

ORDINANCE NO. 2019-01

AN ORDINANCE PROVIDING FOR THE LICENSING OF BINGO AND VIDEO SKILL GAMES WITHIN THE CITY OF MIDFIELD, ALABAMA

WHEREAS, Amendment 386 to the Constitution of Alabama (1901) was proposed by Act 80-431, p. 600, submitted September 2, 1980, and proclaimed ratified September 17, 1980
(Proclamation Register No. 3, p. 180);

WHEREAS, Act 96-420, proposed Amendment 600 to the Constitution of Alabama (1901) p. 533, submitted at the November 5, 1996, election, and proclaimed ratified December 5,
1996 (Proclamation Register No. 8, p. 219);

WHEREAS, pursuant to Amendments 386 and 600 to the Constitution of Alabama (1901), the operation of Bingo Games for prizes or money by nonprofit organizations for charitable or educational purposes is legal in Jefferson County, and the question of their legality in general is beyond the purview of the City Council;

WHEREAS, Amendments 386 and 600 give the City Council the authority to promulgate rules and regulations for the licensing and operation of Bingo Games within the City of Midfield, and the City Council desires to exercise such authority to ensure the orderly operation of Bingo Games within the City;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDFIELD AS FOLLOWS:

Section 1. Short Title.

This ordinance shall be known and may be cited as the City of Midfield Bingo And Video Skill Games Ordinance.

Section 2. Definitions.

A. "Any and All Games of Bingo" shall mean the game commonly or traditionally known as bingo. The characteristics of that game include the following: (i.) each player uses one or more cards with spaces arranged in five columns and five rows, with an alphanumeric or similar designation assigned to each space; (ii.) alphanumeric or similar designations are randomly drawn and announced

one by one; (iii.) in order to play, each player must pay attention to the values announced; if one of the values matches a value on one or more of the player's cards, the player must physically act by marking his or her card accordingly; (iv.) a player can fail to pay proper attention or to properly mark his or her card, and thereby miss an opportunity to be declared a winner; (v.) a player must recognize that his or her card has a "bingo," i.e., a predetermined pattern of matching values, and in turn announce to the other players and the announcer that this is the case before any other player does so; (vi.) the game of bingo contemplates a group activity in which multiple players compete against each other to be the first to properly mark a card with the predetermined winning pattern and announce that fact. Monetary wagers may be collected from the players of bingo for the opportunity to participate in the game, and such wagers may vary in amount to reflect the value of the prize for winning a particular game, whether the wager is for participation in the whole game or a particular phase thereof, and other factors reflecting the interplay of the amount wagered, the size of the prize and the probability of winning. Prizes must be awarded in accordance with local law.

B. "Bingo Games" shall mean "Paper Card Bingo" games.

C. "Bingo License" shall mean either a Class A or Class B Bingo License issued pursuant to the provisions of this ordinance.

D. " Video Skill Game Machine" shall mean any electronic or mechanical equipment, machine or device, or computer or other technologic hardware or device (i) which is installed, or is to be installed at a Class B Qualified Location and (ii) the same kind of which is used at the Center Stage Casino located in Dothan , Alabama and which have been approved by The Attorney General of Alabama as being in compliance with the laws of the State of Alabama as not being gambling machines. Video game of skill as herein defined. Video Games of Skill Machine includes any machine, device or hardware that assists a player or the playing of Video games where the outcome is based on the mental or physical skill of the player rather than on chance. Examples of Video Skill games are the games that are being used at the Center Stage Casino located in Dothan, Alabama and which have been approved by the Alabama Attorney General. Equipment and Supplies include, but are not limited to, dispensers, readers, electronic player stations, player terminals, central computer servers containing random number generators and other processing capabilities for remote player terminals, electronic consoles capable of providing game results in

different display modes, telephones and telephone circuits, televisions, cables and other Video Skill Game Machines shall not be deemed to be for any purpose a "gambling device" or "slot machine" within the meaning of the Code of Alabama 1975, Sections 12A-1220(5) and (10), or any other provision of law, whether now in effect or hereafter enacted. Traditional bingo played utilizing paper cards and any devices to assist in the playing of traditional bingo utilizing paper cards shall be exempt under this definition.

E. "Bingo Session" shall mean a consecutive period of time up to twenty-four consecutive hours during which bingo is played on as many as seven (7) days in a given week. A holder of a Class A Bingo License or a Class B Bingo License shall not be limited in the number of Bingo Sessions it operates during any twenty-hour (24) hour period.

F. "Chief of Police" shall mean the Chief of Police of the City of Midfield, Alabama.

G. "City" shall mean City of Midfield, Alabama.

H. "City Clerk" shall mean the City Clerk of the City of Midfield, Alabama.

I. "City Council" shall mean City Council of the City of Midfield, Alabama.

J. "Class A Qualified Location" for the holder of a Class A Bingo License shall mean a Location which has been inspected for compliance with all applicable federal, state, and local laws by the Chief of Police, City Clerk and approved by the City Council for the conduct of Bingo Games.

K. "Class B Qualified Location" for the holder of a Class B Bingo License shall mean a Location which has been inspected by the Chief of Police, City Clerk or by any other authorized representative of the City as designated by the Mayor for compliance with all applicable federal, state, and local laws and approved by the City Council for the conduct of Bingo Games and other lawful activities and for which the holder of a Class B Bingo License has submitted satisfactory evidence that the Location has in place at all times: (i) liability insurance in an amount not less than \$1,000,000; (ii) adequate parking for patrons and employees as reasonably prescribed by the Chief of Police and/or the City Council; (iii) onsite security as reasonably prescribed by the Chief of Police and/or the City Council, including but not limited to at least one APOST certified officer on premises at all times; (iv) such accounting procedures, controls and security monitoring as are reasonably necessary to preserve and promote the integrity of the operation of Bingo Games and the protection of the License Holder and the patrons of the Bingo Games; and (v) satisfactory evidence that the Location is fully compliant with the Americans with Disabilities Act. Class B Qualified Locations can only be situated in a General

Business (GB) Zone, Commercial, and or an Industrial Zone.

L. "License Holder" shall mean any holder of a Class A Bingo License or Class B Bingo License.

M. "Location" shall mean a building, hall, enclosure, room, premises, grounds and/or outdoor area that comply with all federal, state and local laws and applicable building and fire codes.

N. "Mayor" shall mean the Mayor of the City of Midfield, Alabama.

O. "Paper Card Bingo" shall mean any game of chance known as bingo to the extent that it is played with traditional cards displaying playing grids that are used with tokens to cover the designated squares on the cards and that incorporates the following elements: (i.) each player uses one or more cards with spaces arranged in five columns and five rows, with an alphanumeric or similar designation assigned to each space; (ii.) alphanumeric or similar designations are randomly drawn and announced one by one; (iii.) in order to play, each player must pay attention to the values announced; if one of the values matches a value on one or more of the player's cards, the player must physically act by marking his or her card accordingly; (iv.) a player can fail to pay proper attention or to properly mark his or her card, and thereby miss an opportunity to be declared a winner; (v.) a player must recognize that his or her card has a "bingo," i.e., a predetermined pattern of matching values, and in turn announce to the other players and the announcer that this is the case before any other player does so; (vi.) the game of bingo contemplates a group activity in which multiple players compete against each other to be the first to properly mark a card with the predetermined winning pattern and announce that fact. Paper Card Bingo must be played without the incorporation of any electronic device. Monetary wagers may be collected from the players of bingo for the opportunity to participate in the game, and such wagers may vary in amount to reflect the value of the prize for winning a particular game, whether the wager is for participation in the whole game or a particular phase thereof, and other factors reflecting the interplay of the amount wagered, the size of the prize and the probability of winning. Prizes must be awarded in accordance with local law.

P. "Person" shall mean any human being, corporation, partnership, business organization, association or legal entity of any kind whatsoever

Q. "Quarter" shall mean a three-month period in the Bingo Year. The first Quarter of the Bingo Year shall begin on the date

that Video Skill Games are first placed into operation in a Location. If there is any dispute as to the specific date that Video Skill Games are first placed into operation in a Location, then the determination of the City Council shall govern. (Ex. If application and payment for a Bingo License are made on January 4, 2020, the City Council approves the application on January 5, 2020, and Video Skill Games are first placed into operation in a Location on January 15, 2020, then the Bingo Year for the License Holder shall commence concurrently with the first Quarter on January 15, 2020. The second Quarter of the Bingo Year would begin on April 15, 2020. The third Quarter of the Bingo Year would begin on July 15, 2020. The fourth Quarter of the Bingo Year would begin on October 15, 2020. Then, the next Bingo Year and the first Quarter of the next Bingo Year would begin on January 15, 2021.)

R. "Bingo Year" shall mean four concurrent Quarters as defined by this Ordinance specific to a particular License Holder.

Section 3. Authorization.

The City hereby authorizes the licensing and operation of Bingo Games within the City limits subject to the authority, rules, and regulations set forth in Alabama Constitution of 1901, Amendment 386, proclaimed ratified September 17, 1980, as amended by Amendment 600, proclaimed ratified December 5, 1996, and any rules and regulations set forth in this Ordinance.

If any provision in this Ordinance is deemed less restrictive than Alabama Constitution of 1901, Amendment 386, proclaimed ratified September 17, 1980, as amended by Amendment 600, proclaimed ratified December 5, 1996, the more restrictive provision will govern.

Section 4. Bingo License Required.

It shall be unlawful for any person or entity operating a bingo game within the City limits must without first obtaining a business license from the City. The procedures governing the licensing of Bingo Games shall be as set forth in the "Business License Code of the City of Midfield, Alabama," Ordinance No. 979, as it may be amended over time and as additionally provided for in this Ordinance.

The following types of business licenses are hereby created for the operation of Bingo Games:

A. "Class A Bingo License" shall mean a license issued to an applicant who desires to operate only Paper Card Bingo at a Class A Qualified Location.

B. "Class B Bingo License" shall mean a license issued to an applicant who desires to operate Any and All Video Skill Games at a Class B Qualified Location.

The License Holder shall display the permit conspicuously at the Location where bingo is being conducted at all times.

Section 5. Application Fees and Video Skill Games Machine Fees.

A. Any qualifying organization applying for a Bingo License must make application as prescribed by law and pay such application fee as is required by the "Business License Code of the City of Midfield, Alabama," Ordinance No. 979, as may be amended over time.

B. For each calendar year, an annual base fee of \$250.00 shall be required for a Class A Bingo License and \$15,000.00 shall be required for a Class B Bingo License. Payment shall be due at the time of original application and at the time for renewal each year following as provided by the "Business License Code of the City of Midfield, Alabama," Ordinance No. 979, as may be amended over time. The holder of any Bingo License pursuant to this Ordinance shall not be entitled to a half-year license; payment of the entire calendar year fee must be made in full prior to the issuance of a Bingo License.

C. In addition to all other fees set forth in this Section, each holder of a Class B Bingo License shall pay the following fees:

1. Through December 31, 2019, \$150.00 per Video skill Machine per month.

2. On and after January 1, 2020, \$200.00 per Video skill Machine per month.

3. All Video Skill Machine fees for the first month of holding a Bingo License must be paid at the time of the original application, and payment must be made for the month in full, regardless of when during the month the Bingo License is issued. The Video Skill Machine fees for all subsequent months of holding a Bingo

License must be paid on the first day of each month. However, if a license is originally applied for in the month in which no Bingo Machines are actually placed into operation, then the license fees paid pursuant to this Section 5 Paragraph C.3. shall be applied to the first month in which Bingo Machines are first placed into operation.

4. If an additional Video Skill Machine or Machines is utilized at any time after the License Holder has paid its original or renewal fees in a given tax year, the License Holder must make a supplemental payment for each additional Bingo Machine prior to the time that any new machine is first utilized.

5. Each holder of a Class B Bingo License shall be charged a \$150.00 monthly fee based on a minimum of 500 machines regardless of the number of actual devices in operation.

Section 6. Restrictions on All Types of Bingo Game Licenses.

A. A holder of a Class A Bingo License or a Class B Bingo License may hold only one license for the operation of Bingo Games, and that license shall be valid for only one Location in the City.

B. A license is not assignable or transferable and shall become automatically void upon the dissolution of the holder of the Class A Bingo License or the Class B Bingo License.

C. No Person who has been convicted of a felony offense, and whose civil rights have not been restored by law, shall conduct or in any way participate in the operation of any Bingo Game permitted hereunder, nor shall any Person who has been convicted of any gambling offense be permitted to conduct or in any way participate in the operation of any Bingo Game permitted hereunder within twelve (12) months of the conviction.

Section 7. Application Requirements.

In addition to any other information or form required to be submitted by an applicant for a business license under the "Business License Code of the City of Midfield, Alabama," Ordinance No. 979 in addition to such other restrictions as may be provided or contained in the Constitution of the State of Alabama, as amended over time, an applicant for a license under this Ordinance (including for a renewal) must provide:

- A. The name and home address of the applicant and, if the applicant is a corporation, association or other similar legal entity, the names and home addresses of each of the officers of the organization as well as the names and addresses of the directors, or other Persons similarly situated, of the organization;
- B. The names, home addresses of each of the Persons who will be operating or promoting the bingo game;
- C. The names and home addresses of any Persons, organizations or other legal entities that will act as surety for the applicant, or to whom the applicant is financially indebted, or to whom any financial obligation is owed by the applicant;
- D. The Location at which the applicant will conduct the Bingo Games; and a copy of all deeds, mortgages, or lease agreements to the premises where the proposed bingo games will be conducted.
- E. Day or Days of the week bingo games will be played;
- F. Time of day at which bingo games will be played;
- G. Copy of sign permit issued by the City of Midfield' s Inspection Division if the organization is going to display a sign;
- H. A statement shall be attached to bingo application as to specific purpose to which the entire net proceeds of such bingo games are to be devoted;
- I. A statement that all persons signing the application have received and read a copy of the current City of Midfield Paper Bingo and Video skill Ordinance;
- J. A statement showing the convictions, if any, for criminal offenses, other than minor traffic offenses, of each of the Persons listed in Parts A, B, or C of this Section;
- K. The date of incorporation or other evidence of inception showing existence by the applicant for at least two (2) years;

L. A certified copy of the charter, certificate of incorporation, by-laws, or other evidence of legal existence of the applicant;

M. Where applicable, a copy of the letter ruling or charitable tax-exempt determination letter from the Internal Revenue Service, or other credible proof verifying the charitable tax-exempt status of the applicant or the parent organization of which the same is a qualified branch, chapter, or post;

N. Bingo application fee shall be submitted with said application;

I. Proof that the charitable non-profit charitable organization will have at least 500 bingo machines at the proposed location.

P. A copy of the most recent fire safety inspection report for the premises where the bingo games will be conducted.

Q. Before issuance of a permit all applicants are required to furnish a written consent for background and criminal history check.

No Bingo License or renewal shall be issued to any applicant qualified by this Ordinance unless and until the applicant fully provides the information required hereunder, such being provided in a form and in sufficient detail to satisfy the City Council in the case of an original issuance or the City Clerk in the case of a renewal of its validity and sufficiency. The City Council and/or City Clerk, as applicable, may require any reasonable confirming documentation as to any information required under this Ordinance and shall have a reasonable time to check or confirm by any legal method the accuracy or validity of any information provided hereunder.

Section 8. Constitutional Requirements.

All License Holders and operators of Bingo Games must comply with the following provisions:

A. No Person under the age of 19 shall be permitted to play any game or games of bingo, nor shall any Person under the age of 19 be permitted to conduct or assist in the conduct of any game of bingo;

B. No Bingo License shall be issued to or for the benefit of any charitable nonprofit organization, unless such organization shall have been in existence for at least 24 months immediately prior to the issuance of the license;

C. Bingo Games and Video Skill Games shall be operated only on the premises owned or leased by the charitable nonprofit organization operating the bingo game. If the premises is leased, the rate of rental shall not be based on a percentage of receipts or profits resulting from the operation of Bingo Games;

D. No charitable nonprofit organization shall enter into any contract with any individual, firm, association or corporation to have said individual or entity operate Bingo Games or concessions on behalf of the nonprofit organization, nor shall said nonprofit organization pay consulting fees to any individual or entity for any services performed in relation to the operation or conduct of a bingo game;

E. A charitable nonprofit organization shall not lend its name or allow its identity to be used by any other Person or entity in the operating or advertising of a bingo game in which said nonprofit organization is not directly and solely operating said bingo game;

F. Prizes given by any charitable nonprofit organization for the playing of Bingo and Video Skill Games in Jefferson County shall not exceed the amounts set by local law;

G. No Person or organization, by whatever name or composition thereof, shall take any salary, expense money, or fees as remuneration for services rendered in the operation of any bingo game.

H. Bingo in the City of Midfield is limited to charitable bingo operators.

Section 9. Other Requirements.

All License Holders and operators of Bingo Games must comply with the following provisions:

A. No alcohol shall be served at any Location;

Prior to any Video Skill Game machine being placed into operation each machine shall be required to display a valid sticker, which shall be issued by the City of Midfield. No sticker shall be transferred to another machine unless the initial machine has been taken out of service or transferred out of the location

Section 10. Prizes

Prizes and prize pools shall be determined by the individual license holders.

Section 11. Proceeds of Bingo Games, Disposition.

The entire net proceeds of a bingo game shall be devoted exclusively to the lawful purposes of the License Holder. An item of expense shall not be incurred or paid in connection with the holding, operating, or conducting the bingo except the following bona fide expenses in reasonable amounts:

(a) The purchase or rental of equipment necessary for conducting bingo

and Video Skill Games and payment of services reasonably necessary for the repair of equipment.

- (b) Cash prizes or the purchase of prizes of merchandise.
- (c) Purchase, lease, rental, development, and/or maintenance of the Location at which bingo is conducted.
- (d) Utilities.
- (e) Janitorial services.
- (f) The fee required for issuance or reissuance of a permit to conduct bingo.
- (g) All Net Proceeds of Bingo and Video Skill Games shall be designated and expended for charitable or educational purposes provided, however, that fifteen percent (15%) of such Net Proceeds of Bingo shall be paid to Midfield based charities to be used for charitable or educational purposes within the City of Midfield. The City Council of the City of Midfield shall determine qualified recipients eligible to receive the aforementioned net proceeds. The first business day of the month beginning February 1, 2010 the 15% of the net proceeds going to the qualified non-profit charities shall be distributed to such authority, group, organization, and association, as determined by the City Council of the City of Midfield.

Section 12. Records of License Holders.

All License Holders and operators of Bingo Games must comply with the following provisions:

- A. Each License Holder shall maintain the following records for at least 3 years from the date on which the last bingo game is conducted:
 - 1. An itemized list of the gross receipts for each session.
 - 2. An itemized list of all expenses, other than prizes paid during a Bingo Session, including the name of each Person to whom the expenses are paid and a receipt for all of said expenses. The record shall be open to inspection by a duly authorized officer, agent, or employee of the City at any time. Upon the request of the City or a certified public accountant firm appointed by the City shall examine and conduct a post-audit of a License Holder's records, accounts, and transactions related to the operation of bingo.
- B. On or before April 15th in each year, each License Holder shall file with the City a financial statement of receipts and expenses relating to the operation of Bingo Games in the previous calendar year. Said report shall be in addition to any and all other reports required by law.
- C. The Location at which bingo is being conducted or at which an applicant or License Holder intends to conduct bingo shall be open to inspection at all times by a duly authorized officer, agent, or employee of the City.

Section 13. Fee Proceeds.

All monies collected hereunder shall be paid to the City of Midfield and placed in the City's general fund.

Section 14. Suspension or Revocation of Permits.

The Chief of Police or City Clerk may suspend or revoke any license issued pursuant to this act if the License Holder or any officer, director, agent, member or employee of the License Holder violates this act or rule promulgated hereunder. Appeal to the City Council from an adverse ruling of the Chief of Police or City Clerk shall be available to the License Holder. Alternatively, the City Council may, *sua sponte*, suspend or revoke any license issued pursuant to this act if the License Holder or any officer, director, agent, member or employee of the License Holder violates this act or rule promulgated hereunder. Appeal of any adverse decision rendered by the City Council may be made to the Circuit Court of Jefferson County, Alabama, Bessemer Division, within fourteen days of the adverse decision.

Section 15. Penalties.

It shall be an offense under the laws of the City to commit any act that is deemed a misdemeanor under Alabama Constitution of 1901, Amendment 386, proclaimed ratified September 17, 1980, as amended by Amendment 600, proclaimed ratified December 5, 1996, or to violate any rule or regulation set forth in this Ordinance. Any such offense shall be punishable by a fine of no more than \$500.00, imprisonment in the county jail for no more than six months, forfeiture of any license issued under this Ordinance, prohibition of the offender obtaining a license under this Ordinance for a period of two years after the offender is found guilty, and/or prohibition of the offender serving as an officer or member of a License Holder for a period of two years after the offender is found guilty. Each day shall constitute a separate offense. The penalties provided by this Ordinance shall not apply to the City or any official (elected or appointed), agent, officer, or employee of the City who is administering this Ordinance or otherwise performing its, his, or her official duties.

Section 16. Effect of License.

The License Holder, by accepting a license under the authority of this Ordinance, understands and acknowledges that the various courts of this state have issued different and varying opinions as to the legality of certain bingo operations. The fact that a license has been issued under the authority of this Ordinance shall not be evidence at any judicial proceeding that the City has taken the position that the operation of licensed activities is permitted under the laws of the State of Alabama. In the event that a court of competent jurisdiction determines that a particular bingo game is not permitted, the License Holder agrees by acceptance of the Bingo License that neither the License Holder nor any other Person or entity shall be entitled to a

refund of any license fees or taxes collected by the City under this Ordinance.

Section 17. Repealer.

Any previously adopted ordinances of the City of Midfield, Alabama, or previously adopted provisions of the Code of Ordinances of the City of Midfield, Alabama, regarding bingo are hereby repealed.

Section 18. Content and Display of License

(a) Each bingo permit shall contain the names and addresses of the permit holder, the location at which the permit holder is authorized to conduct bingo games, the days of the week on which the permit holder is authorized to conduct bingo, and the date on which the permit was issued and upon which it expires.

(b) The permit holder shall display the permit conspicuously at the location where the bingo games are being conducted at all times during the conduct of the bingo game

Section 19. Video Skill Game Terminals

(a) In order to be used in the playing of Video Skill Games, the license holder of any Video Skill Game terminal/play stations must provide to the City of Midfield a letter from an independent testing laboratory certifying that the equipment proposed to be used in the playing of Video Skill Games meets the requirements set out in this ordinance. In order to be certified an approved independent testing laboratory to test devices for such device's compliance with this ordinance, such laboratory must be competent and qualified to test such devices and must have been in operation for no less than five years and shall not be owned or controlled by any manufacturer of such devices.

(b) Any leasing company (lessor) of player play station equipment shall be required to pay an annual license of \$250.00.

(c) Chief of Police will conduct random inspections.

Section 20. Effective Date.

That this Ordinance shall become effective upon its adoption and publication as required by law.

Section 21. Severability.

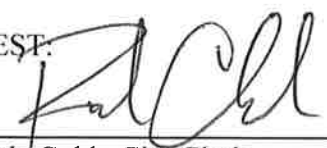
That the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraph and sections, since the same would have been enacted by the City Council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

ADOPTED AND-APPROVED THIS THE 23rd day of December, 2019.



Gary Richardson, Mayor

ATTEST:



Recarda Cobb, City Clerk

CERTIFICATION OF CITY CLERK


STATE OF
ALABAMA

) JEFFERSON COUNTY)

I, Recarda Cobb, City Clerk of the City of Midfield, Alabama, do hereby certify that the above and foregoing is a true and correct copy of an Ordinance duly adopted by the City Council of the City of Midfield, Alabama, on the 23rd day of December, 2019.

The above and foregoing ordinance was published on the day of 2019, by posting copies thereof in three public places within the City of Midfield, one of which was the post office or the Mayor's office in the City of Midfield.

Witness my hand and seal of office this 23rd day of December, 2019.



Recarda Cobb, City Clerk