ORDINANCE NO. 10 , 2011

AN ORDINANCE ESTABLISHING AN INTERIM DEVELOPMENT CONTROL OVERLAY DISTRICT FOR THE CITY OF MONTGOMERY

WHEREAS, Chapter 151.13 of the Land Usage Code permits Council to adopt an Interim Development Control Overlay District when amendments to the zoning text are under consideration by the City Planning Commission, and interim developments contrary to those proposed text amendments would impact the substance and purpose of the planning under consideration; and

WHEREAS, it has come to City Council's attention that in various areas throughout the State of Ohio, including Southwestern Ohio, retail establishments are opening, which are commonly referred to as Internet Cafés or Sweepstakes Cafés, which operate a sweepstakes-based or lottery-based system which may be considered to be unlicensed gambling; and

WHEREAS, the Planning Commission has recommended that City Council adopt a twelve (12) month Interim Development Control District throughout all commercial districts within the City while they undertake studying the negative secondary effects of such uses within the community and monitor steps by the State of Ohio to regulate these enterprises as gambling; and

WHEREAS, such comprehensive study concerning the negative impacts of these uses on the community and how those impacts may be mitigated, particularly as they impact schools, daycare centers and those residential neighborhoods bordering the Business District is appropriate and time consuming, and an Interim Development Control

District will provide the appropriate time to study these businesses without negatively impacting other businesses and permitted uses within the City.

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

SECTION 1. An Interim Development Control Overlay District is hereby enacted overlaying the O-Office, LB-Limited Business, GB-General Business, OMG-Old Montgomery Gateway, and OM-Old Montgomery Districts within the City of Montgomery effective immediately and continuing for a period of twelve (12) months from the date of this Ordinance. Within this Overlay District, Internet Cafés or Sweepstakes Cafés as defined herein are hereby prohibited.

SECTION 2. An Internet Café or a Sweepstakes Café is any business establishment, room or place where two or more entertainment devices are kept for use by the public, or by persons other than the owner of the devices, where persons give anything of value to access the use of the entertainment devices, or to access the premises, and the person may be given anything of value by the operator whether the giving occurs on or off the premises or at the same time or later time. An entertainment device means any mechanical, electronic, video or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a person, for the purpose of playing a game, viewing a video display, hearing an audio transmission or reading entries or outcomes from any other kind of device. An entertainment device does not include any vending machine, jukebox, audio book, video player, or any device that gives anything of value where the only value given, directly or indirectly, is a video or audio transmission or the playing of a game. Anything of value means cash, cash

equivalence, tangible objects, credits to play, sweepstakes entry points and any other tangible or intangibles, no matter how slight.

SECTION 3. During this moratorium the Community Development Department may continue to process and review applications for all other uses permitted, or conditionally permitted, within the underlying districts.

SECTION 4. The Planning Commission is asked to continue to study such Internet Café or Sweepstakes Café use to determine what, if any, regulations should be put in place within the Land Usage Code to regulate or control such businesses. If appropriate, the Planning Commission may recommend to the City Council to extend the implementation of the Overlay District for an additional period of time as permitted under Chapter 151.13 of the Land Usage Code.

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

SECTION 6. This Ordinance shall take effect the earliest opportunity as permitted by law.

PASSED: September 7, 2011

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