

ORDINANCE NO. 8 , 2012

AN ORDINANCE ALLOWING A TAX DIVERSION PROGRAM FOR VIOLATIONS OF THE TAX ORDINANCE

WHEREAS, Section 44.12 of the Code of Ordinances sets forth violations for various sections of the tax code; and

WHEREAS, the City of Montgomery desires to decriminalize the collection of taxes under limited circumstances by allowing persons charged in a criminal complaint under Section 44.12 of the Code of Ordinances to complete a diversion program in lieu of a criminal conviction, provided that persons charged meet certain requirements set by the Finance Department and/or Tax Commissioner; and

WHEREAS, the City of Montgomery provides for diversion programs in other sections of the Code of Ordinances and desires to expand its ability to offer diversion to other criminal defendants.

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

SECTION 1. Section 44.99 of the Code of Ordinances titled, "Penalty" shall be adopted as follows:

(A)(1) Any person, firm, or corporation who violates any of the provisions of this Chapter, unless otherwise specified, shall be guilty of a misdemeanor and shall be fined not more than \$1,000 or imprisoned not more than 180 days, or both, for each offense.

(A)(2) If a person is charged in a criminal complaint with violating Code Section 44.12(A) or 44.12(B), R.C. § 2935.36 shall apply to the offense permitting a diversion program in lieu of conviction, except that a person is ineligible for diversion

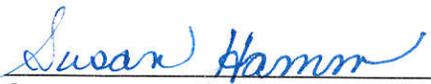
under that section if the person previously has been diverted from conviction pursuant to division (A)(2) of this section or any similar section under state law or another municipal code. If the person completes the diversion program to the satisfaction of the court, the court shall dismiss the complaint and order the record in the case sealed under R.C. § 2953.52. If the person fails to satisfactorily complete the diversion program, the court shall proceed with the complaint. The Court is authorized to establish an appropriate administrative fee to be paid to the Court to offset the costs of prosecution and administering the program. This fee shall be in addition to any other penalties, fees or interest which may be due upon such delinquent tax obligation.

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

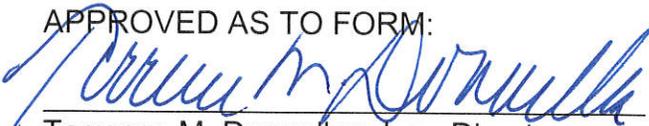
SECTION 3. The section and subsections of this Ordinances are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provisions to be unconstitutional, void or ineffective, for any cause, shall not affect or render invalid any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

SECTION 4. This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: November 7, 2012

ATTEST: 
Susan J. Hamm, Clerk of Council


Ken Suer, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon, Law Director