

Chapter 62

TAXATION*

* **Charter References:** Bonded indebtedness, §§ 17, 30; capitation tax, § 27.

Cross References: Any ordinance or resolution promising or guaranteeing the payment of money for the town, authorizing the issue of any bonds of the town, any evidence of the town's indebtedness or any contract or obligation assumed by the town, § 1-17(3); any ordinance consistent with this Code levying or imposing taxes, fees or other charges saved from, § 1-17(6); administration, ch. 2; finance, § 2-206 et seq.; businesses, ch. 18.

State Law References: Municipal taxes and assessments, Code of Virginia, § 15.2-1104; taxation generally, Code of Virginia, § 58.1-1 et seq.; priority of taxes in distribution of assets of person or corporation, Code of Virginia, § 58.1-6 et seq.; Setoff Debt Collection Act, Code of Virginia, § 58.1-520 et seq.; local sales and use taxes, Code of Virginia, § 58.1-605 et seq.; local bank franchise tax, Code of Virginia, § 58.1-1208 et seq.; local taxes generally, Code of Virginia, § 58.1-3000 et seq.; town tax levies, Code of Virginia, § 58.1-3005; enforcement, collection, refunds, remedies and review of local taxes, Code of Virginia, § 58.1-3900 et seq.

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ARTICLE I.

IN GENERAL

Secs. 62-1--62-25. Reserved.

ARTICLE II.

PROPERTY TAXES

Sec. 62-26. Assessment of taxable property.

(a) All taxable real estate and tangible personal property shall be assessed as of January 1 of each year.

(b) In ascertaining what personal property is to be listed for taxation, who is to list the property, and when and how it is to be listed, the laws of the commonwealth shall be followed.

(Ord. of 12-20-1996, § 7-30)

Sec. 62-27. Lists of valuation furnished and returned to treasurer.

The treasurer shall furnish to each person forms for lists of valuations as provided for by state laws, who shall, within the time and in the manner therein specified, make out and deliver to the treasurer sworn statements of all personal estate, monies, contracts and credits which such person is required by the state laws to list. The form of oath shall be the same as is prescribed by state law, and the treasurer and his deputies shall have power to administer the oath.

(Ord. of 12-20-1996, § 7-31)

Sec. 62-28. Revaluation of property.

If the treasurer is not satisfied with the taxpayer's valuation of property, he may, upon his own view or such information as he may obtain or possess, adopt what he deems a fair and proper valuation thereof, provided that where it is practicable he shall give an opportunity to the taxpayer to be heard before his books are returned as provided in this article.

(Ord. of 12-20-1996, § 7-32)

Sec. 62-29. Reserved.

Editors Note: An ordinance of December 11, 2007, repealed former § 62-29 in its entirety. Former § 62-29 pertained to proration of personal property tax and derived from an ordinance of December 20, 1996.

Sec. 62-30. Payment.

The payment of taxes on real estate and tangible personal property shall be due on June 5 and December 5 of each year.

(Ord. of 12-20-1996, § 7-34)

Sec. 62-31. Penalties.

The penalties for any person who fails to pay the tax levies made pursuant to this article shall be as provided in Code of Virginia, § 58.1-3916, inclusive of attorney's fees as therein provided, which is hereby adopted in its entirety and incorporated by this reference as though fully set forth in this section in its entirety.

(Ord. of 12-20-1996, § 7-35)

Sec. 62-32. Penalties and interest for payment of delinquent real estate and tangible personal property taxes.

(a) Interest shall commence on the first day following the day real estate and tangible personal property taxes are due at the rate of ten percent per year. The penalty for failure to pay real estate and tangible personal property taxes shall be ten percent of the amount of the tax past due on such property or the sum of \$10.00, whichever is greater; provided, however, that such penalties shall not exceed the amount of tax due. The penalty for failure to file a tax return shall be ten percent of the tax assessable on such return or \$10.00, whichever is greater; provided, however, that the penalty shall not exceed the amount of the tax assessable. The penalty to file an application or return for such tax may be assessed on the day after such return or application is due, and the penalty for failure to pay any tax may be assessed on the day after the first installment is due. Any such penalty when so assessed shall become a part of the tax.

(b) The town council or treasurer may grant a reasonable extension of time, not to exceed 90 days, for the payment of real estate taxes and for filing returns on tangible personal property and the business, professional, and occupational license tax, whenever good cause exists. The official granting such extensions shall keep a record of every such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his return within the extended time, his case shall be treated the same as if no extension had been granted.

(c) Any person failing to pay the tax levies made pursuant to this article on or before June 5 or December 5, as required, shall incur the penalties set forth in this article.

(Code 1992, § 7-2; Ord. of 12-20-1996, § 7-2)

State Law References: Penalties, interest, etc., Code of Virginia, § 58.1-3916.

Sec. 62-33. Purpose; definitions; relation to other ordinances.

(a) The purpose of sections 62-33--62-36 is to provide for the implementation of the changes to PPTRA affected by legislation adopted during the 2004 Special Session I and the 2005 Regular Session of the General Assembly of Virginia.

(b) Terms used in sections 62-33--62-36 that have defined meanings set forth in PPTRA shall have the same meanings as set forth in Va. Code § 58.1-3523, as amended.

(c) To the extent that the provisions of sections 62-33--62-36 conflict with any prior ordinance or provision of the Shenandoah Town Code, sections 62-33--62-36 shall control.

(Ord. of 12-29-2005)

Sec. 62-34. Method of computing and reflecting tax relief.

(a) For tax years commencing in 2006, the town adopts the provisions of item 503.E of the 2005 Appropriations Act, providing for the computation of tax relief as a specific dollar amount to be offset against the total taxes that would otherwise be due but for PPTRA and the reporting of such specific dollar relief on the tax bill.

(b) The council shall, by resolution, set the rate of tax relief at such a level that it is anticipated fully to exhaust PPTRA relief funds provided to the town by the commonwealth.

(c) Personal property tax bills shall set forth on their face the specific dollar amount of relief credited with respect to each qualifying vehicle, together with an explanation of the general manner in which relief is allocated.

(Ord. of 12-29-2005)

Sec. 62-35. Allocation of relief among taxpayers.

(a) Allocation of PPTRA relief shall be provided in accordance with the general provisions of this section, as implemented by the specific provisions of the town's annual budget relating to PPTRA relief.

(b) Relief shall be allocated in such as manner as to eliminate personal property taxation of each qualifying vehicle with an assessed value of \$1,000.00 or less.

(c) Relief with respect to qualifying vehicles with assessed values of more than \$1,000.00 shall be provided at a rate, annually fixed in the town budget and applied to the first \$20,000.00 in value of each such qualifying vehicle, that is estimated fully to use all available state PPTRA relief. The rate shall be established annually as a part of the adopted budget for the town.

(Ord. of 12-29-2005)

Sec. 62-36. Transitional provisions.

(a) Pursuant to authority conferred in item 503.D of the 2005 Appropriations Act,

unless the assessment is determined to be of no fault of the taxpayer, the town treasurer is authorized to issue a supplemental personal property tax bill, in the amount of 100 percent of tax due without regard to any former entitlement to state PPTRA relief, plus applicable penalties and interest, to any taxpayer whose taxes with respect to a qualifying vehicle for tax year 2005 or any prior tax year remain unpaid on September 1, 2006, or such date as state funds for reimbursement of the state share of such bill have become unavailable, whichever earlier occurs.

(b) Penalty and interest with respect to bills issued pursuant to subsection (a) of this section shall be computed on the entire amount of tax owed. Interest shall be computed at the rate provided in section 62-32 from the original due date of the tax.

(Ord. of 12-29-2005)

Secs. 62-37--62-60. Reserved.

ARTICLE III.

CONSUMER UTILITY TAXES*

* **Cross References:** Utilities, ch. 74.

State Law References: Consumer utility taxes, Code of Virginia, § 58.1-3812 et seq.

DIVISION 1.

GENERALLY

Secs. 62-61--62-85. Reserved.

DIVISION 2.

TELEPHONE SERVICE

Sec. 62-86. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial user and *industrial user* mean the owner or tenant of property used for commercial or industrial purposes, including the owner of master-metered apartment buildings, who pays for utilities service for such property, except that with respect to local telephone service, such term includes any person furnished service classified as "business" under tariffs filed with the state corporation commission.

Purchaser means every person who purchases a utility service.

Residential user means the owner or tenant of private residential property or a tenant of an apartment who pays for utility service in or for such property.

Seller means every person, whether a public service corporation, political subdivision within the town or private corporation, who sells or furnishes a utility service.

Utility service means local exchange telephone service, excluding long distance messages.

(Code 1992, § 7-21)

Cross References: Definitions generally, § 1-2.

Sec. 62-87. Levied; rates.

There is hereby imposed and levied by the town, upon each and every purchaser of a utility service, a tax in the following amounts:

(1) *Residential user.* The tax shall be ten percent of the first \$15.00 of the charge, exclusive of any federal tax, made by the seller against the purchaser with respect to each utility service. On the amount of charge in excess of \$15.00, there shall be no tax computed.

(2) *Commercial or industrial user.* The tax shall be ten percent of the first \$15.00 of the charge, exclusive of any federal tax, made by the seller against the purchaser with respect to each utility service. There shall be no tax computed on the amount of charge in excess of \$15.00.

(Code 1992, § 7-22)

Sec. 62-88. Bills.

Utility bills shall be considered monthly bills if submitted 12 times annually for a period of approximately one month or any portion thereof. If bills are submitted by any seller for more

than one month's utility service, the amount of such bill included in computing the tax shall be the net charges allowed in this division multiplied by the number of months for which such bill is submitted.

(Code 1992, § 7-23)

Sec. 62-89. Duties of seller generally.

(a) It shall be the duty of every seller, in acting as the tax collecting medium or agency for the town, to collect from the purchaser for the use of the town the tax imposed and levied by this division at the time of collecting the purchase price charged therefor. The taxes collected during each calendar month shall be reported by each seller to the town treasurer, and, simultaneously, each seller shall remit the amount of tax shown by such report to have been collected to the town treasurer on or before the last day of the second calendar month thereafter, together with the name and address of any purchaser who has refused to pay his tax. The required reports shall be in the form prescribed by the town treasurer.

(b) Each and every seller shall keep complete records showing all purchases in the town, which records shall show the price charged against each purchaser with respect to each purchase, the date thereof, the date of payment thereof and the amount of tax imposed pursuant to this division. Such record shall be kept open for inspection by the duly authorized town agents at reasonable times. The duly authorized town agents shall have the right, power and authority to make such transcripts during such times as they may desire.

(c) When the seller collects the price for utility services other than on a monthly basis, the tax imposed and levied by this division may be computed on the aggregate amount of purchases during the period billed for, provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed, multiplied by the number of months or portion thereof covered by the bill.

(Code 1992, § 7-24)

Sec. 62-90. Exemptions and exceptions.

(a) The tax imposed and levied by this division on purchasers with respect to telephone service shall apply to all charges made for local telephone exchange service, except local messages which are paid for by inserting coins in coin-operated telephones.

(b) The United States of America, the state, and the political subdivisions, boards, commissions and authorities thereof are hereby exempted from the payment of the tax imposed and levied by this division with respect to the purchaser of utility services used by such governmental agencies.

(Code 1992, § 7-25)

Sec. 62-91. Use of revenues.

Revenues derived from taxes imposed or levied by this division shall be used for town government functions.

(Code 1992, § 7-26)

Sec. 62-92. Penalties.

Any purchaser failing, refusing or neglecting to pay the tax imposed or levied by this division, any seller violating this division, and any officer, agent or employee of any seller violating this division shall be guilty of a class 3 misdemeanor for taxes of \$1,000.00 or less, and a class 1 misdemeanor for taxes greater than \$1,000.00, as provided in Code of Virginia, § 58.1-3916.1. Each failure, refusal, neglect or violation and each day's continuance thereof shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of such tax as provided by this division.

(Code 1992, § 7-27)

Secs. 62-93--62-120. Reserved.

DIVISION 3.

ELECTRICAL AND NATURAL GAS SERVICE*

* **Cross References:** Utilities, ch. 74.

Sec. 62-121. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CCF means the volume of gas at standard pressure and temperature in units of 100 cubic feet.

Consumer means every person who, individually or through agents, employees, officers, representatives or permittees, makes a taxable purchase of electricity or natural gas services in this jurisdiction.

Gas utility means a public utility authorized to furnish natural gas service in the state.

Kilowatt hours (kwh) delivered means 1,000 watts of electricity delivered in a one-hour period by an electric provider to an actual consumer, except that for eligible customer-generators (sometimes called cogenerators) as defined in Code of Virginia, § 56-594, it means kwh supplied from the electric grid to such customer-generators, minus the kwh generated and fed back to the electric grid by such customer-generators.

Pipeline distribution company means a person, other than a pipeline transmission company, which transmits, by means of a pipeline, natural gas, manufactured gas or crude petroleum and the products or byproducts thereof to a purchaser for purposes of furnishing heat or light.

Residential consumer means the owner or tenant of property used primarily for residential purposes, including but not limited to apartment houses and other multiple-family dwellings.

Service provider means a person who delivers electricity to a consumer or a gas utility or pipeline distribution company which delivers natural gas to a consumer.

Used primarily relates to the larger portion of the use for which electric or natural gas utility service is furnished.

(Ord. of 10-10-2000(2), § A)

Cross References: Definitions generally, § 1-2.

Sec. 62-122. Electric utility consumer tax.

(a) *Levied.* In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of electricity delivered to consumers by a service provider, classified as determined by such provider, as follows:

(1) *Residential consumers.* Such tax shall be at a minimum of \$1.50 or \$0.00144 on each kwh delivered monthly, whichever is the greater amount, to residential consumers by a service provider, not to exceed \$3.00 monthly.

(2) *Nonresidential consumers.* Such tax on nonresidential consumers shall be at the rates per month for the classes of nonresidential consumers as follows:

a. *Commercial consumers.* Such tax shall be at a minimum of \$1.50 or \$0.00039 on each kwh delivered monthly, whichever is the greater amount, to commercial consumers.

b. *Industrial consumers.* Such tax shall be at a minimum of \$1.50 or \$0.00003 on each kwh delivered monthly, whichever is the greater amount, to industrial consumers.

(b) *Exemptions.* The following consumers of electricity are exempt from the tax imposed by this section:

(1) Any public safety agency as defined in Code of Virginia, § 58.1-3813.

(2) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *Billing, collection and remittance.* The service provider shall bill the electricity consumer tax to all users who are subject to the tax and to whom it delivers electricity and shall remit the tax to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Code of Virginia, §§ 58.1-3814(F) and (G) and 58.1-2901. If any consumer receives and pays for electricity but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and,

upon collection of the bill or any part thereof, must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this section if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly (approximately 60 days) bill shall be determined as follows:

(1) The kwh will be divided by two.

(2) A monthly tax will be calculated using the rates set forth in subsection (a) of this section.

(3) The tax determined by subsection (d)(2) of this section shall be multiplied by two.

(4) The tax in subsection (d)(3) of this section may not exceed twice the monthly maximum tax.

(Ord. of 10-10-2000(2), § B)

Sec. 62-123. Local natural gas utility consumer tax.

(a) *Levied.* In accordance with Code of Virginia, § 58.1-3814, there is hereby imposed and levied a monthly tax on each purchase of natural gas delivered to consumers by pipeline distribution companies and gas utilities classified by "class of consumers" as such term is defined in Code of Virginia, § 58.1-3814(J), as follows:

(1) *Residential consumers.* Such tax on residential consumers of natural gas shall be \$2.00 monthly to residential consumers.

(2) *Nonresidential consumers.* Such tax on nonresidential consumers shall be at the rates per month shown for each CCF delivered by a pipeline distribution company or a gas utility for the classes as follows:

a. *Commercial consumers.* Such tax shall be \$0.08274 on each CCF delivered monthly to commercial consumers.

b. *Industrial consumers.* Such tax shall be \$0.08274 on each CCF delivered monthly to industrial consumers.

(b) *Exemptions.* The following consumers of natural gas shall be exempt from the tax imposed by this section.

(1) Any public safety agency as defined in Code of Virginia, § 58.1-3813.

(2) The United States of America, the commonwealth and the political subdivisions thereof, including this jurisdiction.

(c) *Billing, collection and remittance.* The service provider shall bill the natural gas consumer tax to all users who are subject to the tax and to whom it delivers natural gas and shall remit the tax to this jurisdiction on a monthly basis. Such taxes shall be paid by the service provider to this jurisdiction in accordance with Code of Virginia, §§ 58.1-3814(F) and (G) and 58.1-2901. If any consumer receives and pays for natural gas billed but refuses to pay the tax imposed by this section, the service provider shall notify this jurisdiction of the name and address of such consumer. If any consumer fails to pay a bill issued by a service provider, including the tax imposed by this section, the service provider must follow its normal collection procedures and, upon collection of the bill or any part thereof, must apportion the net amount collected between the charge for electric service and the tax and remit the tax portion to this jurisdiction. Any tax paid by the consumer to the service provider shall be deemed to be held in trust by such provider until remitted to this jurisdiction.

(d) *Computation of bills not on monthly basis.* Bills shall be considered as monthly bills for the purposes of this section if submitted 12 times per year of approximately one month each. Accordingly, the tax for a bimonthly bill (approximately 60 days) shall be determined as follows:

(1) The CCF will be divided by two.

(2) A monthly tax will be calculated using the rates set forth in subsection (a) of this section.

(3) The tax determined by subsection (d)(2) of this section shall be multiplied by two.

(4) The tax in subsection (d)(3) of this section may not exceed twice the monthly maximum tax.

(Ord. of 10-10-2000(2), § C)

Sec. 62-124. Penalties.

Any consumer of electricity or natural gas failing, refusing or neglecting to pay the tax imposed and levied under this division and any officer, agent or employee of any service provider violating this division shall be guilty of a class 3 misdemeanor for taxes of \$1,000.00 or less, and a class 1 misdemeanor for taxes greater than \$1,000.00, as provided in Code of Virginia, § 58.1-3916.1. Each such failure, refusal, neglect or violation shall constitute a separate offense. Such conviction shall not relieve any person from the payment, collection and remittance of the tax as provided in this division.

(Ord. of 10-10-2000(2), § D)

Secs. 62-125--62-150. Reserved.

ARTICLE IV.

MEALS TAX

Sec. 62-151. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cater means the furnishing of food, beverages, or both on the premises of another, for compensation.

Collector means the town treasurer.

Food means all food, beverages or both, including alcoholic beverages, purchased in or from a food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not and without regard to the manner, time or place of service.

Food establishment means any place in or from which food or food products are prepared, packaged, sold or distributed in the town, including but not limited to any restaurant, dining room, grill, coffeeshop, cafeteria, cafe, snack bar, lunchcounter, convenience store, movie theater, delicatessen, confectionery, bakery, eatery, drugstore, ice cream/yogurt shop, lunch wagon or truck, pushcart or other mobile facility from which food is sold, public or private club, resort, bar, lounge, or other similar establishment, public or private, and includes private property outside of and contiguous to a building or structure operated as a food establishment at which food or food products are sold for immediate consumption.

Meal means any prepared food or drink offered or held out for sale by a food establishment for the purpose of being consumed by any person to satisfy the appetite and that is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded in this article, shall be included, whether intended to be consumed on the seller's

premises or elsewhere; whether designated as breakfast, lunch, snack, dinner, supper, or by some other name; and without regard to the manner, time or place of service.

Treasurer means the treasurer and any duly designated deputies, assistants, inspector or other employees.

(Ord. of 6-27-2000(2), § I)

Cross References: Definitions generally, § 1-2.

Sec. 62-152. Levied.

There is hereby imposed and levied by the town on each person a tax at the rate of six percent on the amount paid for meals purchased from any food establishment, whether prepared in such food establishment or not and whether consumed on the premises or not.

(Ord. of 6-27-2000(2), § II; Ord. of 6-8-2010, eff. 7-1-2010)

Sec. 62-153. Collection by seller.

(a) Every person receiving any payment for food with respect to which a tax is levied under this article shall collect and remit the amount of the tax imposed by this article from the person on whom the tax is levied or from the person paying for such food at the time payment for such food is made. However, no blind person operating a vending stand or other business enterprise under the jurisdiction of the state department for the visually handicapped and located on property acquired and used by the United States for any military or naval purpose shall be required to collect or remit such taxes.

(b) All tax collections shall be deemed to be held in trust for the town.

(Ord. of 6-27-2000(2), § III)

Sec. 62-154. Exemptions; limits on application.

(a) The tax imposed under this article shall not be levied on factory-prepackaged candy, gum, nuts and other items of essentially the same nature served for on- or off-premises

consumption.

(b) The tax imposed under this article shall not be levied on the following items when served exclusively for off-premises consumption:

(1) Donuts, ice cream, crackers, nabs, chips, cookies and factory-prepackaged items of essentially the same nature.

(2) Food sold in bulk. For the purposes of this subsection, a bulk sale shall mean the sale of any item that would exceed the normal, customary and usual portion sold for on-premises consumption (e.g., a whole cake, a gallon of ice cream); a bulk sale shall not include any food or beverage that is catered or delivered by a food establishment for off-premises consumption.

(3) Alcoholic and nonalcoholic beverages sold in factory-sealed containers.

(4) Any food or food product purchased with food coupons issued by the United States Department of Agriculture under the food stamp program or drafts issued through the state special supplemental food program for women, infants, and children.

(5) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 USC 2012, as amended, except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied under this article, the following items, whether or not purchased for immediate consumption, are excluded from the definition of food in the federal Food Stamp Act: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables and non-factory-sealed beverages. This subsection shall not affect subsections (d)(3), (4) and (5) of this section.

(c) A grocery store, supermarket or convenience store shall not be subject to the tax except for any portion or section therein designated as a delicatessen or designated for the sale of prepared food and beverages.

(d) The tax imposed under this article shall not be levied on the following purchases of food and beverages:

(1) Food and beverages furnished by food establishments to employees as part of their compensation when no charge is made to the employee.

(2) Food and beverages sold by day care centers, public or private elementary or secondary schools or food sold by any college or university to its students or employees.

(3) Food and beverages for use or consumption and which are paid for directly by the commonwealth, any political subdivision of the commonwealth or the United States.

(4) Food and beverages furnished by a hospital; medical clinic; convalescent home; nursing home; home for the aged, infirm, handicapped, battered women, narcotic addicts or alcoholics; or other extended care facility to patients or residents thereof and the spouses and children of such persons.

(5) Food and beverages furnished by a public or private nonprofit charitable organization or establishment or a private establishment that contracts with the appropriate agency of the commonwealth to offer meals at concession prices to elderly, infirm, blind, handicapped or needy persons in their homes or at central locations.

(6) Food and beverages sold on an occasional basis, by a nonprofit educational, charitable or benevolent organization, church, or religious body as a fundraising activity, the gross proceeds of which are to be used by such organization exclusively for nonprofit educational, charitable, benevolent or religious purposes.

(7) Food and beverages sold through vending machines.

(Ord. of 6-27-2000(2), § IV)