

Ordinance No. 30-72

Passed May 1,

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ORDINANCE NUMBER 30-72

CITY OF CENTERVILLE

SPONSORED BY COUNCILMAN RUSSELL SWEETMAN ON THE 1ST DAY OF MAY, 1972.

AN ORDINANCE AMENDING ORDINANCE NO. 45-71 WHICH AMENDED SECTION 22.22 OF THE CODE OF ORDINANCES OF THE VILLAGE OF CENTERVILLE, OHIO RELATING TO DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

THE MUNICIPALITY OF CENTERVILLE HEREBY ORDAINS:

Section 1. Ordinance No. 45-71 of the City of Centerville, Ohio which amended Section 22.22 of the Code of Ordinances of the Village of Centerville, Ohio is hereby amended as follows:

Section 22.22 -- Driving or Physical Control
While Under the Influence

(a) No person who is under the influence of alcohol [narcotic drugs or opiates] or any drug of abuse as defined by the law of Ohio shall operate any vehicle within the municipality.

(b) No person who is under the influence of alcohol [,narcotic drugs or opiates] or any drug of abuse as defined by the law of Ohio shall be in actual physical control of any vehicle within the municipality.

(c) In any criminal prosecution for a violation of this Section relating to driving, the mayor's court or municipal 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the alleged violation as shown by chemical analysis of the defendant's blood, urine, breath or other bodily substance withdrawn within two hours of the time of such alleged violation.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 the taking of breath or urine specimens. Such bodily substance shall be analyzed in accordance with methods approved by the State Director of Health by an individual possessing a valid permit issued by the State 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 [Fifteen hundredths] ten hundredths of one per cent 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 a defendant.

(2) If there was at that time a concentration of [~~fifteen-~~] 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 that time a concentration of five hundredths of one per cent 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.

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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. (R.C. 4511.19)

Section 2. This ordinance shall become effective from and after the earliest date allowed by law.

PASSED this 1st day of May, 1972.

/s/ Paul C. Hoy
Mayor of the City of Centerville, Ohio

ATTEST:

/s/ Marilyn J. McLaughlin
Clerk of the Council of the
City of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville, Ohio, hereby certifies that the foregoing is a true and correct copy of an ordinance passed by the Council of the City of Centerville, Ohio on the 1st day of May, 1972.

/s/ Marilyn J. McLaughlin
Clerk

Approved as to form, consistency with existing ordinances, the charter & constitutional provisions.
Department of Law
Robert N. Farquhar
Municipal Attorney