

ORDINANCE NO. 10 OF 2003**AN ORDINANCE OF THE CITY OF SOMERS POINT,
PROVIDING THAT A PERSON WHO IS ARRESTED
FOR DRIVING WHILE INTOXICATED SHALL BE
HELD IN PROTECTIVE CUSTODY**

Introduced By: Councilman John Walsh

WHEREAS, the provisions of "John's Law" (N.J.S.A. 39:4-50.22 et seq.) requires the law enforcement agency to notify persons who accompany a drunk driver from the premises that they can be held criminally or civilly liable if they permit the drunk driver to operate a motor vehicle, and authorizes the law enforcement agency to impound the vehicle; and

WHEREAS, legislation signed into law by the Governor on August 27, 2003, known previously as S1868 3R, now known as P.L. 2003, c.164, authorizes a municipality to enact an ordinance providing that a person who has been arrested for driving under the influence pursuant to R.S. 39:4-50 shall be held in protective custody at an appropriate police or other facility.

NOW, THEREFORE, BE IT ORDAINED, as follows:

- 1.1 Any person who is arrested for a violation of the provisions of R.S. 39:4-50 shall be held in protective custody at an appropriate police or other facility where the person's condition may be monitored until the person is no longer a danger to himself or others. The person shall be released from protective custody when that person is no longer a danger to himself or others. A person is no longer a danger to himself or others when the person's blood alcohol concentration is less than 0.05% and the person no longer under the influence of any intoxicating liquor or narcotic or hallucinogenic or habit-forming drug to the extent that the person's faculties are impaired. In no event shall the municipality's law enforcement agency hold a person in protective custody for a period of longer than eight hours without providing an appropriate hearing.
- 1.2 Notwithstanding the provisions of this ordinance, provided that it is not a detriment to the public safety, the arresting law enforcement agency may, because of the age, health or safety of the arrested person, release the person pursuant to the provisions of P.L. 2001, c.69 (C39:4-50.22 et seq.) or provide an appropriate alternative to protective custody. The municipality and its law enforcement agency shall not be subject to liability if a person is released from custody pursuant to the provisions of this ordinance under the Act.
- 1.3 Nothing in this ordinance shall be construed as requiring the use of State Police facilities by the municipality for purposes of this ordinance under the Act.
- 1.4 All the provisions of the Act referenced above are hereby incorporated into and are deemed to be a part hereof.

2. **Severability:** If any part or parts of this ordinance are for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this ordinance.
3. **Repealer and When Effective:** All ordinances or parts of ordinances inconsistent herewith are hereby repealed, and this ordinance shall take effect immediately upon final passage and publication as required by law.

FIRST READING: 08/28/03

PUBLICATION: 09/03/03

FINAL READING: 09/11/03

John DiMaria, Mayor **Date**