

ORDINANCE NO. 02-19

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 a temporary moratorium on development approvals of reasonable duration;

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

Section 1. A temporary moratorium is hereby imposed commencing on January 8, 2019, and expiring not later than July 15, 2019, on the administrative approval of "Recreational Facility, Commercial Indoor" 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 Recreational Facility, Commercial Indoor” 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 will terminate not later than July 15, 2019. The duration of the moratorium is reasonably necessary in order to allow the Town of Midway sufficient time to 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 are proposed to be taken: (a) evaluating best practices from other communities and preparing proposed regulations; (b) engaging public participation; (c) allowing the Planning and Zoning Board to review and recommend regulations; and allowing Town Council to deliberate and act upon the recommended regulations.

Section 3. The moratorium will terminate sooner than July 15, 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. Notwithstanding anything herein to the contrary, 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 8th day of January 2019.

ATTESTED:

Linda A. Hunt
Linda A. Hunt, Town Clerk

John Byrum
John Byrum, Mayor