

ORDINANCE NO. 29-77

CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN Stubbs ON THE 5th
DAY OF July, 1977.

AN ORDINANCE AMENDING CHAPTER 333 OF THE
CENTERVILLE MUNICIPAL CODE RELATING TO
DRIVING OR PHYSICAL CONTROL OF AN AUTOMO-
BILE WHILE UNDER THE INFLUENCE.

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. Section 333.01, Centerville Municipal Code, is hereby
amended as follows:

333.01. Driving [or Physical Control] While Under the Influence;
Evidence.

(a) No person who is under the influence of alcohol or any drug of
abuse, or the combined influence of alcohol and any drug of abuse, shall
operate any vehicle within the Municipality. (ORC 4511.19; Ord.15-75)

[(b) No person who is under the influence of alcohol or any drug of
abuse, or the combined influence of alcohol and any drug of abuse, shall be
in actual physical control of any vehicle within the Municipality.]

[[c]] (b) In any criminal prosecution for a violation of this section relating to
driving a vehicle while under the influence of alcohol, the court may admit
evidence on the concentration of alcohol in the defendant's blood at the time
of the alleged violation as shown by chemical analysis of the defendant's
blood, urine, breath or other bodily substance withdrawn within two hours of
the time of such alleged violation. When a person submits to a blood test at
the request of a police officer under Ohio R.C. 4511.191, only a physician or
a registered nurse shall withdraw blood for the purpose of determining the
alcoholic content therein. This limitation does not apply to taking of breath or
urine specimens. Such bodily substance shall be analyzed in accordance with
methods approved by the Ohio Director of Health by an individual possessing a
valid permit issued by the Director of Health pursuant to Ohio R.C. 3701.143.
Such evidence gives rise to the following:

(1) If there was at that time a concentration of less than ten
hundredths of one percent by weight of alcohol, but more than five hundredths
of one percent by weight of alcohol, in the defendant's blood, such fact shall
not give rise to any presumption that the defendant was or was not under the
influence of alcohol, but such fact may be considered with other competent
evidence in determining the guilt or innocence of the defendant.

(2) If there was at that time a concentration of ten hundredths of
one percent or more by weight of alcohol in the defendant's blood, it shall be
presumed that the defendant was under the influence of alcohol.

(3) If there was at the time a concentration of five hundredths of one percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of alcohol.

Upon the request of the person who was tested, the results of such test shall be made available to him, his attorney or agent, immediately upon the completion of the test analysis.

The person tested may have a physician, or a qualified technician, chemist, registered nurse or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a police officer, and shall be so advised. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a police officer. (ORC 4511.19; Ord. 30-72. Passed 5-1-72.)

~~[(d)]~~(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the first degree, in addition to the license suspension or revocation provided in Ohio R.C. 4507.16. (ORC 4511.99(A))

[Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree.]

Section 2. Chapter 333, Centerville Municipal Code, is hereby amended by the addition of the following section 333.08:

333.08. Physical Control While Under the Influence; Evidence.

(a) No person who is under the influence of alcohol or any drug of abuse, or the combined influence of any alcohol and any drug of abuse, shall be in actual physical control of any vehicle within the municipality.

(b) In any criminal prosecution for a violation of this section relating to actual physical control of a vehicle while under the influence of alcohol, the court may admit evidence on the concentration of alcohol in the defendant's blood at the time of the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance withdrawn within two hours of the time of such alleged violation. When a person submits to a blood test at the request of a police officer under Ohio R.C. 4511.191, only a physician or a registered nurse shall withdraw blood for the purpose of determining the alcoholic content therein. This limitation does not apply to taking of breath or urine specimens. Such bodily substance shall be analyzed in accordance with methods approved by the Ohio Director of Health by an individual possessing a valid permit issued by the Director of Health pursuant to Ohio R.C. 3701.143. Such evidence gives rise to the following:

(1) If there was at that time a concentration of less than ten hundredths of one percent by weight of alcohol, but more than five hundredths of one percent by weight of alcohol, in the defendant's blood, such fact shall not give rise to any presumption that the defendant was or was not under the influence of alcohol, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant.

(2) If there was at that time a concentration of ten hundredths of one percent or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of alcohol.

(3) If there was at the time a concentration of five hundredths of one percent or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of alcohol.

Upon the request of the person who was tested, the results of such test shall be made available to him, his attorney or agent, immediately upon the completion of the test analysis.

The person tested may have a physician, or a qualified technician, chemist, registered nurse or other qualified person of his own choosing administer a chemical test or tests in addition to any administered at the direction of a police officer, and shall be so advised. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a police officer. (ORC 4511.19; Ord. 30-72. Passed 5-1-72.)

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the first degree.

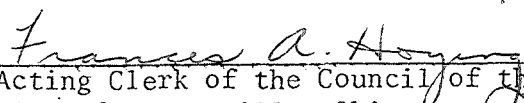
Section 3. This Ordinance shall become effective from and after the earliest date allowed by law.

PASSED this 5th day of July, 1977.



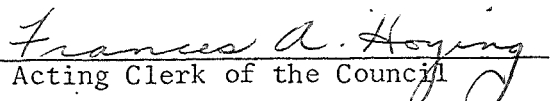
Mayor of the City of Centerville, Ohio

ATTEST:


Acting Clerk of the Council of the
City of Centerville, Ohio

C E R T I F I C A T E

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies the foregoing to be a true and correct copy of Ordinance No. 29-77, passed by the Council of the City of Centerville, Ohio, on the 5th day of July, 1977.


Acting Clerk of the Council

Approved as to form, consistency with existing ordinances, the Charter and constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney