

**AN ORDINANCE ADOPTING A ONE PERCENT (1%) FOOD AND BEVERAGE TAX**

WHEREAS, the Indiana Legislature has adopted legislation allowing the City of Attica (“Attica”) to adopt a food and beverage tax applicable to certain food and beverage items within its municipal boundaries (“Food and Beverage Tax”);

WHEREAS, pursuant to Ind. Code §6-9-49-3, the Common Council for the City of Attica is required to hold a separate public hearing where the Food and Beverage Tax is the only substantive issue on the agenda prior to adopting the Food and Beverage Tax;

WHEREAS, the Common Council for the City of Attica has complied with Ind. Code §6-9-49-3 by holding a separate public hearing where the Food and Beverage Tax was the only substantive issue on the agenda; and

WHEREAS, to fund revitalization projects in the City, including repurposing of buildings and the City’s main street program, Attica now desires to adopt the Food and Beverage Tax.

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF ATTICA THAT:

- (1) The above recitals are incorporated herein by reference.
- (2) Pursuant to Ind. Code §6-9-49 *et seq.*, the Common Council for the City of Attica (“Council”) hereby adopts a Food and Beverage Tax that shall be one percent (1%) of the gross retail income received by the merchant from the food or beverage transactions described in Sections 4 and 5 of this Ordinance.
- (3) The Food and Beverage Tax is hereby adopted after the Council held a duly noticed public hearing where the Food and Beverage Tax was the only substantive agenda item.
- (4) Pursuant to Ind. Code §6-9-49-4, the Food and Beverage Tax shall apply to a transaction in which food or beverage is furnished, prepared or served:
  - a. for consumption at a location or on equipment provided by a retail merchant;
  - b. in the City of Attica; and
  - c. by a retail merchant for consideration (“Transactions”).
- (5) For purposes of this Ordinance and consistent with Ind. Code §6-9-49-4(b), Transactions shall include those where food or beverage is:
  - a. served by a retail merchant off the merchant’s premises;
  - b. food sold in a heated state or heated by a retail merchant;

- c. made of 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, prepackaged, 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 illness); or
- d. food sold with eating utensils provided by a retail merchant, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this Section, a plate does not include a container or package used to transport the food).

(6) The Food and Beverage Tax shall not apply to the furnishing, preparation, or serving of a food or beverage in a transaction that is exempt, or to the extent the transaction is exempt, from the state gross retail tax imposed by Ind. Code 6-2.5.

(7) The Food and Beverage Tax shall be applicable to the Transactions effective October 31, 2019.

(8) Pursuant to Ind. Code §6-9-49-6, the Food and Beverage Tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected pursuant to Ind. Code 6-2.5.

(9) Pursuant to Ind. Code §6-9-49-8, the Attica Clerk-Treasurer shall establish a fund known as the "Food and Beverage Tax Receipts Fund" and deposit all Food and Beverage Tax revenue received from the Indiana State Treasurer into the Food and Beverage Tax Receipts Fund.

(10) Money earned from the investment of money in the Food and Beverage Tax Receipts Fund shall become a part of the Fund.

(11) Food and Beverage Tax revenue shall only be used for the following purposes:

- a. revitalization projects in the City, including repurposing of buildings and the City's main street program; and
- b. for economic development purposes, including the pledge of money under Ind. Code §5-1-14-4 for bonds, leases, or other obligations for economic development purposes.

(12) Any Ordinances or parts thereof in conflict herewith are hereby repealed.

(13) This Ordinance shall be in full force and effect from and upon its adoption in accordance with the law.


(14) The meeting at which this Ordinance is being considered and approved has been properly noticed pursuant to Ind. Code §5-3-1 *et seq.*

(15) Pursuant to Ind. Code §6-9-49-3(b) a certified copy of this Ordinance shall be immediately sent to the Indiana Department of Revenue.

ADOPTED by the Common Council of the City of Attica, Indiana on this 12  
day of August, 2019.

This Ordinance was passed and adopted by the Common Council on August 12, 2019, by a vote of 4 yes and 0 nay.

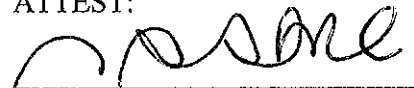
  
Sponsoring Council Member

  
Duane Rodefick, Mayor

ATTEST:

  
Susan Stoll, Clerk-Treasurer

ATTEST:

  
Susan Stoll, Clerk-Treasurer