

**ORDINANCE NO. 9 , 2012**

**AN ORDINANCE CREATING A DIVERSION PROGRAM FOR VIOLATIONS OF  
DRUG OFFENSES**

**WHEREAS**, Chapter 138 of the Code of Ordinances sets forth various drug related offenses and penalties for violations of certain sections of the Chapter; and

**WHEREAS**, The City of Montgomery desires to provide alternative options to certain defendants charged in a criminal complaint under various sections of Chapter 138 of the Code of Ordinances by allowing such persons to complete a diversion program to be established by the Court in lieu of a criminal conviction, provided that persons charged meet certain requirements; 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 in these drug related cases.

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

**SECTION 1.** Section 138.19 of the Code of Ordinances entitled, Diversion Program, shall be adopted as follows:

(A) If a person is charged in a criminal complaint with violating a provision of this Chapter, classified as any degree of misdemeanor, 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 this section if the person previously has been diverted from conviction pursuant to division (A) of this section or 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.

**SECTION 2.** The Court shall establish the appropriate court cost/administrative fee to be paid to administer the diversion program.

**SECTION 3.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** 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 of 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 5.** This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: November 7, 2012

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

Ken Suer  
Ken Suer, Mayor

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