

ORDINANCE 2017-51
An Ordinance Adopting a Food and Beverage Tax in Monroe County

SECTION 1. ESTABLISHMENT OF TAX; APPLICATION OF TAX

- (a) Pursuant to the authority granted to the Monroe County Council by the General Assembly of the State, under IC 6-9-41 et.seq., and expressly referencing IC 6-9-41-5(a), there is hereby established a county food and beverage tax to be imposed upon any transaction in which food or beverage is furnished, prepared or served:
 - (1) for consumption at a location, or on equipment provided by a retail merchant;
 - (2) within Monroe County; and
 - (3) by a retail merchant for consideration.

- (b) The transactions described in subsection A of this section include transactions in which food or beverage is:
 - (1) served by a retail merchant off the merchant's premises;
 - (2) food sold in a heated state or heated by a retail merchant;
 - (3) two (2) or more food ingredients mixed or combined by a retail merchant for sale as a single item (other than food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses); or
 - (4) food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food).

- (c) The county food and beverage tax does not apply to the furnishing, preparing or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

- (d) **APPLICATION OF TAX.** The tax imposed by this ordinance applies to transactions that occur after the last day of the month that succeeds the month in which the ordinance codified in this chapter is adopted.

SECTION 2. RATE OF TAX

The county food and beverage tax imposed on a food or beverage transaction described in Section 1 above equals one percent (1%) of the gross retail income received by the merchant from the transaction. For the purposes of this ordinance the gross retail income received by the retail merchant from the transaction does not include the amount of tax imposed on the transaction under IC 6-2.5.

SECTION 3. COLLECTION OF TAX; DISTRIBUTION BY THE STATE

- (a) Pursuant to IC 6-9-41-8, the tax imposed by this ordinance shall be imposed, paid and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.
- (b) Pursuant to IC 6-9-41-10, the amounts received from the county food and beverage tax imposed under this ordinance shall be paid monthly by the Treasurer of the State to the County Treasurer upon warrants issued by the Auditor of the State.

SECTION 4. ESTABLISHMENT OF NON-REVERTING FUND TO HOLD FOOD AND BEVERAGE TAX RECEIPTS

- (a) Monroe County Fund
 - (1) The County Treasurer shall establish a Food and Beverage Tax Receipts Fund, which shall be a non-reverting fund (the "Tax Receipts Fund").
 - (2) The County Treasurer shall deposit in the Tax Receipts Fund the revenues allocated to the county pursuant to Section 5(a)(1) below.
 - (3) Any money earned from the investment of money in the Tax Receipts Fund becomes part of the Tax Receipts Fund.
 - (4) Money in the Fund at the end of the county fiscal year does not revert to the county general fund.
 - (5) Following establishment of the Tax Receipts Fund, the Monroe County Auditor shall inform the Controller of the City of Bloomington that the Tax Receipts Fund has been established, and request to be informed at such time as the City of Bloomington performs its duty under IC 6-9-41-12 to establish a similar fund for the City of Bloomington.
- (b) City of Bloomington Food and Beverage Fund (Pursuant to IC 6-9-41-12). Following the establishment of the Monroe County Food and Beverage Tax Receipts Fund, the County Auditor shall inform the City Controller that said action has been completed, and request that the City Controller provide notice to the County Auditor when the City of Bloomington Food and Beverage Fund has been established, pursuant to IC 6-9-41-12.
- (c) Monroe County Food and Beverage Fund. Following the establishment of the Tax Receipts Fund, the County Auditor shall establish the Monroe County Food and Beverage Fund, a non-reverting fund for revenue deriving from tax receipts collected in part of the county that is outside the city.

SECTION 5. ALLOCATION OF FOOD AND BEVERAGE TAXES BETWEEN MONROE COUNTY AND CITY OF BLOOMINGTON

- (a) Each month, the County Auditor shall distribute the county food and beverage tax revenue received by the County Treasurer between the City of Bloomington and the County according to the location where the county food and beverage tax was collected. If the Food and Beverage tax was collected in the City of Bloomington, the City must

receive the revenue. If the Food and Beverage tax was collected in the part of the county that is outside the city, the County must receive the revenue.

- (b) Distribution of the food and beverage tax revenue to the City of Bloomington must be on warrants issued by the County Auditor.

SECTION 6. COUNTY FOOD AND BEVERAGE TAX RECEIPTS FUND; USE OF FUND

The County's share of county food and beverage tax revenue deposited in the county Food and Beverage Tax Receipts Fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

SECTION 7. CITY OF BLOOMINGTON FOOD AND BEVERAGE TAX RECEIPTS FUND; USE OF FUND

Money deposited in the City of Bloomington Food and Beverage Tax Receipts Fund may be used only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.

SECTION 8. ADVISORY COMMISSION

- (a) In order to coordinate and assist efforts of the County and City of Bloomington fiscal bodies regarding the utilization of food and beverage tax receipts, an advisory commission shall be established and be composed of the following individuals:
 - (1) Three (3) members shall be owners of retail facilities that sell food or beverages subject to the county food and beverage tax imposed under this ordinance appointed jointly by the City and County executive.
 - (2) The president of the county executive.
 - (3) A member of the county fiscal body appointed by the members of the county fiscal body.
 - (4) The city executive.
 - (5) A member of the city legislative body appointed by the members of the city legislative body.
- (b) The County and City legislative bodies must request the advisory commission's recommendations concerning the expenditure of any food and beverage tax funds collected under this ordinance. The County or City legislative body may not adopt any ordinance or resolution requiring the expenditure of food and beverage tax collected under this ordinance without the approval, in writing, of a majority of the members of the advisory commission.


SECTION 9. ANNUAL REPORTING


The Advisory Committee is to make a formal annual report to the County Council in February of all projects on which the Food and Beverage Tax has been spent or is planned to be spent.

Presented to the Monroe County Council of Indiana, read in full and adopted this **12th day of December, 2017.**

COUNTY COUNCIL OF MONROE COUNTY, INDIANA

Aye



Ryan Cobine, President

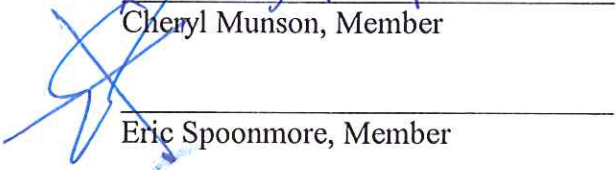

Shelli Yoder, President Pro Tempore

Marty Hawk, Member

Lee Jones, Member


Geoff McKim, Member

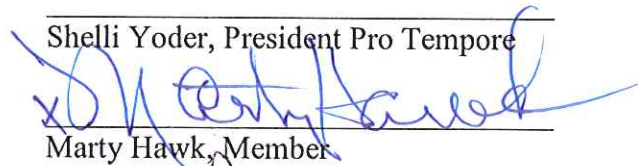

Cheryl Munson, Member

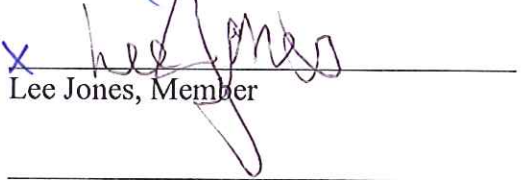

Eric Spoonmore, Member

Nay

Ryan Cobine, President

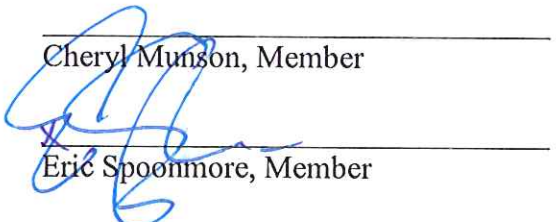
Shelli Yoder, President Pro Tempore


Marty Hawk, Member

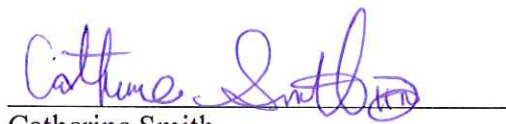

Lee Jones, Member

Geoff McKim, Member

Cheryl Munson, Member


Eric Spoonmore, Member

Attest:


Catherine Smith
Monroe County Auditor