

Bill No. 4770

Ordinance No. \_\_\_\_\_

Requested by: Steve Ehlmann

Sponsored by: John White

AN ORDINANCE CALLING FOR THE AMENDMENT OF THE CHARTER IN THE FORM OF A PROPOSITION REQUIRING THAT CONSUMERS BE INFORMED OF TAX RATES IN COMMUNITY IMPROVEMENT DISTRICTS WITHIN ST. CHARLES COUNTY ON THE AUGUST 4, 2020, BALLOT

WHEREAS, the St. Charles County Charter, Article II, Section 2.509 (2018) authorizes the County to call elections for any lawful purpose; and

WHEREAS, Article IX, Section 9.100 and Section 9.102 of the Charter of St. Charles County provide that the Charter may be amended by ordinance adopted by the County Council and submitted to the voters at a regular or special election and approved by a majority of those voting on the proposition; and

WHEREAS, Article VI, Section 18(c) of the Constitution of Missouri provides that county charters may provide for the vesting and exercise of legislative power pertaining to any and all services and functions of any municipality or political subdivision, except school districts, throughout the entire county within as well as outside incorporated municipalities; and

WHEREAS, a Community Improvement District (CID) is a separate political subdivision or not-for-profit organization created by municipal ordinance pursuant to state law to fund public improvements or private projects through a

sales or use tax, special assessment, or real property tax that applies within the geographic boundaries of the CID, and that is approved by the owners of the majority of the property within the district; and

WHEREAS, when a CID in St. Charles County approves a sales tax, that tax is paid by everyone purchasing at a business located within the CID, regardless of whether the property on which that business is located benefits directly from the public improvement or private project; and

WHEREAS, St. Charles County residents deserve to be informed if they have to pay a higher sales tax rate at a business located on property directly benefitting from sales tax collected by a CIDs; and

WHEREAS, Residents are generally unaware of the boundaries of CID's in St. Charles County and do not know what sales tax rate they are paying without researching all CID rates and boundaries within St. Charles County, and

WHEREAS, Voters of St. Charles County have a broad interest in protecting consumers by informing them of how CIDs affect the taxes they pay and allowing them to make informed decisions about where they make their purchases.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Should the voters of St. Charles County enact the amendment to the Charter of St. Charles County as set forth herein, then the following shall be enacted as a new Section of the Charter of St. Charles County, Missouri:

A. TITLE

This Section shall be known as the St. Charles County Community Improvement District Consumer Awareness Act.

B. DEFINITIONS

The words and phrases used in this Section shall have the meanings ascribed to them in Section 67.1401, RSMo., as amended.

C. POSTING OF COMMUNITY IMPROVEMENT DISTRICT

(1) Each business collecting sales tax located on property in a Community Improvement District in St. Charles County shall prominently display a sign at least one foot by two feet in size with clearly legible letters not less than three-fourths (3/4) of an inch high stating the rate of the sales tax imposed or increased at that business by the Community Improvement District at all public entrances and point of sale areas. Said sign shall also state the direct benefit, if any, received by the owner of the property on which the business is located.

(2) If the Community Improvement District has an established date on which the additional sales tax imposed or increased will expire, the notice of the sales tax imposed or increased shall state:

This business charges an additional sales tax in the amount of [rate of tax imposed or increased] above the normal state and local sales tax rates because it is part of a “Community Improvement District.” This additional assessment remains in effect until [date].

- (3) If the Community Improvement District does not have an established date on which the additional sales tax imposed or increased will expire, the notice of the sales tax imposed or increased shall state:

This business charges an additional sales tax in the amount of [rate of tax imposed or increased] above the normal state and local sales tax rates because it is part of a “Community Improvement District.” This additional assessment will remain in effect permanently, unless rescinded by the Community Improvement District.

- (4) This Section shall be in effect in the unincorporated area and within incorporated municipalities within St. Charles County. Pursuant to Article VI, Section 18(c), of the Constitution of Missouri, any municipality shall have the authority to enact additional regulations related to notifications for Community Improvement Districts pursuant to independent powers the municipality may have by law, no municipality shall have the

power to grant exceptions or exemptions from the requirement imposed above unless approved by voters as an amendment to the Charter of St. Charles County.

#### D. ENFORCEMENT

- (1) This Section shall be enforced by the Office of the St. Charles County Counselor or an authorized designee.
- (2) In addition to the remedies provided by the provisions of this Section, the Office of the St. Charles County Counselor or any person aggrieved by the failure of the owner, operator, manager or other person in control of a retailer to comply with the provisions of this Section may apply for injunctive relief to enforce those provisions in any court of competent jurisdiction.

#### E. PENALTIES

- (1) A person who owns, manages, operates, or otherwise controls a retail establishment and who fails to comply with the provisions of this Section shall be guilty of an infraction, punishable by:
  - (a) A fine not exceeding one hundred dollars (\$100) for a first violation;
  - (b) A fine not exceeding two hundred dollars (\$200) for a second violation within one (1) year; and

(c) A fine not exceeding five hundred dollars (\$500) for each additional violation within one (1) year.

(2) Each day on which a violation of this Section occurs shall be considered a separate and distinct violation.

F. FINANCING

Enforcement of this Section shall be financed through the general revenues of St. Charles County.

G. SEVERABILITY

If any provision of this Section or the application thereof to anyone or to any circumstance shall be held invalid, the remainder of the provisions of this Section and the application of such provisions to others or other circumstances shall not be affected thereby.

H. EFFECTIVE DATE

The provisions of this Section shall be effective on the date of election certification as provided for by this Charter.

Section 2. The proposition shall be submitted in substantially the following form:

**PROPOSITION COMMUNITY IMPROVEMENT DISTRICT CONSUMER AWARENESS ACT**

**Shall the Charter of St. Charles County be amended to add a new Section which requires any business located on a property within a Community Improvement District whether in the unincorporated area or within an incorporated municipality, in St. Charles County to prominently display the rate of the sales tax imposed or increased at each public entrance and point of sale at that location, and the date until which said sales tax imposed by the Community Improvement District will remain in effect?**

**Enforcement of the prohibition shall be financed through the general revenues of St. Charles County.**

**YES \_\_\_\_\_**

**NO \_\_\_\_\_**

**INSTRUCTIONS TO VOTERS:** If you are in favor of the question, place an “X” in the box opposite “Yes”. If you are opposed to the question, place an “X” in the box opposite “No.”

Section 3. It is hereby directed that this ordinance be forwarded to the St. Charles County Election Authority and that the question of whether the Charter shall be amended as set forth in Section 1 be placed before the qualified voters of St. Charles County at the August 4, 2020, election. The Executive Assistant to the County Council is authorized

to transmit a certified copy of this ordinance to the St. Charles County Election Authority for his information and guidance and to direct him to place the proposition set out in Section 2 on the August 4, 2020 ballot.

Section 4. The Election Authority is authorized and directed to take all necessary steps and execute all necessary documents to implement this ordinance.

Section 5. Prosecution of this ordinance, should the voters approve it at the August 4, 2020 election, shall be the responsibility of the Office of the County Counselor.

Section 6. Following passage and approval, and the approval of at least a majority of the voters of St. Charles County on the August 4, 2020 ballot, the regulatory provisions of this ordinance shall be published at least once in a legal publication or in a newspaper of general circulation in St. Charles County and posted in six public places within St. Charles County, and this ordinance shall be printed and available for distribution to the public in the office of the County Registrar.

Section 7. The County Registrar's Office shall be responsible for publishing this ordinance in accordance with Section 6 of this ordinance. Payment to any publication or newspaper publishing this ordinance shall be from the appropriate line item.

Section 8. This ordinance shall be effective upon passage and approval except that any provisions of the ordinance containing a penalty provision for its violation shall be effective thirty days after its publication in a legal publication or a newspaper of general circulation in St. Charles County and its posting in six public places.



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DATE PASSED

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DATE APPROVED BY COUNTY EXECUTIVE

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CHAIR OF THE COUNCIL

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COUNTY EXECUTIVE

ATTEST:

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COUNTY REGISTRAR