

ORDINANCE NO. 7 , 2015

AN ORDINANCE IMPLEMENTING DUTIES UPON APPROACHING STATIONARY PUBLIC SAFETY, EMERGENCY, OR ROAD SERVICE VEHICLE DISPLAYING FLASHING LIGHTS AND DECLARING AN EMERGENCY

WHEREAS, State law imposes a duty on all vehicles operating on a vehicle on a roadway to move over or exercise caution when passing approaching a stationary vehicle with flashing lights; and

WHEREAS, the safety of our Police Officers, Emergency Response personnel and Road Service personnel is a priority in the City of Montgomery; and

WHEREAS, the City of Montgomery desires to update the Code of Ordinances to reflect the current changes in Ohio law to require motorists to change lanes or proceed with caution when approaching or passing a stationary emergency vehicle which is displaying flashing lights; and

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. Section 73.101 of the Code of Ordinances entitled, *Duties upon approaching stationary public safety, emergency, or road service vehicle displaying flashing lights*, shall be adopted as follows:

(A) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the public utilities commission to conduct motor vehicle inspections in accordance with sections 4923.04 and 4923.06 of the Ohio Revised Code, or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating, or rotating

lights, as prescribed in section 4513.17 of the Ohio Revised Code, shall do either of the following:

(1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the public utilities commission to conduct motor vehicle inspections in accordance with sections 4923.04 and 4923.06 of the Ohio Revised Code, or a highway maintenance vehicle.

(2) If the driver is not traveling on a highway of a type described in division (A)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather, and traffic conditions.

(B) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, vehicle used by the public utilities commission to conduct motor vehicle inspections in accordance with sections 4923.04 and 4923.06 of the Ohio Revised Code, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(C) No person shall fail to drive a motor vehicle in compliance with division (A)(1) or (2) of this section when so required by division (A) of this section.

(D) (1) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(2) Notwithstanding section 2929.28 of the Ohio Revised Code, upon a finding that a person operated a motor vehicle in violation of division (C) of this section, the court, in addition to all other penalties provided by law, may impose a fine of up to two times the usual amount imposed for the violation.

SECTION 2. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 3. The section and subsections of this Ordinance are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provision to be unconstitutional, void or ineffective, for any cause, shall not affect or render invalid any other section, subsection, part or provision of this Ordinance.

SECTION 4. This Ordinance is hereby declared to be an emergency measure necessary for the preservation of public health, safety and welfare, and it shall take effect immediately as allowable by law.

PASSED: October 7, 2015

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Todd A. Steinbrink
Todd A. Steinbrink, Mayor

APPROVED AS TO FORM:
Terrence M. Donnellon
Terrence M. Donnellon, Law Director