices on the streets or in the parks of the city is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the chief of police.
  - 2. Grounds or Reasons for Denial or Allowance. The chief of police shall have the authority to revoke such permit when he believes such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated.
  - 3. Time Restrictions. The chief of police shall not grant a permit to use a loudspeaker or amplifying device before the hours of nine a.m. or after ten p.m. without an exemption or variance as described in chapter 12.24010(B)(2)(a)and (b). No permit shall be granted to anyone who, in

the opinion of the chief of police, uses the loudspeaker or amplifying device in such a manner or for such a purpose as to constitute a nuisance.

NOW THEREFORE BE IT RESOLVED that the Common Council of the City of Omro hereby amends chapter 12.24.010(B)(2) to correlate that same time for allowance of amplified music in the park.

#### 12.24.010 - Park regulations.

##### B. Specific Regulations

2. Sound Devices and Amplification Systems. Most park facilities are located within residential areas where a certain level of peace and quiet is expected and will be enforced. Therefore, It is unlawful to use public address systems, amplifiers or any other amplification device, including amplified music, in any park or recreation area after 10:00 pm, except as provided herein. , unless specific authority is first obtained from the director of community services or designees thereof or upon approval of the Omro common council Chief of Police, or designee thereof, by means of an exemption or variance listed below. "Amplifier" or "amplification device" in this section means any machine or device for the amplification of human voice, music or any other sound, but shall not be construed to include standard vehicle radios or stereos when installed and when heard only by occupants of the vehicles in which the unit is installed, while occupying that vehicle. The use of radios, stereos or other similar devices is expressly permitted, except that the volume of sound shall be controlled so that it is not unreasonably loud, disturbing or of such character, intensity or duration that it is disturbing to any person within the range of audibility. The human speech or music amplified shall not be profane, lewd, indecent or slanderous in nature. ~~Any person or group requiring the use of amplification devices shall first secure permission from the director of community services Chief of Police, or designee thereof, and shall secure any necessary permits required. The director Chief of Police shall make the public aware of such rules as are necessary to enforce this requirement. Amplified sound or music shall not be permitted after eleven ten p.m.~~ This section shall not be construed to limit the authority of the Omro police department to respond to complaints and to take any appropriate action in response thereto. ~~or to extend the permissible usage time limit.~~

##### a. Exemptions:

1. An exemption is allowed for an amplified sound or music activity that provides a substantial benefit to the public, including, but not limited to, parades, sporting events, special community events, public concerts, fireworks displays, and one day non-profit festivals that are open to the general public.
2. An exemption is allowed for park pavilion rentals on Friday and Saturday nights, allowing for amplified sound or music activity until 11:00 pm. Proof of rental permit must be provided upon request.

##### b. Variance: A variance permit may be issued upon request, provided that the activity producing noise is necessary to promote public health and / or welfare and reasonable steps are taken to keep noise at the lowest practical level. The criteria for granting of a variance shall be based upon finding of all of the following:

1. The variance will provide a substantial benefit to the public generally and be open to public attendance ; and

2. The source, nature and duration of the proposed sound is not contrary to public health and / or welfare; and
3. Conditions exist that are beyond the control of the person(s) applying for the variance; and
4. No other alternative facility or method of operation for the event is available to the applicant. A variance will not be issued if there are reasonable alternative locations for the event available to the applicant.

Section 2:

*This ordinance shall be in full force and effect from and after its passage and publication.*

Section 3:

*The full text of this ordinance and the Omro Municipal Code may be obtained at the Office of the City Clerk, 205 S. Webster Avenue. Clerk's phone: (920) 685-7000.*

Attest:

Approved as to form:

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Robert R. Breu, Mayor

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Ludwig L. Wurtz, City Attorney

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Linda K. Kutchenriter, City Administrator

Document Drafted by: Barbara Van Clake, MMC, WCPC

Document Codified by: Municipal Code Corporation