

## An Ordinance to Sunset the Food and Beverage Tax in Monroe County

**WHEREAS**, pursuant to the authority granted to the Monroe County Council ("Council") by the General Assembly of the State of Indiana, under IC 6-9-41 et seq., the Council, in a divided 4-3 vote, passed Ordinance 2017-51, An Ordinance Adopting a Food and Beverage Tax in Monroe County ("Tax"); and

**WHEREAS**, the Council relied upon a pledge of cooperation, as needed, from the City of Bloomington Common Council ("City Council") and an agreement from City of Bloomington Mayor John Hamilton ("Mayor Hamilton") to collaborate with the County on a project to expand the Convention Center for the benefit of the County, the City, their collective residents and the surrounding region; and

**WHEREAS**, on December 13, 2017, in an effort to encourage the Council to adopt the Tax, Mayor Hamilton described the project as a "joint project" and specifically stated his "commitment to work closely with the County", recognizing that every resident of the City was also a resident of the County; and

**WHEREAS**, the City and County executives have been unable to agree upon a mutually-beneficial, and agreeable financial and administrative structure, which will accurately reflect both the County's significant history, investment, and continued commitment to the Convention Center and the City's more recent interest and ability to fund the expansion of the Convention Center ("Expansion Project") because of the Council's imposition of the Tax; and

**WHEREAS**, the Tax has been in place for nearly two years without such an agreement, and the lack of an agreement upon the proper financial and administrative structure is, in-fact, delaying the Expansion Project; and

**WHEREAS**, the Council is firmly and steadfastly committed to a truly collaborative City-County project for the Convention Center's expansion, and the City Council also confirmed its commitment to equal representation and partnership at a meeting of elected officials on November 21, 2019; and

**WHEREAS**, in order to be publicly accountable and good stewards of the tax revenues - all of which have been and are authorized by Council action - the Council insists that a financial and administrative structure for the joint Expansion project be created and agreed upon, which combines the significant taxes, land, and buildings pledged by the City and County; provides for absolute public transparency, financial and fiscal security; and incorporates equal representation of appointments by City and County to the governance structure; and

**WHEREAS**, the Council supports the proposal of the Monroe County Board of Commissioners ("Commissioners") to create a CIB (Indiana Code 36-10-8 et seq.) which reflects that the Expansion Project is a joint project and that both the City and County are essential to the Expansion Project, and which further balances the appointments to the CIB by the County and the City; and

**WHEREAS**, given the two-year history of negotiations, it is clear that the Council must set a deadline by which the City and County must reach agreement, because the Council refuses to unnecessarily tax individuals; and

**WHEREAS**, the action most fiscally prudent and responsible to taxpayers is to SUNSET the Tax if the Mayor of Bloomington and the Monroe County Board of Commissioners cannot agree to act bilaterally – which means to negotiate contracts together and each approve all contracts for the Expansion Project. There is no need to continue to unnecessarily impose and collect a tax, because revenues were not intended to be spent without bilateral action and agreement between the City and County.

**NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED BY THE MONROE COUNTY COUNCIL, AS FOLLOWS:**

Section 1. Given that the Food and Beverage Tax was enacted principally to allow a joint City-County project to expand the Convention Center, the Council believes it is inappropriate and irresponsible to allow Food and Beverage Tax revenue to continue to be imposed, collected, and expended if bilateral action is not taken by both the City and County; and

Section 2. The County Council, therefore, expects the Mayor of Bloomington (“Mayor”) and the Monroe County Board of Commissioners (“Commissioners”) to bilaterally negotiate and execute any and all agreements for the Convention Center Expansion Project (“Expansion Project”) until a governance structure is agreed to by the City and County and ready to assume control. Thereafter, the governance structure shall negotiate and execute all agreements for the Expansion Project; and

Section 3. The Monroe County Food and Beverage Tax (“Tax”) imposed by the Council pursuant to Indiana Code 6-9-41-8 and authorized by *Ordinance 2017-51* was intended to be and shall be contingent upon the Mayor and the Commissioners negotiating and executing any and all agreements for the Expansion Project together, collaboratively, and bilaterally; and

Section 4. The Tax shall be rescinded and shall cease to be imposed, paid, or collected in Monroe County if the Mayor or the Commissioners sign any contract for the Expansion Project, for design or otherwise, alone or without collaboratively negotiating and securing the agreement and formal approval of the other; and

Section 5. The Council intends this to be retroactive to November 1, 2019. If unilateral action is determined to have been taken by the Mayor or the Commissioners from November 1, 2019 forward, then the Council orders that the TAX shall SUNSET and shall cease to be imposed, paid, or collected in Monroe County. The Council shall send evidence of the unilateral action to the Department of Revenue (“DOR”) with the Council’s finding that unilateral action was taken. In that case, the SUNSET shall be effective on the first day of the month following the date the Council’s finding was submitted to the DOR; and

Section 6. The Council ORDERS that the Council shall cause a copy of this Ordinance to be published and sent to the Indiana Department of Revenue (“DOR”), so that the DOR is aware of the Council’s action and intent to make the imposition, payment, and collection of the Tax contingent upon bilateral action, and to ensure that the DOR takes any and all steps necessary to effectuate the Council’s intent in this Ordinance; and

Section 7. The Council reiterates its firm commitment to the development of the Expansion Project, for the value it will provide to economic development throughout the entirety of Monroe County, and vows to work with the City to develop a responsible and mutually-beneficial and agreeable financial and administrative structure, which must be publicly agreed upon, created, and fully-executed in a transparent process by both the City and County. It is the Council’s desire that the agreed-upon governance body determine the ideal site (north vs. east) and oversee design of the Expansion Project; and

Section 8. The Council is grateful for and supports the commitment made on November, 21, 2019, by the City Council to provide equal appointments to the governance structure, and the Mayor's assurance that the County will be an equal partner in the Expansion project, as these commitments recognize the reality that the City and County are equally necessary for the Expansion Project to succeed. Without either party, the Expansion Project may not proceed; therefore, both the City and County must share authority and respect and honor their shared contributions. We honor and encourage that cooperative spirit with this fiscally-responsible Ordinance.

Section 9. It is the intent of the Monroe County Council that the Monroe County Food and Beverage Tax shall SUNSET and may not be imposed, paid, or collected IF any agreement, contract, or expenditure is executed after November 1, 2019, which was not negotiated and agreed to by both the Mayor and the Commissioners.

**Presented to the Monroe County Council of Indiana, read in full, and adopted this \_\_\_\_ day of \_\_\_\_\_, 2019.**

**"AYES"**

**"NAYS"**

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Eric Spoonmore, President

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Eric Spoonmore, President

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Kate Wiltz, President Pro Tempore

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Trent Deckard, Member

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Marty Hawk, Member

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Geoff McKim, Member

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Cheryl Munson, Member

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Peter Iversen, Member

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Peter Iversen, Member

Attest:

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Catherine Smith  
Monroe County Auditor