ORDINANCE NO. 449

AN ORDINANCE DEFINING THE CRIME OF SHOPLIFTING.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOTHENBURG, NEBRASKA; REPEALING ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH, AND PROVIDING FOR AN EFFECTIVE DATE.

Section 1. That Chapter 6, Article 3, Section 6-344 of the Municipal Code of Gothenburg, Nebraska, shall read as follows:

MISDEMEANORS; SHOPLIFTING. A person commits the crime of theft by shoplifting when he or she, with the intent of appropriating merchandise to his or her own use without paying for the same or to deprive the owner of possession of such property of its retail value, in whole or in part, does any of the following;

(a) Conceals or takes possession of the goods or merchandise of any store or retail establishment;

(b) Alters the price tag or other price marking on goods or merchandise of any store or retail establishment;

(c) Transfers the goods or merchandise of any store or retail establishment from one container to another;

(d) Interchanges the label or price tag from one item of merchandise with a label or price tag from another item of merchandise; or

(e) Causes the cash register or other sales recording devise to reflect less than the retail price of the merchandise.

In any prosecution for theft by shoplifting, in order to allow the owner of owners of shoplifted property the use of such property pending criminal prosecutions, photographs of the shoplifted property may be accepted as prima facie evidence as to the identity of the property. Such photograph shall be accompanied by a written statement containing the following:

(a) A description of the property;

(b) The name of the owner or owners of the property;

(c) The time, date, and location where the shoplifting occurred;

(d) The time and date the photograph was taken;

(e) The name of the photographer; and

(f) Verification by the arresting officer.

Prior to allowing the use of the shoplifted property as

provided in this Section, legal counsel for the alleged shoplifter shall have a reasonable opportunity to inspect and appraise the property and may file a motion for retention of the property, which motion shall be granted if there is any reasonable basis for believing that the photographs and accompanying affidavit may be misleading. (Ref. 28-515 RS Neb.)

Section 2. That any other 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 John Merrell, Councilman.

Pass and approved this 5th day of October, 1982.

CITY OF GOTHENBURG, DAWSON COUNTY, NEBRASKA

BY _____
Mayor

ATTEST:

_____
Connie Stull, City Clerk

APPROVED AS TO FORM:

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Michael L. Bacon, City Attorney