

ORDINANCE NO. 12 , 2020

AN ORDINANCE CREATING SECTION 92.05 OF THE CODE OF ORDINANCES, ENTITLED “LITTERING”, AND AMENDING SECTION 92.99 ENTITLED “PENALTY”

WHEREAS, the City of Montgomery has recently discovered incidents on vacant land located within the City and owned by the City in which individuals are dumping garbage, litter and other refuse on vacant land; and

WHEREAS, the City of Montgomery has several construction projects within the City that involve vacant land and the potential for increased illegal dumping and littering on these sites; and

WHEREAS, the City of Montgomery does desire to retain jurisdiction over these incidents as they become more pervasive, rather than cite violations under the State Code; and

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

SECTION 1. Section 92.05 of the Montgomery Code of Ordinances is hereby created, which shall read as follows:

(A) *Definitions.* For purposes of Section 92.05, *Litter* shall include garbage (as defined by Section 93.21), waste, peelings of vegetables or fruits, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, and other materials of an unsightly or unsanitary nature, and discarded materials as defined by Section 93.21.

(B) No person, regardless of intent, shall deposit Litter or cause Litter to be deposited on any public property, on private property not owned by such person unless one of the following applies:

(1) The person is directed to do so by a public official as part of a Litter collection drive;

(2) Except as provided in division (C) of this section, the person deposits the Litter in an appropriate Litter receptacle as defined in Section 92.04(A) in a manner that prevents it being carried away by the elements;

(C) No person, without privilege to do so, shall knowingly deposit Litter, or cause it to be deposited, in a Litter receptacle located on any public property or on any private property not owned by the person unless one of the following applies:

(1) The Litter was generated or located on the property on which the Litter receptacle is located;

(2) The person is directed to do so by a public official as part of a Litter collection drive;

(3) The person is directed to do so by a person whom the person reasonably believes to have the privilege to use the Litter receptacle;

(4) The Litter consists of any of the following:

(a) The contents of a Litter bag or container of a type and size customarily carried and used in a motor vehicle;

(b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;

(c) Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

(d) Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(D)(1) As used in division (C)(1) of this section, "public property" includes property owned by the City and any private property open to the public for the conduct of business or the provision of a service, but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in division (C)(4) of this section, "casual passerby" means a person who does not have depositing litter in a litter receptacle as the person's

primary reason for traveling to or by the property on which the litter receptacle is located.

SECTION 2. Section 92.99 of the Code of Ordinances shall be amended to read as follows:

Except as provided in Section (A) herein, anyone who violates any provisions of this chapter shall be subject to penalty provided in §10.99;

(A) Whoever violates section 92.05 of this chapter is guilty of a misdemeanor of the third degree. The sentencing court may, in addition to or in lieu of the penalty provided in this division, require a person who violates section 92.05 of the Code, to remove litter from any public or private property.

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

PASSED: August 5, 2020

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Christopher P. Dobrozsi
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon
Terrence M. Donnellon, Law Director