

# TOWN OF DANVILLE

## Town Council Agenda

July 1, 2019

7:00 PM

- I. Establish Quorum, Call Meeting to Order**
- II. Pledge of Allegiance**
- III. Approval of Minutes**
- IV. Public Meeting**

- A. Food and Beverage Tax 12-2019
- B. Decision on Public Works Building

- V. Public Comment – 3 minutes/person**
- VI. Claim Docket**
- VII. Adjournment**

**NOTICE:** The public meetings of the Danville Town Council conducted within these chambers shall be video recorded. Said recording will be part of the public records of the Town of Danville and shall be published upon the Town of Danville's website for public access. All individuals attending public meetings hereby give to the Town of Danville, their permission for said publication, which may contain their image or statements.

Online Town Council Packet: <https://www.danvilleindiana.org/egov/apps/document/center.egov>

## TOPIC SUMMARY

- A. Food and Beverage Tax Ordinance (12-2019)** – Town Council President will be presenting for final reading and adoption ~ *requires council vote for adoption.*
- B. Decision of Public Works Building -** Council is being requested to have a discussion about whether to continue to pursue the Electric Plus building on Lincoln street or to allow the Clerk-treasurer to re-allocate the funds to original line items ~ *request consensus.*

*-Italicized items are for action needed*

## ORDINANCE NO. 12- 2019

### AN ORDINANCE ADOPTING A 1% FOOD AND BEVERAGE TAX

WHEREAS, the Indiana legislature has adopted legislation allowing the Town of Danville ("Danville") 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 § 6-9-50-3, the Danville Town Council 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 Danville Town Council has complied with Ind. Code § 6-9-50-3 by holding a separate public hearing where the Food and Beverage Tax was the only substantive issue on the agenda; and

WHEREAS, to encourage and support tourism by improving parks, trails, sidewalks, streets, and parking, Danville now desires to adopt the Food and Beverage Tax.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DANVILLE, INDIANA, THAT:

(1) The above recitals are incorporated herein by reference.

(2) Pursuant to Ind. Code § 6-9-50 *et seq.*, the Danville Town Council ("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 § 6-9-50-4, 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 Town of Danville; and
- c. by a retail merchant for consideration ("Transactions").

(5) For purposes of this Ordinance and consistent with Ind. Code § 6-9-50-4(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, 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

- 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, preparing, 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 September 1, 2019.

(8) Pursuant to Ind. Code § 6-9-50-6, 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 § 6-9-50-8, the Danville 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. Parks, trails, and sidewalk, street, and parking improvements to support tourism in the Town of Danville; 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 § 6-9-50-3(b), a certified copy of this Ordinance shall be immediately sent to the Indiana Department of Revenue.

ADOPTED by the Town Council of the Town of Danville, Indiana, on this \_\_\_\_\_ day  
of \_\_\_\_\_, 2019.

DANVILLE TOWN COUNCIL

FOR:

AGAINST:

_____	Mike Neilson	_____
_____	Tom Pado	_____
_____	Chris Gearld	_____
_____	Jim Phillips	_____
_____	Dennis Wynn	_____

ATTEST:

\_\_\_\_\_  
Jennifer Pearcy, Clerk-Treasurer

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_____	Chris Gearld	_____
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ATTEST:

\_\_\_\_\_

Jennifer Percy, Clerk-Treasurer