

ORDINANCE NO. 3-94

**AN ORDINANCE OF THE VILLAGE OF SPENCER, OHIO, FOR
THE PURPOSE OF REQUIRING PAYMENT OF COSTS INCURRED
BY THE VILLAGE IN MAKING EMERGENCY RESPONSES TO
MOTOR VEHICLE ACCIDENTS AND/OR ARRESTS INVOLVING
DRIVERS WHO ARE OPERATING A MOTOR VEHICLE WHILE
UNDER THE INFLUENCE OF ALCOHOLIC BEVERAGES
AND/OR A CONTROLLED SUBSTANCE**

BE IT ORDAINED, by the Council of the Village of Spencer,
Medina County, Ohio, three-fourths (3/4) of its members
concurring herein as follows:

Section 1. PURPOSE.

(The Village finds that a significant number of traffic arrests and traffic accidents in the Village involve drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance.) In addition, the Village finds that in traffic accidents involving drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance there is a greater likelihood of personal injury and property damage. As a result of these determinations, a greater operational and/or financial burden is placed upon the Village police, public service, and fire fighting and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or a controlled substance.

Section 2. DEFINITIONS--used in this article:

A. Emergency Response shall mean:

- (1) The providing, sending and/or utilizing public service, police, fire fighting and rescue services by the Village to an accident involving a motor vehicle where one or more of the drivers were operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance or the combined influence of an alcoholic beverage and controlled substance; or
- (2) The making of a traffic stop and arrest by a police officer when the driver was operating the motor vehicle while under the influence of an alcoholic beverage or controlled substance.

B. Expense of Emergency Response shall mean:

The direct costs associated with the occurrence of an emergency response as set forth in subsection A(1) or A(2), whichever is applicable. The expenses of making an emergency response as set forth in section A shall include, but not be limited to, the costs connected with the administration and provision of a breathalyzer test and the videotaping of the driver, if applicable.

Section 3. LIABILITY FOR EXPENSES

- A. Any person who, while under the influence of an alcoholic beverage, or any controlled substance, or the combined influence of an alcoholic beverage and any controlled substance, operates a motor vehicle which results in an emergency response as defined in section 2 of this article shall be responsible and/or liable for the expenses of the emergency response.
- B. For purposes of the article, it shall be presumed that a person was operating a motor vehicle under the influence of an alcoholic beverage if chemical analysis of the driver's blood, urine, or breath indicates that the amount of alcohol in the driver's blood was in excess of 0.10 percent.

CIVIL LIABILITY

This article shall be construed to be a responsibility and liability of a civil nature on the part of the driver and shall not be construed to conflict, contravene or enlarge or reduce any criminal liability or responsibility, including fines imposed by a judge on a driver for operating a motor vehicle while under the influence of an alcoholic beverage and/or controlled substance.

Section 4. REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 5. SEVERABILITY

If any article, section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held

invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this Ordinance, it being the intent of the Council of the Village of Spencer that this Ordinance shall stand, notwithstanding the invalidity of any article, section, subsection, sentence, clause, phrase, or portion.

The Ordinance shall be come effective upon publication by the Village Clerk.

PASSED: January 26, 1994

ATTEST:

GENE CLIFFORD, Mayor

ROBIN M. COLEMAN, Clerk