



TOWN OF VINTON

311 S. Pollard Street
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BARRY W. THOMPSON
TREASURER/FINANCE DIRECTOR

APPLICATION FOR REGISTRATION TAX ON PREPARED FOOD AND BEVERAGES **A Separate Application Required For Each Location*

Type or Print

Name of Business _____

Owner _____

Federal I.D. Number or S. Security Number _____

Business Location _____
Street Address

Telephone Number _____

Location of Records _____
(If different from line #4) Street Address

Class Code (See Attachment) _____
Code Title

Mailing Address _____
(If Different from line #4) Street Address

_____ City State Zipcode

Type of Ownership – Check One – () Individual () Partnership () Corporation

Name and Title of Official Signing (If Corporation) _____

Date Business Started, or Date To Start At This Location _____

Name of Business Succeeding (If Applicable) _____

I (We) Sell Prepared Food and Beverages As Defined In The Code of The town of Vinton As Amended, Chapter 19, Article IV, Tax On Prepared Food and Beverages.

Date _____ Signature _____ Title _____

CODE	CLASS TITLE
14	Service Stations, Garages,Auto Repair Shops, or Truck Stops
20	Bakery Products
22	Dairy Products
23	Fruit Stands, Vegetable Stands, Roadside Markets, Rolling Markets
24	Groceries - Chains
25	Groceries - Non Chain
26	Private Membership Clubs
27	Restaurants, Cafeteria's, Delicatessen's, Grills, Café's, Snack Bars, Drive-In's, Catering
28	Tavern's, Beer Parlor's, Dance Hall's
40	Department Store's, Discount Stores
42	Drug Stores
82	Cigar Store's, Discount Store's
87	Bowling Alley's, Pool Parlor's
88	Vending Machine Sales
90	Hotel's, Motel's, Tourist Homes
99	Other Miscellaneous & Unidentifiable

ARTICLE V. TAX ON PREPARED FOOD AND BEVERAGES*

***Editor's note:** Ord. No. 725, adopted June 6, 2000, repealed the former Art. V, §§ 86-151--86-165 and enacted a new article as set out herein. The former Art. V pertained to similar subject matter, and derived from Code 1982, §§ 19-50--19-64.

State law references: Excise tax on meals, Code of Virginia, § 58.1-3840.

Secs. 86-151--86-165. Reserved.

Sec. 86-166. Definitions.

The following words and phrases, when used in this article, shall have, for the purposes of this article, the following respective meanings 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 or designee.

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, coffee shop, cafeteria, cafe, snack bar, lunch counter, convenience store, movie theater, delicatessen, confectionery, bakery, eating house, eatery, drugstore, ice cream/yogurt shops, 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 shall include 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 is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or exclude [excluded] herein 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.

(Ord. No. 725, 6-6-2000)

Sec. 86-167. Levy.

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

(Ord. No. 725, 6-6-2000; Ord. No. 818, 6-21-05)

Sec. 86-168. Collection of tax by seller.

Every person receiving any payment for food with respect to which a tax is levied hereunder shall collect and remit the amount of the tax imposed by this article from the person on whom the same is levied or from the person paying for such food at the time payment for such food is made.

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

(Ord. No. 725, 6-6-2000)

Sec. 88-169. Exemptions; limits on application.

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

- (1) Factory-prepackaged candy, gum, nuts and other items of essentially the same nature.
- (2) Factory-prepackaged donuts, ice cream, crackers, nabs, chips, cookies and items of essentially the same nature;
- (3) Food sold in bulk. For the purposes of this provision, 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;
- (4) Alcoholic and non-alcoholic beverages sold in factory sealed containers;
- (5) 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 Virginia Special Supplemental Food Program for Women, Infants, and Children; or
- (6) Any food or food product purchased for home consumption as defined in the federal Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended except hot food or hot food products ready for immediate consumption. For the purposes of administering the tax levied hereunder, the following items whether or not purchased for immediate consumption are excluded from the said 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 nonfactory sealed beverages. This subsection shall not affect provisions set forth in subparagraphs (d)(3), (4) and (5) hereinbelow.

(b) 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.

(c) The tax imposed hereunder 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;

(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; or

(7) Food and beverages sold through vending machines.

(Ord. No. 725, 6-6-2000; Ord. No. 733, 8-15-00)

Sec. 86-170. Gratuities and service charges.

Where a purchaser provides a gratuity for an employee of a seller, and the amount of the gratuity is wholly in the discretion of the purchaser, the gratuity is not subject to the tax imposed by this article, whether paid in cash to the employee or added to the bill and charged to the purchaser's account, provided in the latter case, the full amount of the gratuity is turned over to the employee by the seller.

An amount or percent, whether designated as a gratuity, tip or service charge, that is added to the price of the food and beverages by the seller, and required to be paid by the purchaser, as a part of the selling price of the food and the beverages and is subject to the tax imposed by this article.

(Ord. No. 725, 6-6-2000)

Sec. 86-171. Report of taxes collected; remittance; preservation of records.

It shall be the duty of every person required by this article to pay to the town the taxes imposed by this article, to file a report thereof setting forth such information as the treasurer may prescribe and require, including all purchases taxable under this article, the amount charged the purchaser for each such purchase, the date thereof, the taxes collected thereon and the amount of tax required to be collected by this article. Such records shall be kept and preserved for a period of five years. The treasurer or his duly authorized agents shall have the power to examine such records at reasonable times and without unreasonable interference with the business of such person, for the purpose of administering and enforcing the provisions of this article, and to make transcripts of all or any parts thereof.

(Ord. No. 725, 6-6-2000; Ord. No. 771, 9-3-02)

Sec. 86-171.1. Due date for filing report and remittance of taxes.

The due date for filing the return and remitting the taxes required by this article shall be the twentieth day of the month following the month in which the tax is collected by the seller. If the twentieth day of the month falls on a weekend or holiday, the due date for filing and remittance shall be the next regularly scheduled business day.

(Ord. No. 771, 9-3-02)

Sec. 86-171.2. Penalty for late remittance, failure to file, or false return.

(a) If any seller whose duty it is to do so shall fail or refuse to file any report required by this article, or to remit to the town treasurer the tax required to be collected and paid within the time and in the amount specified in this article, there shall be added to the tax owed a penalty in the amount of ten percent thereof if the failure is not for more than 30 days. An additional penalty of ten percent of the tax owed shall be added for each additional 30 days or fractions thereof that the tax remains unpaid, not to exceed 25 percent in the aggregate, with a minimum penalty of \$2.00.

(b) In the case of a false return made with the intent to defraud the town of any tax due under this article, a penalty of 50 percent of the tax owed shall be assessed against the person required to collect such tax.

(Ord. No. 771, 9-3-02)

Sec. 86-172. Penalty for violation of article.

(a) Any person willfully failing or refusing to file a return as required under this article shall, upon conviction thereof, be guilty of a class 1 misdemeanor except that any person failing to file such a return shall be guilty of a class 3 misdemeanor if the amount of tax lawfully assessed in connection with the return is \$1,000.00 or less. Any person violating or failing to comply with any other provision of this article shall be guilty of a class 1 misdemeanor.

(b) Except as provided in subsection (a) above, any corporate or partnership officer, as defined in Virginia Code § 58.1-3906, or any other person required to collect, account for, or pay over the meals tax imposed under this article, who willfully fails to collect or truthfully account for or pay over such tax, or who willfully evades or attempts to evade such tax or payment thereof, shall, in addition to any other penalties imposed by law, be guilty of a class 1 misdemeanor.

(c) Each violation of or failure to comply with this article shall constitute a separate offense. Conviction of any such violation shall not relieve any person from the payment, collection or remittance of the tax as provided in this article.

(Ord. No. 725, 6-6-2000)

Secs. 86-173--86-185. Reserved.

