RESOLUTION NO. 43 , 2007

A RESOLUTION ADOPTING RULES AND PROCEDURES OF COUNCIL

WHEREAS, Article III, Section 3.03 of the Charter of the City of Montgomery authorizes City Council to adopt its own rules of governance; and

WHEREAS, the Government Affairs Committee of Council has reviewed the current Rules with staff and the committee has recommended updating the Rules to refine process for developing, distributing and publishing minutes.

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Montgomery, Ohio:

SECTION 1. Pursuant to the authority granted by Article III, Section 3.03 of the Charter of the City of Montgomery, the attached Rules and Procedures of Council as amended October 16, 2007 are hereby adopted.

SECTION 2. All Rules and Procedures previously adopted by City Council which are inconsistent herewith are hereby repealed.

SECTION 3. This Resolution shall be in full force and effect from and after its passage.

PASSED: November 7, 2007

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

Gerri Harbison
Gerri Harbison, Mayor

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

RULES OF ORDER AND PROCEDURE, GOVERNING THE COUNCIL OF THE CITY OF MONTGOMERY, OHIO

These rules of order shall govern the procedure of the City Council of Montgomery, Ohio, and the conduct of its members, and are promulgated pursuant to Section 3.03 of the Montgomery Home Rule Charter.

I
OFFICERS OF CITY COUNCIL

1. **Mayor.** At its organizational meeting in December of each odd-numbered year, the City Council shall choose one of its members as Mayor. The Mayor shall be the presiding officer of Council. It is the duty of the presiding officer to call the meeting to order, preside at all public hearings and sessions of the Council, announce the business before the Council, recognize the public for comment to Council, recognize Council members entitled to speak, state and put to vote all questions before the Council, rule on interpretations of these rules, to preserve order and decorum at meetings, and assume such other duties and responsibilities as the good order and administration of the Council may require.

2. **Vice Mayor.** At its organizational meeting in December of each odd-numbered year, the City Council shall choose one of its members as Vice Mayor. In addition to duties conferred by law, the Vice Mayor shall assume the duties of the Mayor as prescribed in these rules during the absence of the Mayor.

3. **Absence of Mayor and/or Vice Mayor.** In the absence of the Mayor, the Vice Mayor shall act as the presiding officer of the Council. In the event that both the Mayor and Vice Mayor are absent, City Council may select, by motion, one of its members to serve as Mayor pro-tem during the Mayors and or Vice Mayors absence.

4. **Vacancy in Office of Mayor and/or Vice Mayor.** In the event of a vacancy in the office of Mayor, the Vice Mayor shall become Mayor for the unexpired term and Council shall elect a new Vice Mayor for the unexpired term. In the event of a vacancy in the office of Vice Mayor, City Council shall elect a new Vice Mayor for the unexpired term.

5. **Removal of Council Officers.** Prior to the expiration of the two year term to which the Mayor and/or Vice Mayor were appointed by Council, Council may remove the Mayor and/or Vice Mayor upon a finding that the person(s) serving in that position has conducted himself/herself in a manner not appropriate to the position. To initiate such an action to remove the Mayor and/or Vice Mayor, three (3) or more members of Council must move for a vote on such issue at a regular meeting of Council. With such motion, the movants shall file with the Clerk of Council the specific charges against the officer to be removed. The removal vote shall then be deferred to the next regularly scheduled meeting of Council to give the officer to be removed the opportunity to address or rebut such charges. The officer to be removed may waive such deferral and address the charges at the meeting at which they are presented. After reviewing the charges and any rebuttal Council shall vote upon the motion. If five (5) members of Council vote in the affirmative to remove the officer, the position immediately shall be declared vacant and the office shall be filled as provided herein. The decision of Council to remove the Mayor or Vice Mayor is not appealable. The decision to remove the Mayor or Vice Mayor shall not affect the person's position on Council or as a Chair or member of any Committee of Council. Any further action to remove a Council person or to change a Committee assignment shall be governed by other Rules set forth herein.

6. **Clerk of Council.** City Council shall appoint by resolution any office holder or city employee to perform the duties of Clerk of Council. The Clerk of Council, shall (1) prepare the agenda for regular and special meetings, (2) provide copies of the agenda to the Mayor and members of Council in advance of any regular meeting, (3) attend to such correspondence as the Council may designate, (4) attend, record and journalize the proceedings of Council's regular and special meetings, its public hearings, and any committee meetings, as the Mayor may direct, (5) maintain official signed record of legislation passed, (6) distribute notices of meetings and copies of agendas and legislation as provided elsewhere in these rules, and (7) such other duties as may be mandated by law.

II
CITY COUNCIL MEETINGS AND EXECUTIVE SESSIONS

1. **Regular Meetings.** Council shall generally hold two regular meetings, including a work session and a business session, each calendar month. These meetings may be combined into a single monthly meeting at the discretion of the City Council. All meetings of the City Council shall be open to the public in accordance with the Montgomery City Charter. Council meetings are held in council chambers of the Montgomery City Hall, 10101 Montgomery Road commencing at 7:00 p.m. unless changed or canceled by motion of Council, on calendared Wednesdays as set forth in these rules and procedures.

   A. **Work Sessions.** The Council shall convene in work session on the Wednesday two weeks prior to the first Wednesday of each month, commencing at 7:00 p.m. unless changed or canceled by motion of Council. The primary purpose is to familiarize Council members with current business, establish the agenda for business meetings, and such other matters as the members of Council may deem appropriate. Work Sessions shall be devoted primarily to:

      a. Discussion of legislative proposals;
      b. Receipt and review of committee reports;
      c. Receipt and review of legislative requests and communications from the Mayor and executive departments;
      d. The establishment of an agenda for business sessions;
      e. Receiving reports from the administrative staff; and,
      f. Receiving comment from the public.

      Normally legislation will not be adopted or read at the work session. However, the Council reserves the right to read and pass legislation at work sessions with the consent of a majority of its members as stated by motion.

   B. **Business Session.** The Council shall convene in business session on the first Wednesday of each month, commencing at 7:00 p.m. unless changed or canceled by motion of Council. The primary purpose is to consider a legislative agenda, act formally upon reports or recommendations.

2. **Special Meetings.** Special meetings may be called by the Mayor or by any three members of Council by written notice given personally to the Mayor and each member of Council and to the Clerk of Council. As with all City Council meetings, public notice of special meetings must be made at least twenty-hour (24) hours in advance of the meeting to the media and the public in accordance with the requirement of the Montgomery City Charter. To ensure compliance with the Law, the Clerk of Council should be advised of any special meeting during regular business hours of the City of Montgomery, at least 48 hours in advance of said special meeting. A majority of City Council members may waive notice requirements to the Clerk of Council in the event of an emergency and if a member of City Council assumes responsibility for public notice of the meeting. Public notice need not be given if the special meeting is announced at a prior meeting of City Council.

3. **Executive Sessions.** The City Council, its Committees, the City's Boards and Commissions, and any sub-Committee thereof, upon a motion affirmed by roll call vote of a majority of a quorum of the members of the Council, Committee, Board, or Commission present may convene into a closed executive session at any regular or special meeting for the purposes set forth below, which general purpose shall be noted in the minutes record prior to entering into such executive session:

   a. To consider the appointment, employment, dismissal, discipline, promotion, performance, demotion, or compensation of public employees or officials, or the investigation of charges or complaints against a public employee or official, licensee, or regulated individual.
   b. To prepare for, conduct, or review negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of employment.

c. To consider the purchase or sale of public property, but only if premature disclosure of information would give an unfair competitive or bargaining advantage to a personal private interest adverse to the general public interest.
d. To confer with an attorney for the public body concerning disputes, involving the public body, that are the subject of pending or imminent court action.
e. To consider the details of security arrangements where disclosure could be used for the commission of a crime or the avoidance of prosecution.
f. For consideration of matters required to be kept confidential by Federal law or by State statutes.
g. For any other purpose as specified by the Ohio Revised Code or Ohio law.

4. **Public Hearings.** Public hearings shall be scheduled periodically as required by the City's Land Use Code and other legislative requirements of the City, or as required by law. Public hearings generally are scheduled immediately prior to work session meetings of City Council.

III
CONTENT OF AGENDA, MINUTES AND NOTICES

1. **Agenda of Work Sessions.** The agenda for the monthly work session represents the outline for business to be conducted at said work session and shall be compiled by the City Manager and Clerk of Council for discussion by City Council. City Council should thoroughly discuss any proposed agenda items and pose any questions of staff on those items at the work session. This will allow for adequate time for additional research into any item on which questions or concerns may exist prior to the City Council business session.

2. **Agenda of Business Sessions.** The legislative agenda for a Council business session shall be determined at the work session held two weeks prior to that session.

   By motion at a work session any two members of Council may add a piece of legislation to the business session agenda if the same has previously been referred to the appropriate committee and for which no discussion has occurred for a period of three or more months.

   Any proposed addition or modification to the City Council legislative agenda on the evening of the business session shall, require the approval of a majority of the members of Council for inclusion thereon.

3. **Agenda Order of Business.**

   a. Call to Order

   b. Roll Call

   c. Pledge of Allegiance (This item is included on the business session only.)

   d. Guests and Residents (This section of the agenda is reserved for public comment from those guests and residents in attendance at the meeting in accordance with Section V.2. of these Rules of Procedure.)

   e. Establishing and Agenda/Legislation for Consideration Tonight:

      1. Tabled Legislation (Represents Ordinances/Resolutions that have been removed from the current agenda for consideration by City Council at a later date.)

      2. Pending Legislation (Represents carryover Ordinances from previous meetings that are in process of passage through the required three readings of City Council.)

      3. New Legislation (Represents new Ordinances/Resolutions to be considered by City Council.)

f. Administration Report (City's Manager's update/status report.)

g. Law Director's Report (Law Director's update/status report. This report is generally included for discussion at the work session meeting.)

h. Council Committee Reports (This section of the agenda is dedicated to reports from the various standing or special committees of Council and while not excluded from discussion at business sessions, is generally included for primary discussion on the work session agenda. The section of the agenda is also appropriate for reporting on correspondence from citizens, governmental agencies or jurisdictions.)

i. Other Business (This section of the agenda is dedicated to action, discussion, or direction by City Council on a topic not included on the Council agenda.)

j. Minutes (This section of the agenda is reserved for the review and approval of minutes by City Council at the business session. For work session meetings, this item will be placed near the end of the agenda to allow ample time for minute review and correction.)

k. Adjournment

4. **Minutes.** All work and business sessions of City Council, and all meetings of Council's Committees, and the City's Boards and Commissions and their sub-Committees, shall be recorded through a journal of formal minutes. Minutes of such meetings shall reflect the type of meeting undertaken, the date and place thereof, the attendance of officials, and a complete account of procedural matters. Minutes should contain sufficient facts and information to permit the public to understand and appreciate the rationale behind the relevant public body's decision.

   All draft minutes are to have a disclaimer statement included in the header of the minutes and a "Draft" watermark, until such time that they are formally approved by the appropriate body of the City. Once meeting minutes have been approved, the disclaimer and the draft watermark shall be removed and the minutes filed for permanent recordkeeping.

   Minutes, once reviewed and determined to be accurate and complete, should be approved at the meeting at which they are presented.

   City Council can approve minutes at either work sessions or business sessions. If proposed changes to the minutes are complex or extraordinary, approval of the minutes should be deferred until the corrections are made and presented at a future meeting.

   City Council and board and commission minutes will be made available to the public once they have been included in a packet for distribution to City Council members and/or board and commission members.

5. **Notice of Meeting.** The time and place of regular meetings shall be published at least 24 hours in advance of said meeting. Such public notice may include the City's monthly newsletter, the City's website and the City's governmental access channel, or a newspaper of general circulation in the municipality. Notice of special meetings shall be posted at least 24 hours in advance of said meeting. The Clerk of Council shall be responsible for assuring that notices of such meetings are provided.

   Copies of the council agenda are posted on the City bulletin board located at the entrance to the Kroger Store at least 72 hours before a regular meeting and at least 24 hours before a special meeting. Copies are also available from the Clerk of Council's office prior to meetings and at the entrance to the Council Chambers at each meeting.

   Further, the Clerk shall maintain a list of all news media that have requested notification of the Council's regular and special meetings and shall advise such news media at least 24 hours in advance of the same,

except in the case of emergency. In any instance of emergency, the Clerk shall notify the news media by telephone as soon as possible of the time, place, and purpose of such meeting.

IV
LEGISLATION

1. **Types of Council Action.** Council Action by the Montgomery City Council may take the form of either an ordinance, resolution or motion. All legislative action shall be by ordinance or resolution. Every ordinance or resolution shall be read in full when proposed unless upon a motion and the affirmative vote of five of its members, Council waives this requirement. On such an occasion, the ordinance or resolution may be read and approved by title only.

   a. **Ordinances.** An Ordinance typically is a permanent rule or law adopted by the legislative authority or appropriates city funds. Every ordinance shall be read in full or by title only at the first reading and by title only on a second and third day. An ordinance becomes effective thirty days after adoption by Council. The exceptions are ordinances which are adopted as emergency legislation or which are not subject to the referendum process as specified in Section 8.04 of the Montgomery City Charter.

   b. **Resolutions.** Resolutions represent legislative action of a temporary nature providing for the disposition of a particular item of business, such as approving a contract. Resolutions are read one time prior to action by City Council. Resolutions take effect immediately upon passage by a majority vote of City Council.

   c. **Motions.** Motions are typically procedural matters brought to the floor of Council for immediate disposition and having no extended impact beyond the process of conducting the meeting. An example is a motion to table or a motion to set the agenda for a meeting. Other ministerial matters may be disposed of by motion such as Council's decision to request a hearing on a liquor permit transfer. Most motions are administrative in character. Motions are approved by a majority vote of City Council.

2. **Preparation of Legislation by Staff.** Legislation shall be prepared by staff and shall be approved as to form, by the Director of Law.

3. **Preparation of Legislation by a Council Member.** Legislation submitted by any member of Council shall conform in style, heading, and format to the standards in current usage in the City of Montgomery and shall be approved as to form by the Director of Law before consideration at a Council meeting. This rule shall not however, abrogate or constrain the right to amend legislation at a regular or special meeting in the absence of the Director of Law when such amendments conform to the format and general character of the legislation.

4. **Roll Call.** The vote taken on legislation shall be taken audibly by the Clerk of Council who shall rotate the name of the members in attendance for the purpose of the ballot.

5. **Emergency Legislation.** Legislation may be passed as an emergency so long as the written legislation contains a statement of the necessity for such emergency action and such legislation is approved by five or more members of City Council. Such legislation approved as an emergency shall take effect immediately upon adoption by Council or such other date as may be set forth within such legislation.

6. **Approval as to Form and Authentication of Legislation.** Each ordinance and resolution shall be approved as to form by the City's Law Director and shall be authenticated by the signature of the Mayor and the Clerk of Council. The failure or refusal of those officers to authenticate by signature shall not invalidate an otherwise properly enacted ordinance or resolution.

V
MEETING PROCEDURES

1. **Quorum.** Four members of Council shall constitute a quorum for the transaction of business at any meeting of Council as a whole.

2. **Audience Participation.** Persons wishing to be heard on items not appearing on the agenda, or which are not pending for study or action by another Committee of Council or the City's Board and Commissions, are asked to address City Council, its Committees, Boards, Commissions, or their sub-Committees, during the Guests and Residents portion of the meeting agenda. If a matter is pending in another forum, the persons shall be referred to that Committee, Board or Commission to accept the person's comments. Persons who have requested in writing to appear before Council will generally be heard first. Persons wishing to comment on matters that appear on the agenda will be recognized prior to Council's taking action on that agenda item. Persons wishing to provide comment to City Council may speak for a period of three minutes unless extended by motion and concurrence of City Council. Council reserves the right to limit repetitive comments.

3. **Robert's Rules of Order** All City meetings shall be conducted in accordance with the latest edition of Robert's Rules of Order except as otherwise provided by state law, the municipal code or by City Council adopted policy.

VI
CITY COUNCIL COMMITTEES

1. **Standing Committees.** Council shall, as soon as possible after its organizational meeting, establish such standing committees, as the Council deems necessary for the administration of its business. These committees may include, but are not necessarily limited to the following: Financial Planning Committee, Government Affairs Committee, Law and Safety Committee, Parks and Recreation Committee, Planning, Zoning and Landmarks Committee and Public Works Committee. Each committee is comprised of three Council members, one of whom shall serve as committee chair as appointed by the Mayor.

   The Mayor shall make appointments to the standing committees and shall name a chair of each. The Mayor shall have the right to remove committee chairs and committee members upon a finding that the person(s) serving in that position(s) has conducted himself/herself in a manner not appropriate to the position.

2. **Special Committees.** Council may, upon the concurrence of a majority of the members, establish special committees of its members. Appointments and election shall be governed in the same manner as prescribed for the standing committees.

3. **Committee of the Whole.** Council may convene itself as a committee of the whole and may consider such matters, as it deems appropriate. Such meetings shall be considered as a special meeting of City Council. The Mayor shall preside at its meetings, and these rules shall govern its proceedings.

4. **Responsibilities.** Committees may investigate, consider, and report on any matter within the purview of their purpose, and shall investigate, consider, and report on any matter referred by the Council or the Mayor.

5. **Quorum.** Two members shall constitute a quorum of any standing committee. A majority of members of any special committee shall constitute a quorum.

6. **Committee Reports.** Committees generally provide an update of their work from the previous meeting to City Council at the Work Session meeting each month. These reports can be submitted orally or in the form of a written report by the Committee Chair or member of the Committee.

7. **Notice of Committee Meetings.** Committee chairmen shall inform the Clerk of Council of any regular or special session of said committee, of the place and purpose thereof, and of the agenda topics for said

meeting at least 48 hours in advance of the same. The Clerk shall notify local print news media and shall post or publish notice of the said meetings in the manner and form prescribed for publication and notification of meetings of the Council at least 24 hours in advance of the meeting.

VII
CITY COUNCIL BEHAVIOR AND DECORUM

1. **City Council Member Attendance.** An excused absence is one due to the death of a family member, illness of the Council member or a member of his or her family, a business meeting conflict or a vacation. If reasonably possible a Council member shall notify the Mayor, City Manager, or Clerk of Council in advance of the fact that he or she will be unable to attend a council meeting and the reason for his or her absences. The record of the meeting will state the fact that the Council member is absent from the meeting and the reason for the absence. The Council may at that point vote to excuse the Council member from the meeting. Unexcused absences from any three consecutive meetings of the Council may be cause for removal from office in accordance with Section 3.08 of the Montgomery City Charter.

2. **Conflict of Interest/Abstentions.** In the event that any matter before the City Council presents a conflict of interest for a member of Council, such member shall state his conflict and intent to abstain from discussion on the subject matter and shall not participate in any discussion or vote of Council or attempt to influence any other member of Council with regard to the matter.

3. **City Council Behavior/Decorum**. Meetings are to be conducted in a business-like manner with proper decorum exhibited by all members. No member shall delay or interrupt the proceedings or the peace of the Council or disturb any member while speaking or refuse to obey the orders of the Mayor as presiding officer of the City Council. The Mayor shall be responsible for preserving meeting decorum at all times.

4. **Confidentiality.** Council members may from time to time, become privy to confidential information which shall remain confidential. No Council member shall disclose or use, without appropriate authorization by the majority of Council members, any information acquired in the course of his or her official duties which has been clearly designated by the majority of Council members to him or her as confidential. Such confidential designation is warranted whenever the status of the proceedings, the circumstances under which the information was received or the nature of the information necessitates that its confidentiality is necessary to the proper conduct of governmental business.

   Council may, during a regular, special or committee meeting, move into executive session for the purposes and in the manner described by state law. No member or other person in attendance shall divulge the nature of discussions or any information obtained during any such executive session or any information received in any confidential communication whether or not same was obtained during the course of any such meeting.

5. **Direction of Work through City Manager.** Council members recognize that the City Manager shall direct and coordinate the day-to-day activities of the employees of the City, including the management of time for such employees. No Council member shall reprimand, give orders to, or otherwise direct the activities of any City employee.

   A complaint made directly to a member of Council by a citizen shall be forwarded to the City Manager for investigation by an appropriate letter or memorandum from the said Council member. The response of the City Manager to any such complaint and the disposition thereof, shall be in writing and shall be directed to all members of Council.

6. **Rules of Debate.** The Mayor or such other member of the Council as may be presiding shall recognize members and other persons who wish to address Council. Such person shall confine himself or herself to the question under debate, avoiding all personalities, refraining from impugning the motive of any other member's argument or vote and abstaining from the use of indecorous language.

a. A member of Council shall not speak until recognized by the mayor. This shall be accomplished by said member raising their hand.

b. A member, once recognized shall not be interrupted when speaking unless it is to be called to order, or as herein otherwise provided.

c. No member of Council shall be permitted to speak longer than five (5) minutes on any motion without permission of the Mayor, who may grant said member additional time without exception from Council.

d. No member of Council shall be permitted to speak more than twice on any one motion until every member desiring to speak on that motion shall have had an opportunity to do so.

e. Any member of Council granted the floor may yield to another member of Council, with limitations set forth in subsections (3) and (4) above.

f. No person (member of Council or public) shall utilize the privilege of the Floor before Council as a means for filibuster, prolonged speechmaking, delaying legislative action an/or obstructionist tactics. If such person engages in said behavior, he/she may be called to order by the Mayor and subject to discipline by the City Council.

7. **Discipline.** Any member of Council may be subject to discipline by the remainder of City Council for disorderly conduct, violation of its rules, or absence without valid excuse for more than three (3) consecutive meetings. Discipline may be in the form of a public or private reprimand by the City Council. Disciplinary action may include removal from Council consistent with the Montgomery City Charter.

8. **Removal of Council Members.** Council may remove a member of Council for gross misconduct; or malfeasance, misfeasance or nonfeasance in or disqualification for office; or for the conviction while in office of a crime involving moral turpitude; or for violation of his oath of office; provided, however, that such removal shall not take place without the affirmative vote of five (5) members of Council after the member has been notified, in writing, of the charge against him at least fifteen days in advance of a public hearing upon such charge, and he/she or his/her counsel has been given an opportunity at such hearing to be heard, present evidence, and examine any witness appearing in support of the charge. In case of removal from office, the person so removed may appeal such removal to the Court of Common Pleas of Hamilton County. Such appeal shall be taken within ten days, and if so taken will stay any removal until final determination by the Court as specified in Section 3.08 of the Montgomery City Charter.

VIII
CITY COUNCIL INVESTIGATIONS

The Council, or a committee thereof when such action is authorized by the Council, may inquire into and investigate the conduct of any Council member, department or unit of the City or any City contract, expenditure by the City or any matter affecting the City. In the exercise of its power granted by this Section, the Council shall have the power to compel the attendance and testimony of witnesses and the production of books, paper and other evidence on its own motion through the process of any appropriate court or officer thereof; and the Council may adopt ordinances or resolutions imposing penalties for failure or refusal of persons to comply with its lawful orders under this Section.

IX
FILLING OF CITY COUNCIL VACANCIES

Any vacancy on City Council shall be filled in accordance with Section 3.09 of the Montgomery City Charter.

X

ADOPTION, AMENDMENT AND SUSPENSION OF CITY COUNCIL RULES OF PROCEDURE

1. **Adoption.** These rules shall be in full force and effect from and after their adoption by a majority vote of the Council. (Adopted: Resolution 13, 2007, April 4, 2007, Amended: Resolution 43. 2007, November 7, 2007)

2. **Amendment.** These rules may be amended or new rules adopted by a majority vote of the legislative authority.

3. **Suspension.** Any provision of these rules, susceptible to suspension, may be suspended at any meeting of the Council by a majority of the legislative authority, except when a greater number is required by law or by these rules. The vote on any suspensions shall be taken by yeas and nays and entered upon the journals.