

ORDINANCE NO. 20-01

AN ORDINANCE IMPOSING A TEMPORARY MORATORIUM ON DEVELOPMENT APPROVALS FOR INTERNET SWEEPSTAKES BUSINESSES

WHEREAS, North Carolina General Statute 160A-381(e) authorizes cities to adopt and extend a temporary moratorium on development approvals of reasonable duration; and

WHEREAS, the Town Council of the Town of Midway adopted Ordinance No. 20-01 on July 15, 2019 (the "Ordinance"), which Ordinance is hereby incorporated by reference, imposing a moratorium on the approval of special use permits pursuant to the Zoning Ordinance for Midway, North Carolina which allow the use relating to Internet Sweepstakes Businesses; and

WHEREAS, the Planning & Zoning Board of the Town of Midway, at the request of the Town Council of the Town of Midway, has considered certain actions as stated in the Ordinance to address the problems or conditions set forth therein and continues to find them inadequate;

WHEREAS, the Town of Midway has taken all reasonable and feasible steps proposed to be taken in the Ordinance to address the problems or conditions leading to imposition of the moratorium, and has found new facts and conditions that warrant the extension, and has determined that further study is necessary in order to address the concerns and factors identified during the current moratorium period; and

WHEREAS, the Town Council, based on the research and information provided Planning and Zoning Board, the research and information provided by the Planning and Zoning staff of Davidson County on behalf of the Town, and the views expressed at the public meetings held during the original moratorium, has determined that more information and study is needed with respect to the problems and conditions set out in the Ordinance necessitating a moratorium and particularly with respect to the following issues, among others, raised by new facts and conditions:

- The socioeconomic impact of such businesses on the Town of Midway; and
- The impact any such proposed ordinance regulating such businesses may have on the businesses themselves, the owners, operators, and employees of such businesses, other businesses in the Town of Midway, and the citizens of the Town of Midway.

WHEREAS, the Planning and Zoning Board has presented a proposed ordinance to the Town Council to address the issues as set out in the Ordinance; and

WHEREAS, the Town Council has determined that a 90 day extension of the moratorium in the Ordinance will provide the Town an opportunity to study the proposal from the Planning and Zoning Board and to more effectively update the Town's current land use ordinances without being required to approve such development under its current, inadequate ordinances; and

WHEREAS, the Town Council has determined that the extension of the moratorium imposed by the Ordinance shall terminate on October 13, 2019 and that the duration of the extension imposed is reasonable because that is the minimum period of time that it will take to address the issues set out in the Ordinance. The only reasonable alternatives to imposing this moratorium are (i) adopting a hastily prepared ordinance that may exceed the Town's regulatory authority and/or which may not adequately address the issues as set out in the Ordinance, or (ii) such Internet Sweepstakes activities without providing the Town and the citizens of the Town the necessary land development guidance and review tools required to protect the public health and safety; and

WHEREAS, it is the expressed intent of the Town Council to lift the moratorium as soon as possible and to that end it will instruct all consultants, boards, and committees working on the problems and conditions necessitating the moratorium to complete their work as soon as reasonably possible so that the required ordinance or ordinances will be in place and Internet Sweepstakes Business development can resume at the earliest possible time, but with the proper safeguards in place to protect the citizens, residents, and property owners of the Town of Midway.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Midway, North Carolina as follows:

Section 1. The above and foregoing recitals are incorporated in this Ordinance by reference. The temporary moratorium imposed by the Ordinance shall hereby be extended to October 13, 2019, such moratorium being on the approval of special use permits pursuant to the Zoning Ordinance for Midway, North Carolina which allow the use relating to Internet Sweepstakes Businesses. Internet Sweepstakes Businesses generally include, but are not limited to, business enterprises, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games, including but not limited to sweepstakes and video poker, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played, by predetermined odds, by games requiring skill, or otherwise. This use does not include any lottery approved by the State of North Carolina.

Section 2. In compliance with the requirements of North Carolina General Statute 160A-381(e), the following statements are included in this ordinance:

(1) The problems or conditions necessitating the moratorium are that the use relating to Internet Sweepstakes Businesses is likely to be established at additional locations within the Town of Midway planning and zoning jurisdiction prior to the development of appropriate zoning regulations applicable to this specific use. This use has an impact on the area in which it is located due to the number of persons frequenting this use throughout the time the use is operated, both day and night. The Zoning Ordinance for Midway, North Carolina does not define or provide specific regulations regarding the appropriate location or operation of Internet Sweepstakes Businesses. Because of this, said use may be located adjacent to residences, schools, parks or daycares, and multiple establishments may be located in one building, shopping center or

neighborhood, which could have an adverse impact on adjacent or nearby properties. As an alternative to a moratorium, allowing new Internet Sweepstakes Businesses to receive special use permits while the Town of Midway develops appropriate zoning regulations applicable to the specific use of Internet Sweepstakes Businesses was considered but, since this process will take at a minimum several months to complete, this is deemed to not be adequate to address the impact caused by additional locations of Internet Sweepstakes Businesses thereby posing a risk to the health, safety and general welfare of the community.

(2) The development approvals subject to the moratorium are the approval of special use permits pursuant to the Zoning Ordinance for Midway, North Carolina which allow the use relating to Internet Sweepstakes Businesses. The moratorium will allow the Town of Midway to develop and implement appropriate zoning regulations relating to Internet Sweepstakes Businesses which will have the purpose of ensuring their appropriate location and compatibility with adjacent or nearby properties. The moratorium will eliminate the impact caused by additional locations of the use relating to Internet Sweepstakes Businesses thereby eliminating a risk to the health, safety and general welfare of the community.

(3) The moratorium, as extended, will terminate on October 13, 2019. The duration of the moratorium is reasonably necessary in order to allow the Town of Midway sufficient time to review the proposed ordinance from the Planning and Zoning Board, to solicit additional public comment on the proposed ordinance, develop and implement appropriate regulations relating to Internet Sweepstakes Businesses including evaluating best practices from other communities, preparing proposed regulations, engaging public participation, allowing the Planning and Zoning Board to review and recommend regulations, and allowing Town Council to deliberate and act upon the regulations.

(4) During the duration of the moratorium, the following actions and proposed schedule for the actions are proposed to be taken: (a) review by the Town Council of the Planning and Zoning Board's proposed ordinance through October 13, 2019; (b) engaging public participation through October 13, 2019; and (c) allowing the Town Council to deliberate and act upon the recommended regulations through October 13, 2019.

Section 3. The moratorium will terminate sooner than October 13, 2019, upon the adoption of an ordinance, after the effective date of this ordinance, which establishes zoning regulations relating to the establishment of the use of Internet Sweepstakes Businesses.

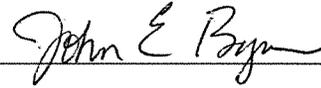
Section 4. The moratorium may be subsequently renewed or extended in accordance with the provisions of North Carolina General Statute 160A-381(e).

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Any part or provision of this ordinance found by a court of competent jurisdiction to be in violation of the Constitution or laws of the United States or North Carolina is hereby deemed severable and shall not affect the validity of the remaining provisions of the ordinance.

Section 7. This ordinance shall become effective upon its adoption.

This the 15<sup>th</sup> day of July, 2019.

A handwritten signature in cursive script, reading "John E. Byrum", is written above a horizontal line.

John E. Byrum, Mayor

A handwritten signature in cursive script, reading "Linda A. Hunt", is written above a horizontal line.

Linda A. Hunt, Town Clerk