

ORDINANCE NO. 434

AN ORDINANCE AMENDING SECTION 10-123, ALLOWING REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOTHENBURG, DAWSON COUNTY, NEBRASKA:

Section 1. That Chapter 10, Article 1, Section 10-123 of the Municipal Code of Gothenburg, Nebraska, be amended to read as follows:

ALCOHOLIC BEVERAGES; REMOVAL OF INTOXICATED PERSONS FROM PUBLIC OR QUASI-PUBLIC PROPERTY. Any law enforcement officer with the power to arrest for traffic violations may take a person who is intoxicated and in the judgment of the officer dangerous to himself, herself, or others, or who is otherwise incapacitated, from any public or quasi-public property. An officer removing an intoxicated person from public or quasi-public property shall make a reasonable effort to take such intoxicated persons to his or her home or to place such person in any hospital, clinic, alcoholism center, or with a medical doctor as may be necessary to preserve life or to prevent injury. Such effort at placement shall be deemed reasonable if the officer contacts those facilities or doctor which have previously represented a willingness to accept and treat such individuals and which regularly do accept such individuals. If such efforts are unsuccessful or are not feasible, the officer may then place such intoxicated person in civil protective custody, except that civil protective custody shall be used only as long as is necessary to preserve life or to prevent injury, and under no circumstances longer than twenty-four (24) hours. The placement of such person in civil protective custody shall be recorded at the facility or jail at which he or she is delivered and communicated to his or her family or next of kin, if they can be located, or to such person designated by the person taken into civil protective custody.

The law enforcement officer who acts in compliance with this Section shall be deemed to be acting in the course of his or her official duty and shall not be criminally or civilly liable for such actions. The taking of an individual into civil protective custody under this Section shall not be considered an arrest. No entry or other record shall be made to indicate that the person has been arrested or charged with a crime.

For purposes of this Section, public property shall mean any public right-of-way, street, highway, alley, park, or other state, county, or municipally-owned property.

For the purposes of this Section, quasi-public property shall mean and include private or publicly owned property utilized for proprietary or business uses which invites patronage by the public or which invites public ingress and egress. (Ref. 53-1,121 RS Neb.)

Section 2. That the original Section 10-123 and any ordinance or Section passed and approved prior to the passage, approval, and

publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval, and publication or posting as required by law.

Introduced by Larry Franzen, Councilman.

Passed and approved this 5th day of January, 1982

CITY OF GOTHENBURG

DAWSON COUNTY, NEBRASKA

BY M. A. Finkel,
M. A. Finkel, Mayor

ATTEST:

Connie Stull
Connie Stull, City Clerk

APPROVED AS TO FORM:

Michael L. Bacon
Michael L. Bacon, City Attorney