

INTRODUCED BY:

Frank A. Mullens, Jr., Mayor

ORDINANCE NO:

2364

REFERRED TO:

APPROVED ON:

08-07-25

AN ORDINANCE TO AMEND SECTION 737.19.1 OF ARTICLE 737 OF THE CITY CODE OF THE CITY OF SOUTH CHARLESTON CONCERNING THE NEW MANUFACTURING BUSINESS TAX CREDIT

WHEREAS, the City of South Charleston encourages economic development and has been offering tax credits to businesses within the City for many years; and

WHEREAS, City Code Section 737.19.1 provides a tax credit against the business and occupation tax liability for specified new business of a manufacturing business, thereby encouraging new business activity within the City, growth of the City's tax base, and additional employment; and

WHEREAS, Section 737.19.1 of the South Charleston City Code, entitled "New Manufacturing Business Tax Credit," should be amended to reward manufacturing businesses that make a major investment and increase employment opportunities in the City;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SOUTH CHARLESTON, WEST VIRGINIA, THAT ARTICLE 737, SECTION 737.19.1 BE AMENDED TO READ AS FOLLOWS:

737.19.1 NEW MANUFACTURING BUSINESS TAX CREDIT.

(a) New Manufacturing Business Tax Credit. Any manufacturing business taxable under Section 737.10 which, after the passage of this section, commences manufacturing activities taxable within the corporate limits of the City, which constitute a new business, which commencement within the City is not merely by reason of annexation by the City, which meets the qualifying conditions set forth herein, and which business is subject to the City's business and occupation tax, shall be eligible to make application with the City Treasurer's office for a tax credit against the normal business and occupation tax liability as follows:

- (1) 0% tax credit during the first calendar year after issuance of business license.
- (2) 0% tax credit during the second calendar year after issuance of business license.
- (3) 0% tax credit during the third calendar year after issuance of business license.
- (4) 0% tax credit during the fourth calendar year after issuance of business license.
- (5) 50% tax credit during the fifth calendar year after issuance of business license.
- (6) 50% tax credit during the sixth calendar year after issuance of business license.
- (7) 50% tax credit during the seventh calendar year after issuance of business license.
- (8) 50% tax credit during the eighth calendar year after issuance of business license.
- (9) 25% tax credit during the ninth calendar year after issuance of business license.
- (10) 25% tax credit during the tenth calendar year after issuance of business license.
- (11) 25% tax credit during the eleventh calendar year after issuance of business license.
- (12) 25% tax credit during the twelfth calendar year after issuance of business license.
- (13) 25% tax credit during the thirteenth calendar year after issuance of business license.

- (14) 25% tax credit during the fourteenth calendar year after issuance of business license.
- (15) 25% tax credit during the fifteenth calendar year after issuance of business license.
- (16) 25% tax credit during the sixteenth calendar year after issuance of business license.
- (17) 25% tax credit during the seventeenth calendar year after issuance of business license.
- (18) 25% tax credit during the eighteenth calendar year after issuance of business license.
- (19) 25% tax credit during the nineteenth calendar year after issuance of business license.
- (20) 25% tax credit during the twentieth calendar year after issuance of business license.
- (21) Extension after Additional Capital Investment. If a new manufacturing business makes a capital investment in the City of \$80 million or more for a single project and increases base employment by 75 employees or more at any time during the tenth through twentieth calendar year after issuance of business license, the New Manufacturing Business Tax Credit for that business may be extended at a rate of 25% for a period of 20 years from the date of certification of the investment and employment if it meets the qualifying conditions set forth in this section. If the new manufacturing business creates a separate legal entity to operate the business that results from the additional capital investment, that separate legal entity is entitled to the same New Manufacturing Business Tax Credit as the new manufacturing business that made the capital investment.

(b) Definitions.

- (1) "New business" means a new business as defined in Section 737.01.
- (2) "Gross income" means gross income as defined in Section 737.01.
- (3) "Gross income from manufacturing" means gross income as defined in Section 737.01 but limited to income from manufacturing. Income from sources other than manufacturing is not defined as gross income from manufacturing.
- (4) "Issuance of business license" means the issuance of certificate or license as defined and stipulated in Article 733.
- (5) "Manufacturing" means producing a new, different or useful substance or article of tangible personal property for sale, or commercial, or industrial use.
- (6) "Calendar year" means from January 1 through December 31.
- (7) "Industrial zone" means district zoned by the City carrying the designation of I-2 or I-4 and the use restricted to those permitted in Section 1329.01.
- (8) "Employee" means a person working at the manufacturing business at the location of the facility in the City not less than 40 hours per week and subject to federal and state income tax and Social Security tax withholding.
- (9) "Normal tax liability for manufacturing business" means \$0.30 per \$100 of gross income.
- (10) "Tax credit" or "New Manufacturing Business Tax Credit" means a reduction according to a stipulated percent that may be subtracted from the normal tax liability owed to the City.

(c) Qualifying Conditions. All of the following conditions shall be met by the new manufacturing business in order to qualify for the tax credit.

- (1) Located in industrial zoned property. The new manufacturing business shall be located on industrial zoned property.
- (2) The industrial zoned property where the new manufacturing business is located shall have generated zero dollars business and occupation tax to the City for a period of

two calendar years prior to the issuance of business license for a new manufacturing business.

- (3) Minimum tax liability. The new manufacturing business shall have an annual gross income from manufacturing of not less than the following:
- A. \$100,000,000 during the fourth calendar year after issuance of a business license.
 - B. \$100,000,000 during calendar fifth through seventh calendar years after issuance of business license.
 - C. \$200,000,000 during the eighth calendar year after issuance of a business license.
 - D. \$250,000,000 during the ninth through eleventh calendar years after issuance of business license.
 - E. \$200,000,000 during the twelfth through twentieth calendar years after issuance of business license.
 - F. \$200,000,000 during any subsequent year during any extension pursuant to subdivision (a)(21) of this section.
- (4) Employees. The new manufacturing business shall have at least the following number of employees:
- A. 250 on payroll at the conclusion of the fourth calendar year after the issuance of business license.
 - B. 250 average and not less than 200 at any time during the fifth through seventh calendar years after issuance of business license.
 - C. 275 average on payroll at the conclusion of the eighth calendar year after the issuance of business license.
 - D. 300 average and not less than 250 at any time during the ninth through eleventh calendar years after issuance of business license.
 - E. 400 average on payroll at the conclusion of the twelfth calendar year after the issuance of business license.
 - F. 400 average and not less than 350 at any time during the twelfth through twentieth calendar years after issuance of business license.
 - G. 450 average and not less than 400 at any time during any subsequent year during any extension pursuant to subdivision (a)(21) of this section.

(d) Documentation. The new manufacturing business shall submit written documentation prepared by a certified public accountant showing a true and accurate number of employees on the payroll as of the last day of said quarter.

(e) Tax Cap. The business and occupation tax of a manufacturing business that meets the qualifying conditions set forth in this section for the New Manufacturing Business Tax Credit shall be capped and not exceed \$360,000 per calendar year during the life of the tax credit.

(f) Other Conditions.


- (1) Any time during the life of the New Manufacturing Business Tax Credit that the new manufacturing business fails to file a return or pay the full amount of business and occupation tax, interest, and penalties due the City within three (3) calendar months of the due date for such tax, then the tax credit will be terminated, and the tax shall be the normal tax liability for manufacturing business. Furthermore the new manufacturing business that received the benefits of the tax credit shall be liable for and pay to the City all tax credits received from the date of receiving the first tax credit through the date of tax credit termination.
- (2) Any time during the life of the New Manufacturing Business Tax Credit that the new manufacturing business fails to submit the required documentation within 30 calendar

days of designated date to show proof of number of employees, then the tax credit shall be terminated, and the tax shall be the normal tax liability for manufacturing business. Furthermore the new manufacturing business that received the benefits of the tax credit shall be liable for and pay to the City all tax credits received from the date of receiving the first tax credit through the date of tax credit termination.

- (3) Any time during the life of the tax credit that the new manufacturing business fails to meet any of the qualifying conditions stipulated herein, then the New Manufacturing Business Tax Credit shall be terminated and the tax shall be the normal tax liability for manufacturing business. Furthermore the new manufacturing business that received the benefits of the tax credit shall be liable for and pay to the City all tax credits received from the date of receiving the first tax credit through the date of tax credit termination.
- (4) Any new manufacturing business that has the tax credit terminated for failure to meet the qualifying conditions as stipulated herein shall be granted a resumption of the tax credit at such time as all of the qualifications are met and the new manufacturing business has submitted written documentation certifying the qualifying conditions. Resumption of tax credit will not be granted if more than twelve calendar years have elapsed since the issuance of business license.
- (5) Pay back to the City resulting from termination of the New Manufacturing Business Tax Credits shall occur in full within six months of the date of termination.
- (6) Businesses receiving the New Manufacturing Business Tax Credit shall not be eligible to receive any other City business and occupation tax credit.
- (7) Any time during the life of the New Manufacturing Business Tax Credit that the new manufacturing business fails to provide the documentation required in Section 1713.01(f) to the City Treasurer for contractors and vendors providing services to the new manufacturing business, then the tax credit shall be terminated, and the tax shall be the normal tax liability for manufacturing business. Furthermore the new manufacturing business that received the benefits of the tax credit shall be liable for and pay to the City all tax credits received from either the date of receiving the first tax credit or the effective date of this subdivision, whichever is later, through the date of tax credit termination.

This ordinance shall take effect immediately upon passage.

ATTEST:


Margie Spence, City Clerk



Frank A. Mullens, Jr., Mayor

This ordinance was prepared by Moore & Biser PLLC, City Attorney.