


| | | | |
|---|--------------------------------------|---|--|
|  <p>CITY OF ST. CHARLES ILLINOIS • 1834</p> | AGENDA ITEM EXECUTIVE SUMMARY | | Agenda Item Number: 8b |
| | Title: | Recommendation to approve an Ordinance Amending Ordinance No. 2022-M-17 with Regard to the Deferred Imposition of a Municipal Push Tax on Plays of Video Gaming Terminals | |
| | Presenter: | Heather McGuire, City Administrator | |
| Meeting: Government Operations Committee | | Date: April 17, 2023 | |
| Proposed Cost: \$ | | Budgeted Amount: \$ | Not Budgeted: <input type="checkbox"/> |
| Executive Summary <i>(if not budgeted, please explain):</i> | | | |
| <p>As a reminder, the information below was presented on October 31, 2021, to approve Ordinance 2021-M-45. The original effective date of the Ordinance was set as May 1, 2022; the effective date was extended to October 31, 2022 (Ordinance No. 2022-M-17), then again to May 1, 2023 (Ordinance No. 2022-M-42) to allow appropriate time for some of these issues to develop before the tax is implemented. Since there continues to be a lack of regulatory guidance and pending litigation that creates uncertainty about how the tax may be imposed, this Ordinance defers the implementation of the tax to December 31, 2023.</p> <p>On October 27, 2021, the legislature amended SB 3136 (the “Bill”) to include limiting language regarding municipal “Push Taxes” for Video Gaming Terminals. The amendment stated that “Any home rule municipality that has adopted an ordinance imposing an amusement tax on persons who participate in the playing of video gaming terminals on or before November 1, 2021, may continue to impose such amusement tax pursuant to such ordinance but shall not increase, expand, or extend the tax or tax rate on such persons participating in playing video gaming terminals in excess of that tax or rate set forth in such ordinance and shall not otherwise impose any other tax upon any entity or person identified in subsection (c).” <u><i>As a result, we are required to pass an ordinance imposing such tax prior to November 1st in order to preserve our ability to do so.</i></u></p> <p>The Ordinance is drafted to reflect the intent of passing the tax through to the user of the terminal. It is not intended to be a tax on the Operator or impact the businesses that have Video Gaming Terminals. The Ordinance permits the Operators to determine how to collect the tax from the users. However, because of the condensed timeline with the amendment to and passage of the Bill, we anticipate modifications, rules, and regulations regarding the imposition, collection, and distribution of this tax in the coming months. We will monitor any changes and will bring any issues to City Council for discussion as necessary.</p> <p>In addition, there is pending litigation challenging the “push tax” and its implementation. The outcome of any litigation may affect the City’s ability to implement and collect this tax in the future.</p> | | | |
| Attachments <i>(please list):</i> | | | |
| Ordinance | | | |
| Recommendation/Suggested Action <i>(briefly explain):</i> | | | |
| Recommendation to approve an Ordinance Amending Ordinance No. 2022-M-17 with Regard to the Deferred Imposition of a Municipal Push Tax on Plays of Video Gaming Terminals | | | |

City of St. Charles, IL
Ordinance No. 2023- M- _____

An Ordinance Amending Ordinance No. 2022-M-17
with regard to the Deferred Imposition of a Municipal Push Tax
on Plays of Video Gaming Terminals

WHEREAS, the City of St. Charles, as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970, has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, as amended, regulates the operation, licensing, and administration of video gaming; and

WHEREAS, the City, in accordance with the Illinois Video Gaming Act, regulates video gaming activities within the City; and

WHEREAS, the City, pursuant to Ordinance No. 2021-M-45 (“Push Tax Ordinance”), imposed a tax upon the playing of Video Gaming Terminals within the City (“Municipal Push Tax”); and

WHEREAS, pursuant to the Push Tax Ordinance, due to a lack of regulatory guidance and pending litigation challenging the authority by municipalities to implement a Municipal Push Tax, the commencement of the imposition of the Municipal Push Tax was deferred until May 1, 2023, by Ordinance No. 2022-M-42; and

WHEREAS, the litigation remains pending and unresolved; and

WHEREAS, the Mayor and Council of the City find and determine that it is in the best interest of the City to extend the deferral of the imposition of the Municipal Push Tax to and until December 1, 2023 , to allow for additional time for the resolution of the uncertainty caused by the continued lack of regulatory guidance and pending litigation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES, KANE, AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:

Section 1. The recitals above shall be and are hereby incorporated in this Section 1 as if restated herein.

Section 2. The deferred imposition of the Municipal Push Tax, as defined and provided for in Chapter 3.64 of the St. Charles Municipal Code, entitled “Video Gaming Terminal Municipal Push Tax,” is hereby extended from May 1, 2023, to and until December 1, 2023.

Section 3. Each section, paragraph, clause and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

Section 4. Except as to the Code provision set forth above in this Ordinance, all chapters and sections of the City Code of the City of St. Charles, as amended, shall remain in full force and effect.

Section 5. This Ordinance shall be in full force and effect after passage, approval, and publication as required by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this 17th day of April 2023.

PASSED by the City Council of the City of St. Charles, Illinois, this 17th day of April 2023.

APPROVED by the Mayor of the City of St. Charles, Illinois, this 17th day of April 2023.

Lora A. Vitek, Mayor

ATTEST:

Nancy Garrison, City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain: