ORDINANCE NO. 15 , 2008

AN ORDINANCE AMENDING AND ADOPTING THE CITY'S PROPERTY MAINTENANCE CODE

WHEREAS, the appropriate maintenance of property within the City has been a community concern and a priority goal established by the administration; and

WHEREAS, after study and review by the Community Development Department, the Planning Commission, and the Planning, Zoning and Landmarks Committee of Council, it is recommended that the City amend its current Property Maintenance Code set forth in Chapter 93 of the Code of Ordinances and adopt a more comprehensive code consistent with the uniform codes in use throughout the country.

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

SECTION 1. The Property Maintenance Code attached hereto and incorporated herein by reference is hereby adopted in its entirety. All sections of Chapter 93 of the Code of Ordinances inconsistent with such Property Maintenance Code are hereby amended and/or repealed as is appropriate.

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 All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 3. This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: October 1, 2008

ATTEST: Susan J. Hamm
Susan J. Hamm, Clerk of Council

Gerri Harbison
Gerri Harbison, Mayor

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

Property Maintenance Code of the City of Montgomery, Hamilton County, Ohio

CHAPTER 1
ADMINISTRATION

SECTION 101
GENERAL

101.1 Title
These regulations shall be known as the City of Montgomery Property Maintenance Code hereinafter referred to as "this code" or "Property Maintenance Code".

101.2 Scope
The provisions of this code shall apply to all existing residential and non-residential structures and premises within the City of Montgomery ("the City") and shall constitute minimum requirements and standards for premises, structures, equipment, and facilities for safe and sanitary maintenance for protection from the elements, life safety, and safety from fire and other hazards. This code is intended to define the responsibility of owners, operators and occupants; the occupancy of existing structures and premises; and for administration, enforcement and penalties.

101.3 Intent
This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and lack of maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herin.

101.4 Severability
If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unauthorized or unconstitutional, such section shall be stricken or modified by the Court, and such decision shall not affect the validity of the remaining portions of this code.

SECTION 102
APPLICABILITY

102.1 General
The provisions of this code shall apply to all matters affecting or relating to structures and premises, as set forth in Section 101. Where, in a specific case, different sections of this code or the Code of Ordinances of the City of Montgomery specify different requirements, the most restrictive requirements shall govern.

102.2 Maintenance
Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. Except as otherwise specified herein, the owner, owner's designated agent or occupant shall be responsible for the maintenance of buildings, structures and premises.

102.3 Application of Other Codes
Repairs, additions or alterations of a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of all applicable Codes and Standards. Nothing in this code shall be construed to cancel, modify or set aside any provision of the *City of Montgomery Code of Ordinances* or any other applicable Codes and Standards.

102.4 Existing Remedies
The provisions in this code shall not be construed to abolish or impair existing remedies of the City or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

102.5 Workmanship
Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

102.6 Historic Buildings
The provisions of this code shall not be mandatory for existing buildings or structures designated by the state or City as historic or Landmark buildings when such buildings or structures are judged by the Community Development Director to be safe and consistent with the public interest of health, safety and welfare.

SECTION 103
PROPERTY MAINTENANCE INSPECTION

103.1 General
The Department of Community Development is charged with the administration and enforcement of this Property Maintenance Code and the executive official in charge thereof shall be known as the Community Development Director.

103.2 Officers
The Community Development Director may designate any qualified City employee or qualified agent of the City providing code enforcement services to the City under an authorized contract, to administer the duties that are assigned to the Community Development Director by this code. Such qualified City employee or qualified agent hereinafter shall be referred to as "designated agent".

SECTION 104
DUTIES AND POWERS OF THE COMMUNITY DEVELOPMENT DIRECTOR

104.1 General
The Community Development Director or designated agent shall enforce the provisions of this code. Unless the context clearly indicates otherwise, hereinafter any duty, responsibility or authority delegated to the Community Development Director shall include the Community Development Director and/or designated agent or employee of the Community Development Director.

104.2 Interpretation authority
The Community Development Director shall have the authority to interpret and implement the provisions of this code; to secure the intent thereof; and to designate requirements applicable because of local climatic or other conditions.

104.3 Inspections
The Community Development Director shall make all of the required inspections. All reports of such inspections shall be in writing from a responsible officer of such agency or by the responsible individual. The Community Development Director is authorized to engage such experts as deemed necessary to report upon unusual technical issues that may arise in the administration or enforcement of this Code.

104.4 Right of Entry
The Community Development Director is authorized to enter any structure or premises within the City at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Community Development Director is authorized to pursue access to the premises allowed by law.

104.5 Identification
The Community Development Director shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.6 Notices and orders
The Community Development Director shall issue all necessary notices or orders to ensure compliance with this code.

SECTION 105
VIOLATIONS

105.1 Unlawful acts
It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.

105.2 Notice of violation
The Community Development Director shall serve notice of violation in accordance with §106.

105.3 Prosecution of violation

If a person, firm, or corporation to whom a Notice of Violation has been served does not bring the property at issue into compliance with the provisions of this code by the deadline established in the Notice of Violation or by the granted deadline extension, if any, such person shall be guilty of violation of this code and subject to the penalties set forth in Section 105.4. If the Notice of Violation is not complied with, the Community Development Director may institute the appropriate proceeding at law or in equity (including action for injunctive relief) to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy or use of the premises or structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

105.4 Violation penalties

Failure to correct the conditions set forth in the Notice of Violation within the time allowed in such Notice or any extension to such Notice shall constitute a criminal misdemeanor offense. Upon conviction of such violation, the responsible person or party shall be fined not more than $1,000.00 or imprisoned for not more than 180 days, or both. Each day such violation continues shall be deemed a separate offense. Any other person who commits, participates in or assists in the continuation of such violation may each be found guilty of a separate offense and suffer the penalties provided herein.

105.5 General Penalty

The imposition of the penalties herein prescribed shall not preclude the Community Development Director from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

SECTION 106
NOTICE OF VIOLATION

106.1 Notice of violation

The Community Development Director shall serve Notice of Violation (hereinafter referred to as "Notice" or "Notice of Violation") on all persons, firms, or corporations, or the agent or property manager of a person, firm or corporation identified as the owner or occupant of such property found to be in conflict with or in violation of any of the provisions of this code.

106.2 Form of Notice of Violation

Whenever the Community Development Director determines that there has been a violation of this code or has grounds to believe that a violation has occurred, Notice shall be given in accordance with the following:

1. The Notice shall be in writing;
2. The Notice shall be sent to the person, firm, or corporation listed by the Hamilton County Auditor's Office as owner of the property or the person, firm or corporation identified as the occupant of such property. Such Notice may also be sent to the agent or property manager of a person, firm or corporation identified as the owner or occupant of such property;

3. The Notice shall include a description of the property that is sufficient for identification purposes;
4. The Notice shall include a statement of the violation(s) determined to exist on the property with specific references to the section or sections of this code alleged to have been violated;
5. The Notice shall include a description of the corrective action which must be taken to bring the property into compliance with the provisions of this code;
6. The Notice shall include a deadline by which time the person receiving the Notice shall be required to take the necessary corrective action required to bring the property into compliance with the provisions of this code; and
7. The Notice shall inform the person or entity to whom addressed of the right to appeal such Notice of Violation.

106.3 Method of service

The Notice of Violation shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first class mail addressed to the occupant of such property or to the owner of the property at the address listed as the owner's tax mailing address by the Hamilton County Auditor. If the address for the owner appearing on the tax list of the Auditor's office is that of a lending institution or other person or entity clearly recognizable as not being the owner of such property, then written notice shall be mailed to such institution, person or entity at the listed address and to the named owner(s) at the street address of the property;
3. Sent by certified or first class mail addressed to the owner's last known address; or
4. Posted in a conspicuous place in or about the structure affected by such Notice.

106.4 Extension of Compliance Deadline

The Community Development Director may, at his/her sole discretion, extend the deadline previously stated in the Notice of Violation for corrective action to bring a property into compliance in cases where good cause is demonstrated. In the event such an extension is granted, the Community Development Director shall notify the property owner, occupant or agent of the extension in the same form and pursuant to the same method of service required in Sections 106.3. Any such Notice of Extension shall specifically state the revised deadline by which time the person or entity receiving the extension shall be required to take the necessary corrective action to bring the property into compliance with the provisions of this code.

SECTION 107
MINOR NUISANCES

107.1 General

A minor nuisance exists when a property is in violation of any of the regulations in Chapter 3 of this code, unless the condition of the property has deteriorated to such a condition that enforcement under Sections 108, 109 or 110 are determined to be more appropriate.

107.2 Notice
Whenever the Community Development Director has determined a violation of the property maintenance standards set forth in Chapter 3 of this code exists, and such conditions, as they exist endanger public health, welfare, or safety, or materially interfere with the peaceful enjoyment of the occupants of such property or the owners or occupants of adjacent property, the Community Development Director shall post a "Notice of Abatement" in a conspicuous place in or about the structure affected by such Notice. The Notice shall be in the form prescribed in Section 106.2 of this code.

107.3 Abatement
Upon failure of the owner to correct the minor nuisance within the time specified in the order, the Community Development Director or designated agent shall cause the minor nuisance to be abated through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

107.4 Cost of abatement
Costs incurred in the performance of minor nuisance abatement shall be paid by the City. The Director of Law of the City shall take action to put a lien on the property consistent with Ohio law where the unsafe structure is or was located for the recovery of such costs. The costs may include all labor, equipment or other materials to correct or remove such nuisance, the fees of the officer serving the notices, the cost of public notice of any appeal hearings, and an administrative fee equal to 3% of the cost to remove and abate such nuisance, but such administrative fee shall not exceed $100 nor be less than $25.

107.5 Appeal
Any person ordered who receives a "Notice of Abatement" may appeal to the City Manager within 3 days from the date of notice from the Community Development Director. The City Manager may modify or reverse the decision of the Community Development Director or may refer the appeal to the Board of Zoning Appeals for a hearing. Upon referral of an appeal from the City Manager, the person ordered to take emergency measures shall be afforded an appeal hearing by the Board of Zoning Appeals, as described in Section 111 of this code.

SECTION 108
UNSAFE STRUCTURES

108.1 General
When a structure is found by the Community Development Director to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe structures
An unsafe structure is one that is found to be so out of repair and dilapidated that, in the condition it is permitted to be and remain, it shall or will if such condition is suffered to

continue, present an imminent danger of failure or collapse which may endanger the life, limb or property of persons occupying or using such structure, endanger the life, limb or property of persons using or being upon the streets or public ways of the municipality adjoining such lot of land, by reason of the collapse of such building, house, or structure, or by the falling of parts thereof or of objects therefrom; or has become so out of repair and dilapidated that it constitutes a fire hazard liable to catch on fire or communicate fire because of its condition and lack of repair.

108.1.2 Structure unfit for human occupancy
A structure unfit for human occupancy is one that is found to have become so out of repair and dilapidated that, due to lack of adequate maintenance or neglect, it endangers the public health, welfare, or safety, or materially interferes with the peaceful enjoyment of owners, or occupants of adjacent property or persons occupying or using such structure.

108.1.3 Unlawful structure
An unlawful structure is found in whole or in part to be occupied by more persons than permitted under the *Ohio Building Code* code, or was erected, altered or occupied contrary to law.

108.2 Closing of vacant structures
If a structure is vacant and unfit for human occupancy, and is not in danger of structural collapse, the Community Development Director is authorized to post a placard of Condemnation on the premises and order the structure closed up so as not to be a nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Community Development Director shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

108.3 Notice
Whenever the Community Development Director has Condemned a structure under the provisions of this section, Notice shall be posted in a conspicuous place in or about the structure affected by such Notice. The Notice shall be in the form prescribed in Section 106.2 of this code.

108.4 Placarding
Upon the failure of the owner or person responsible to comply with the notice provision within the time given, the Community Development Director shall post on the premises a placard bearing the word "Condemned" and a statement of the penalties provided in for occupying the premises or removing the placard.

108.4.1 Placard Removal
The Community Development Director shall remove the condemnation placard whenever the defect(s) upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the

approval of the Community Development Director shall be in violation of this code and subject to the penalties set forth in Section 105.4.

108.5 Prohibited occupancy
Any person who shall occupy a placarded premises which has been Condemned, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises which has been Condemned shall be in violation of this code and subject to the penalties set forth in Section 105.4.

108.6 Cost of closing vacant structures
Costs incurred in the performance of closing vacant structures shall be paid by the City. The Director of Law of the City shall take action to put a lien on the property consistent with Ohio law where the unsafe structure is or was located for the recovery of such costs. The costs may include all labor, equipment or other materials to close the vacant structure, the fees of the officer serving the notices, the cost of public notice of any appeal hearings, and an administrative fee equal to 3% of the cost to make the emergency repairs, but such administrative fee shall not exceed $100 nor be less than $25.

108.7 Appeal
Any person ordered to close a vacant structure shall comply with such order within the time allowed by the Community Development Director, unless appealed to the City Manager within 3 days from the date of notice from the Community Development Director. The City Manager may modify or reverse the decision of the Community Development Director or may refer the appeal to the Board of Zoning Appeals for a hearing. Upon referral of an appeal from the City Manager, the person ordered to take emergency measures shall be afforded an appeal hearing by the Board of Zoning Appeals, as described in Section 111 of this code.

SECTION 109
EMERGENCY MEASURES

109.1 Imminent danger
When, in the opinion of the Community Development Director, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, the Community Development Director is herby authorized and empowered to order and require the occupants to vacate the premises immediately. The Community Development Director or designated agent shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and Its Occupancy Has Been Prohibited by the Community Development Director." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Temporary safeguards
Notwithstanding other provisions of this code, whenever, in the opinion of the Community Development Director, there is imminent danger due to an unsafe condition, the Community Development Director shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Community Development Director deems necessary to meet such emergency.

109.3 Closing streets
When necessary for public safety, the Community Development Director may temporarily close structures and close, or issue an order to the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures if there is an imminent danger of injury from such unsafe structure to persons or property within such areas to be closed, and prohibit the same from being utilized.

109.4 Emergency repairs
For the purposes of this section, the Community Development Director shall employ the necessary labor and materials to perform required work as expeditiously as possible.

109.5 Cost of emergency repairs
Costs incurred in the performance of emergency work shall be paid by the City. The Director of Law of the City shall take action to put a lien on the property consistent with Ohio law where the unsafe structure is or was located for the recovery of such costs. The costs may include all labor, equipment or other materials to make the emergency repairs, the fees of the officer serving the notices, the cost of public notice of any appeal hearings, and an administrative fee equal to 3% of the cost to make the emergency repairs, but such administrative fee shall not exceed $100 nor be less than $25.

109.6 Appeal
Any person ordered to take emergency measures shall comply with such order within the time allowed by the Community Development Director, unless appealed to the City Manager within 3 days from the date of notice from the Community Development Director. The City Manager may modify or reverse the decision of the Community Development Director or may refer the appeal to the Board of Zoning Appeals for a hearing. Upon referral of an appeal from the City Manager, the person ordered to take emergency measures shall be afforded an appeal hearing by the Board of Zoning Appeals, as described in Section 111 of this code.

SECTION 110
DEMOLITION

110.1 General
The Community Development Director shall order the owner of any premises upon which is located any structure, which in the judgment of the Community Development Director is so dilapidated or has become so out of repair to be dangerous, unsafe, unsanitary or otherwise unfit

for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if the structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at owner's option; or where there has been a cessation of normal construction of any unfinished structure for a period of more than two years, to demolish and remove such structure.

110.2 Notices and orders
All Notices and orders shall comply with Section 106.2 of this code.

110.3 Failure to comply
If the owner of a premises fails to comply with a demolition order within the time prescribed, the Community Development Director shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials
When any structure has been ordered demolished and removed, the City shall have the right to sell the salvage and valuable materials as surplus at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including items of expense and amounts deducted, to the owner of such property. If such a surplus does not remain to be paid over, the report shall so state.

SECTION 111
MEANS OF APPEAL

111.1 Application for appeal
Unless another timeline or process is set forth herein, any person directly affected by a decision of the Community Development Director or a Notice or Order issued under this code shall have the right to appeal to the Board of Zoning Appeals, provided that a written application for appeal is filed within 20 days of the date of the decision of the Community Development Director, or date the notice or order was served.

111.2 Standard for Review
An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, the requirements of this code are adequately satisfied by other means, or the strict application of any requirement of this code would cause undue hardship.

111.3 Administrative Procedures for Appeals
The procedure for such appeal shall be consistent with Section 150.20 of the Montgomery Code of Ordinances.

CHAPTER 2
DEFINITIONS

SECTION 201
GENERAL

201.1 Scope
Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability
Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes
Where terms are not defined in this code, but are defined in the Ohio Building Code for commercial structures, including multi-family residential structures, the State of Ohio Building Code for one, two and three family residential structures, the Ohio Fire Code, or the City of Montgomery Zoning Code, such terms shall have the meanings ascribed to them as in those codes.

201.4 Terms not defined
Where terms are not defined through the methods authorized by this section such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts
Whenever the words "dwelling unit", "dwelling", "premises", "structure", "building", "rooming house", "rooming unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

SECTION 202
GENERAL DEFINITIONS

APPROVED
Approved by the Community Development Director or a duly authorized representative.

BUILDING MATERIALS
Items used in construction of structures or in landscaping, including, but not limited to lumber, plywood, concrete, rebar, roofing, siding, doors, windows, flashing, piping, fencing or other materials commonly used for building or construction, being either new or used.

COMMUNITY DEVELOPMENT DIRECTOR
The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

COMPOST BIN
A closed container used to house a heap of decomposing organic material.

COMPOST HEAP
A pile of organic materials kept under controlled conditions so that the original raw materials are transformed by decay and degradation into humus.

CONDEMN
To adjudge unfit for occupancy.

DISCARDED MATERIALS
The accumulation of wood, appliances, furniture, mattresses, motor vehicle parts or tires, building materials, toys, recreational or sporting equipment, carpeting or any other material or equipment whereby its placement upon real property is not consistent with its intended normal use or due to its condition and/or state of disrepair is not usable for its normal intended use.

DWELLING UNIT
A group of rooms comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities, all used by only one family.

ENVIRONMENTAL CONSERVATION AREA
A tract of land that has been awarded protected status in order to ensure that natural features or biota are safeguarded.

EXTERIOR PROPERTY
The open space on the premises and on an adjoining property under the control of owners or operators of such premises.

GARBAGE
The animal or vegetable waste resulting from the hauling, preparation, cooking and consumption of food. Vegetable waste as part of a managed compost heap shall not be considered garbage.

GUARD
A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

IMMINENT DANGER
A condition which would cause serious or life-threatening injury or death at any time. Imminent meaning ready to take place especially hanging threateningly over one's head.

INOPERABLE VEHICLE
Motor-driven vehicles that cannot, physically or lawfully, under their own power, and without repair or replacement of parts, be operated on the public highways of the City and have remained in such inoperable condition for 10 or more consecutive days, or a motor driven vehicle which

has no attached vehicle registration or to which the attached vehicle registration is expired or which vehicle registration attached is registered to another vehicle.

LANDSCAPE AREA
A portion of property where the surface of the ground has been purposely planted, cultivated and maintained to create an aesthetic effect, which includes, but is not limited to lawn grass, ornamental grass, bushes, trees, flowers or other vegetation and surface covering, such as gravel, rocks, shale, bark mulch, soils and paving stones, but does not include weeds or noxious weeds.

OCCUPANCY
The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT
Any individual living or sleeping or operating a business within a building, or having possession of a space within a building.

OPERATOR/MANAGER
Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER
Any person, agent, operator, manager, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the trustee of a trust holding such property of any such person, and the executor or administrator of the estate of such person if granted authority to take possession or control of real property by a court.

PERSON
An individual, corporation, partnership or any other group acting as a unit.

PREMISES
A lot, plot or parcel of land including any structure thereon.

PUBLIC WAY
Any street, alley or similar parcel of land, which is deeded, dedicated or otherwise permanently available to the public for public use.

RAIN BARREL
A container used as a cistern to collect and store rainwater runoff.

RAIN GARDEN
A planted depression that is designed to absorb rainwater runoff from impervious areas, such as roofs, driveways, walkways, and compacted lawn areas.

RIPARIAN ZONE
The part of the watershed immediately adjacent to the stream channel located in the 500 year flood plain or 50' from the centerline of the stream or creek, whichever is greater.

RUBBISH
Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, packaging materials, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, paper waste, crockery and dust. Tree branches and yard trimmings which are part of a managed compost heap shall not be considered rubbish.

SAFE
Free from risk or harm.

SANITARY
Characterized by or readily kept in cleanliness.

SWALE
A low-lying stretch of land which gathers and carries surface run-off.

TENANT
A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

WOODED AREA
A un-landscaped tract of land consisting of a dense growth of trees, plants and underbrush.

WORKMANLIKE
Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

CHAPTER 3
GENERAL REQUIREMENTS

SECTION 301
GENERAL

301.1 Scope
The provisions of this chapter shall govern the minimum conditions and responsibilities of persons for maintenance of the exterior of all premises, both residential and commercial, the grounds of such property and the condition of all buildings and structures thereon so that the appearance thereof shall reflect a level of maintenance in keeping with the standards of the City so as to avoid blighting effects and hazards to health, safety and welfare.

301.2 Responsibility

The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit are also responsible for keeping it in a clean, sanitary and safe condition that part of the dwelling unit or premises which they occupy and control.

301.3 Vacant structures and land

All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety. All vacant structures shall be secured so as to prevent the entry of rodents and other pests.

SECTION 302
EXTERIOR OPEN AREAS

302.1 Sanitation

All exterior property and premises shall be maintained in a clean, safe and sanitary condition free from any accumulation of rubbish or garbage. No person shall erect, continue to use, or maintain a building, structure, or place for the exercise of a trade, employment, or business or for keeping or feeding an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals or of the public. No person shall cause or allow offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public. No person shall allow the accumulation on any lot or in any such building, house, or structure, rubbish or other materials which shall or will, if such condition is suffered to continue, attract and propagate vermin or insects.

Regulations for the disposal of garbage and rubbish are detailed in Section 92 of the Montgomery Code of Ordinances.

302.2 Discarded Materials

All exterior property and premises shall be maintained free of discarded materials.

302.3 Compost Heap

A compost heap shall not be placed in any front yard as defined by the City Zoning Ordinance and shall be set back a minimum of two feet from any side and rear yard lot line and a minimum of twenty feet from adjacent residential dwelling unit. In no event shall a compost heap be located in any riparian zone, drainage or utility easement. A compost heap shall be no more than five feet in height, and shall not exceed a maximum ground or base area of 100 square feet. The depositing of pet waste, meat scraps, or other materials that may attract animals or vermin to the compost heap or which may provide an obnoxious odor is prohibited. If the compost heap is located in a landscape area, it shall be enclosed in a compost bin.

302.4 Building Materials

Owners shall not permit the accumulation of building materials upon property and shall remove said materials from the exterior of the property, except when said building materials are permitted upon property where the owner is in possession of a valid and existing building permit issued by the City or if the owner is otherwise in the process of construction or improvements upon said property.

302.5 Grading and drainage

All premises shall be properly graded and maintained to provide for the immediate diversion of water away from buildings and to prevent the accumulation of stagnant water thereon, or within any structure located thereon with the exception of approved retention areas, reservoirs, and rain gardens. Any alteration of the existing grading and drainage shall comply with the regulations set forth in Chapter 154 of the Montgomery Code of Ordinances.

302.6 Water

302.6.1 Pollution

It shall be unlawful for any person to cast rubbish or garbage into any reservoir, pond, or watercourse, or to in any manner corrupt or render unwholesome or impure water thereof.

302.6.2 Rivers and streams

It shall be unlawful for any person to place or cause to be placed in the channel or bed of any river or stream in the City any fence, building or other structure, or any rock, gravel, concrete or other matter which may encroach upon or reclaim lands from the beds of such rivers or streams or which may impede, retard or divert the flow of water in said rivers or streams; provided, however, that nothing contained herein shall deny to the City, any government agency or municipal corporation to power to go upon such rivers or streams, modify the river channel and erect such structures, which may be deemed necessary or desirable for flood protection, transportation, riparian zone improvement or public recreation.

302.7 Soil erosion

The exterior open space around each structure shall be maintained or so improved as to provide for grass plantings or other suitable ground cover to prevent soil erosion, which is or may become detrimental to the structures, lot use or adjacent lots and structures.

302.8 Drainage swales

Swales are to be maintained by the owners of the parcels upon which they are located and at no time shall anyone plant shrubs and/or trees on, or discharge, empty, or place any material, fill or waste into, any swale so as to divert or impede drainage flow. Rain gardens may be permitted in drainage swales as approved by the City Engineer. Small swales can be mowed as a part of the yard. Larger drainage swales in meadow situations should be mowed less frequently in order to allow grasses to grow taller to retard runoff and prevent erosion. Swales in woodland areas should be left in their natural condition leaving the understory to retard runoff and prevent erosion.

302.9 Private sewers
Private sanitary or storm sewers are to be maintained by the owners of the parcels upon which they are located. Any such sewer which may become exposed due to soil erosion or any pipes within such sewer, which are broken or deteriorated, shall be repaired and maintained by the owner of the parcel upon which such sewer is located. Additionally, the owner of the parcel upon which such sewer is located shall maintain the sewer system free and open so as not to impede the free flow of materials through such sewer system.

302.10 Vegetation

302.10.1 Safe flow of traffic
All hedges, bushes, trees and other vegetation, both within or without of the right-of-way, shall be kept trimmed and from becoming overgrown such that such growth interferes with the safe flow of traffic or is an obstruction to traffic sight lines or otherwise blocks, impedes or interferes with appropriate traffic safety signs.

302.10.2 Maintenance
All plant materials, especially trees and shrubs, which are dead, afflicted with decay, disease or insect infestation, or otherwise considered dangerous to other plant material; or are in such a condition that it shall or will, if such condition is suffered to continue, endanger the life, limb, or property or cause hurt, damage, or injury to persons or property or cause hurt, damager, or injury to persons or property upon the public streets, or public ways adjacent thereto, by the falling thereof or of parts thereof, shall be removed or appropriately treated.

> **Exception:** Any portion of property which is within a riparian zone of any creek or waterway or is an environmental conservation area, or wooded area shall be exempt from the provisions of this section.

302.11 Weeds and plant growth
All premises and exterior property shall be maintained free from weeds or plant growth, including cultivated lawns, in excess of 6 inches. Weeds shall be defined as annual plants and vegetation, other than trees or shrubs provided; however this term shall not include cultivated flowers and gardens. All weeds and plant growth in excess of 6 inches shall be cut and destroyed within five (5) days after service of a Notice of Violation. If the owner fails to comply with the notice within the time allotted, the City may begin minor nuisance abatement, as outlined in Section 107 of this code. The following noxious weeds as identified by the Ohio State University document *Identifying Noxious Weeds of Ohio (Bulletin 866-98)* or as amended in the future shall be prohibited:

Wild Mustard	*Brassica kaber* var. *pinnatifida*
Musk Thistle (Nodding Thistle)	*Carduus nutans*
Oxeye Daisy	*Leucanthemum vulgare*
Canada Thistle	*Cirsium arvense*
Poison Hemlock	*Conium maculatum*

Wild Carrot (Queen Annes Lace)	*Daucus carota*
Purple Loosestrife	*Lythrum salicaria*
Wild Parsnip	P*astinaca sativa*
Mile-a-Minute Weed	*Polygonum perfoliatum*
Russian Thistle	*Salsola iberica*
Cressleaf Groundsel	*Senecio glabellus*
Shattercane	*Sorghum bicolor*
Johnsongrass	*Sorghum halepense*
Grapevines (abandoned)	*Vitis spp.*

302.12 Sidewalks, parking areas and driveways
All sidewalks, walkways, stairs, driveways, parking areas and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions, such as holes, grade shifts and trip hazards.

302.13 Defacement of property
No person shall willfully or wantonly damage, mutilate or deface any exterior surface or any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

302.14 Accessory buildings and structures
All accessory buildings and structures, including, but not limited to detached garages, storage sheds, decks, gazebos, bridges, patios, pergolas, fences and walls, shall be maintained structurally sound and in good repair.

302.15 Swimming Pools and other water features
Swimming pools, spas, jacuzzis, and other water features shall be maintained in a clean and sanitary condition, in good repair and free of stagnant water. Swimming pools, spas and jacuzzis that are properly closed shall be exempt from this regulation. Rain barrels and rain gardens shall be exempt from this regulation; however, all rain barrels shall be completely enclosed or covered with a mesh screen to keep mosquitoes and other insects out of the standing water.

302.16 Motor vehicles

302.16.1 Storage of inoperable vehicles
Except as provided in Section 302.16.2 of this code, no inoperable motor vehicle shall be parked, kept or stored on any lot. This section shall not be construed to permit the parking or placing of inoperable vehicles on any public right-of-way.

302.16.2 Parking
No motor vehicle shall be parked on any lot unless parked on a hard surface including asphalt, concrete, pervious pavement, pavers, or an approved gravel driveway.

302.16.3 Major repair
No motor vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of motor vehicles is prohibited unless conducted inside an approved spray booth.

> **Exception:** A motor vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

302.16.4 Minor repair
Minor repair, including changing a flat tire, window repair, oil changes, changing the air filter, tune ups, changing wiper blades, changing lights, and other similar work of the personal vehicle(s) registered to the owner/occupant of such property is allowed on any property. This section shall not otherwise authorize the operation of any motor vehicle repair facility in a zoning district where such use is either not accepted as a permitted use or is conditionally permitted within such district.

SECTION 303
EXTERIOR STRUCTURE

303.1 General
The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as to be preserved safely, fire hazards eliminated, and adjoining properties in the neighborhood protected from blighting influences.

303.2 Protective treatment
All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. Those surface materials whose appearance and maintenance would be enhanced by a natural weathering effect or other natural effects may remain untreated.

303.3 Premises identification
Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. The numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches in height with a minimum stroke width of 0.5 inch. Numbers shall not

exceed a maximum of 24 inches in height. Address signage shall be no larger than necessary for adequate identification by safety service personnel.

303.4 Structural members
All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

303.5 Foundation walls
All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent entry of rodents and other pests.

303.6 Exterior walls
All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproofed and properly surface coated where required to prevent deterioration.

303.7 Roofs and drainage
The roof and flashing shall be sound, tight and not have defects that admit rain or melting snow or ice. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.

303.8 Decorative features
All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

303.9 Overhang extensions
All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces or metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

303.10 Stairways, decks, porches and balconies
Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads. Said areas shall be kept clear of hazards and debris and shall not be used as storage areas.

303.11 Chimneys, towers and satellite dishes
All chimneys, cooling towers, smoke stacks, antennas, satellite dishes and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

303.12 Handrails and guards
Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

303.13 Window, skylight and door frames
Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight. All glazing materials shall be maintained free from cracks and holes.

303.14 Doors
All exterior doors, door assemblies and hardware shall be maintained in good condition.

303.15 Basement hatchways
Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

303.16 Guards for basement windows
Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

SECTION 304
REGULATING THE BURNING OF FIRES

304.1 Prohibited and exempt fires
No person without a permit shall kindle, ignite, set, start, or maintain fires of any matter on pavement of any public road or street in the municipality, within any house or other structures within the municipality, or in or upon any other matter within the municipality except fires in a contained fireplace for outdoor cooking or for the burning of paper or wood in containers constructed to prevent the spread of such fires. All fires shall be attended until extinguished or safely covered.

304.2 Fire permit
Any person desiring to kindle, ignite, set, start, or maintain fires shall apply to the Fire Chief of the municipality for a written permit to do so. The Fire Chief may grant such permit under such proper safeguards as he/she may stipulate. In determining whether to issue any permit and the conditions governing the use of any permit, the Fire Chief shall consider the proposed location of the fire and its proximity to other combustible or inflammable material, the possibility of danger to buildings and structures, the degree and type of supervision to be provided, the quantity of the material to be burned and of smoke to be generated, weather conditions, the season of the year, wind direction and velocity, dryness of the ground and vegetation, the tools or apparatus to be employed for fire control, the extent to which debris from combustion may present a fallout problem in adjacent areas, and the nature and extent of air pollution that may be caused.