

ORDINANCE NO. 8 , 2010

**AN ORDINANCE ENACTING AND ADOPTING THE 2010
RECODIFICATION OF THE CODE OF ORDINANCES
OF THE CITY OF MONTGOMERY, OHIO AND DECLARING AN EMERGENCY**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2010 supplement to the Code of Ordinances for the City, which supplement contains corrections to the Code, all Ordinances of a general and permanent nature enacted since the prior supplement to the Code, and recommended revisions and/or additions to certain sections of the Code of Ordinances which are based upon changes in the Ohio Revised Code; and

WHEREAS, it is the intent of Council to accept these updated sections of the Code within the supplements attached hereto to update the Montgomery Code of Ordinances.

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

SECTION 1. The following corrections to the Code of Ordinances are hereby adopted to be included in the 2010 supplement and recodification:

A. Section 10.99 of the Code of Ordinances entitled *General Penalty* shall be updated as follows to provide escalating penalties for multiple violations of the same criminal or traffic code:

(B) ***Escalating Penalties for Multiple Violations of the Same Offense.*** *Whenever in this Municipal Code, or in any Ordinance of the municipality, any act is prohibited or declared to be unlawful and a penalty for violation of such act is*

set forth in such Code section or ordinance, unless otherwise stated, any subsequent violation of such section or Ordinance within a period of twelve (12) months shall be subject to an escalating penalty according to the following schedule:

(1) A violation listed as a minor misdemeanor shall be punishable as a fourth degree misdemeanor with a fine up to \$250.00 and/or a term of imprisonment not exceeding thirty (30) days on a second offense within twelve (12) months of the prior offense.

(2) A violation listed as a minor misdemeanor shall be punishable as a third degree misdemeanor with a fine up to \$500.00 and/or a term of imprisonment not exceeding sixty (60) days on a third offense within twelve (12) months of the first offense.

(3) A violation listed as a minor misdemeanor shall be punishable as a second degree misdemeanor with a fine up to \$750.00 and/or a term of imprisonment not exceeding ninety (90) days on a fourth offense within twelve (12) months of the first offense.

(4) A violation listed as a minor misdemeanor shall be punishable as a first degree misdemeanor with a fine up to \$1,000.00 and/or a term of imprisonment not exceeding one hundred eighty (180) days on a fifth or more offense within twelve (12) months of the first offense.

(5) A violation listed as a fourth degree misdemeanor shall be punishable as a third degree misdemeanor with a fine up to \$500.00 and/or a term of imprisonment not exceeding sixty (60) days on a second offense within twelve (12) months of the first offense.

(6) A violation listed as a fourth degree misdemeanor shall be punishable as a second degree misdemeanor with a fine up to \$750.00 and/or a term of imprisonment not exceeding ninety (90) days on a third offense within twelve (12) months of the first offense.

(7) A violation listed as a fourth degree misdemeanor shall be punishable as a first degree misdemeanor with a fine up to \$1,000.00 and/or a term of imprisonment not exceeding one hundred eighty (180) days on a fourth or more offense within twelve (12) months of the first offense.

(8) A violation listed as a third degree misdemeanor shall be punishable as a second degree misdemeanor with a fine up to \$750.00 and/or a term of imprisonment not exceeding ninety (90) days on a second offense within twelve (12) months of the first offense.

(9) A violation listed as a third degree misdemeanor shall be punishable as a first degree misdemeanor with a fine up to \$1,000.00 and/or a term of imprisonment not exceeding one hundred eighty (180) days on a third or more offense within twelve (12) months of the first offense.

(10) A violation listed as a second degree misdemeanor shall be punishable as a first degree misdemeanor with a fine up to \$1,000.00 and/or a term of imprisonment not exceeding one hundred eighty (180) days on a second or more offense within twelve (12) months of the first offense.

SECTION 2. Section 94.18 governing *Access Regulations* shall be amended at subparagraph (I) as follows to make appropriate reference to that section of the Land Usage Code governing access driveways:

(l) ***Design of Access Points.*** *The width, angle, grade, curb radii and other design aspects of access points shall be in accordance with Section 151.3211 of this Code of Ordinances.*

SECTION 3. Section 76.03 of the Code of Ordinances shall be modified to provide authority to the Police Department to tow vehicles which are illegally parked in any public parking lot or garage. Subsection (C) shall be amended to read as follows:

(C) Whenever any Police Officer finds a motor vehicle parked on a public street, or public parking lot or garage, in violation of any section of this Chapter, the officer may cause the motor vehicle to be removed to a safe place of storage.

SECTION 4. Section 137.09(B) of the Code of Ordinances shall be amended to clarify the exception to the prohibition governing the discharge of weapons within the City limits. Subsection (B)(2) shall be enacted to read as follows:

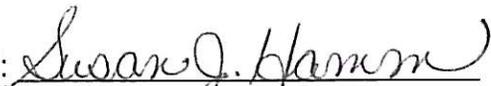
(B)(2) Division (A)(2) of this section does not apply to a person who owns any type of real property described in that division and who, while on the person's own real property, and completely within the boundaries of such property, discharges a firearm.

SECTION 5. The sections and subsections of this recodification 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 of provision of this Ordinance.

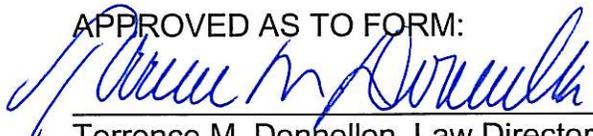
SECTION 6. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 7. As this Ordinance is a Code correction and recodification of laws previously passed in the City of Montgomery and laws passed within the State of Ohio, and as it is necessary to immediately implement this Ordinance to bring the Code of Ordinances current and to preserve the health, safety and welfare of the community of the City of Montgomery, this Ordinance is hereby declared to be an emergency measure and it shall take effect immediately upon passage.

PASSED: July 7, 2010

ATTEST: 
Susan J. Hamm, Clerk of Council


Gerri Harbison, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon, Law Director