

735.273 NEW AND EXPANDING BUSINESS TAX CREDITS - DOWNTOWN DISTRICT.

(a) Findings. The City of Morgantown finds that attraction of new businesses and promotion of the expansion of existing businesses in the Downtown District of the City will promote the established City strategic goals of providing attractive amenities for residents, fostering quality infill development within the City, and contributing to a vibrant Downtown District while promoting fiscal stability through the establishment and retention of community businesses. The City further finds that the tax credits authorized by this section will act as incentives for the attraction of new businesses and promotion of the expansion of existing businesses.

(b) Credits Authorized. A credit is authorized against the privilege taxes levied by this Article [735](#) for New and Expanding Businesses in the Downtown District as defined in this Section [735.273](#).

(c) Definitions. For purposes of this section, the following terms have the meanings given:

(1) Downtown District - the area depicted on the map at Table 735.273.1 and generally described as an area between Donley Street in the South and Fayette Street in the North bounded by the Monongahela River and United States Route 119, also known as Don Knotts Boulevard and University Avenue, including parcels adjacent thereto, together with an area between Foundry Street in the South and Willey Street in the North bounded by United States Route 119, also known as University Avenue, and Spruce Street, including parcels adjacent thereto.

(2) Expanding Business - [RESERVED].

(3) New Business - any new commercial, wholesale, retail, manufacturing or service entity which shall physically locate its principal place of business within the corporate limits of the City, or an existing commercial, wholesale, retail, manufacturing, or service entity whose principal place of business is located outside the corporate limits of the City and has relocated its principal place of business within the corporate limits of the City, either by purchase of real property or by virtue of a lease of five (5) years or more in duration, and which is subject to the City's business and occupation tax. New business shall also include existing commercial entities which are brought within the corporate limits of the City by way of annexation or minor boundary adjustment; provided, that no commercial entity which has conducted business within the corporate limits of the City currently or in the past, and which changes its name or changes its business structure, shall be considered as a new business under this section, unless prior written approval has been given by the City Manager, nor shall the acquisition and continued operation of an existing commercial entity by another entity, whether such acquisition is by purchase or lease, be considered a new business.

(4) New Construction - any construction project within the Downtown District that results in erection of a new structure or improvement of an existing structure and

is valued at a minimum of \$5,000,000.00 as determined by the City, provided that such structure and the real estate upon which it is located are subject to real property taxes.

(d) Amount of Credit. Credits shall be granted against the privilege tax imposed by this Article [735](#) as follows:

(1) New Construction. For any New Construction within the Downtown District, a credit equal to:

A. Eighty percent (80%) of the tax imposed by Section [735.21](#) on the business of contracting, and

B. Eighty percent (80%) of the tax imposed by Section [735.24](#) on the practice of a service business or calling necessary and incidental to the New Construction.

The credit may only be taken when an otherwise qualifying business files the required business and occupation tax return on or before the required due date. If the return is not filed timely then the credit will be disallowed for the time period in which the return is delinquent.

(2) New Business. For any New Business within the Downtown District, a credit equal to:

A. Eighty percent (80%) credit against the privilege tax liability imposed by this Article [735](#) annually for the first year from the date the entity qualifies for the tax credit.

B. Sixty percent (60%) credit against the privilege tax liability imposed by this Article [735](#) annually for the second year from the date the entity qualifies for the tax credit.

C. Forty percent (40%) credit against the privilege tax liability imposed by this Article [735](#) annually for the third year from the date the entity qualifies for the tax credit.

D. Twenty percent (20%) credit against the privilege tax liability imposed by this Article [735](#) annually for the fourth year from the date the entity qualifies for the tax credit.

The maximum total tax credit allowed for any New Business that qualifies for the tax credit shall be three hundred thousand dollars (\$300,000.00). The Credit may only be taken when an otherwise qualifying business files the required business and occupation tax return on or before the required due date. If the return is not filed timely then the credit will be disallowed for the time period in which the return is delinquent.

(3) Expanding Business. [RESERVED]

(e) Administration. The administration of this section is vested in, and shall be exercised by, the Finance Director of the City, who in connection therewith shall prescribe all necessary forms and returns. The Finance Director will promulgate all rules and regulations that are necessary for the making of returns, and for the

enforcement of this section. The Finance Director is hereby authorized to make any necessary determination regarding forfeiture, qualification or carryover of the tax credit authorized by this section, and may determine that a particular tax credit application violates the spirit and intention of this section and deny the credit on that basis.

(f) Forfeiture. Any business granted a credit pursuant to this section which moves or relocates outside of the Downtown District within three (3) years of the end of the fiscal year for which the credit was granted shall forfeit such credit and all amounts credited to such business shall be immediately due and payable to the City, together with interest thereon at the current rate applicable to judgments as established by the Supreme Court of Appeals of West Virginia.

(g) Sunset Provision. This section shall be effective from the date of adoption until June 30, 2023. A qualified New Business shall be entitled to the credits provided by this section following the expiration date so long as such New Business was entitled to an initial credit prior to expiration of this section and continues to meet the requirements of this section necessary to obtain credits in succeeding years.

(h) Severability. If this section or any portion hereof, or the application of this section in any circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other portions of this section, or sections of this chapter, and to this end each and every section, subsection, provision, clause, and phrase of this section is declared to be severable.

(i) Maximum Credit. Credits authorized by this section shall not reduce the liability of any taxpayer below zero dollars for any period for which tax is owed, nor shall the City be required to pay to any taxpayer any sum by reason of the credits granted by this section. (Ord. 18-06. Passed 2-20-18.)