

AVOCA BOROUGH  
LUZERNE COUNTY, PENNSYLVANIA

ORDINANCE NO. 5 OF 2018

**AN ORDINANCE OF THE COUNCIL OF AVOCA BOROUGH, LUZERNE COUNTY, PENNSYLVANIA, ESTABLISHING A VOLUNTEER SERVICE CREDIT PROGRAM; ENACTING TAX CREDITS FOR VOLUNTEER MEMBERS OF VOLUNTEER FIRE COMPANIES AND NONPROFIT EMERGENCY MEDICAL SERVICE AGENCIES; AND ESTABLISHING ADMINISTRATIVE PROCEDURES AND APPEALS**

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Borough Council of the Borough of Avoca and it is hereby enacted and ordained by the authority granted to Boroughs under the laws of the Commonwealth of Pennsylvania, as follows:

**SECTION 1. DEFINITIONS.**

The following words and phrases when used in this Ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise.

**“Active Volunteer.”** A volunteer for a volunteer fire company or nonprofit emergency medical service agency listed under Section 2(c) who has complied with, and is certified under, the Volunteer Service Credit Program.

**“Earned Income Tax.”** A tax on earned income and net profits levied under Chapter 3 of the Act of December 31, 1965 (P.L. 1257, No. 511), known as The Local Tax Enabling Act.

**“Eligibility Period.”** The timeframe when volunteers may earn credit under the Volunteer Service Credit Program.

**“Emergency Responder.”** A volunteer who responds to an emergency call with one of the entities listed under Section 2(c).

**“Emergency Response Call.”** Any emergency call to which a volunteer responds, including travel directly from and to a volunteer’s home, place of business or other place where he/she shall have been when the call was received.

**“Qualified Real Property.”** A residential real property owned and occupied as the domicile of an active volunteer.

**“Volunteer.”** A member of a volunteer fire company or a nonprofit emergency medical service agency.

**SECTION 2. VOLUNTEER SERVICE CREDIT PROGRAM.**

- A) **Establishment.** Avoca Borough hereby establishes a Volunteer Service Credit Program. The goal of the program is to encourage membership and service in the community’s volunteer fire companies and nonprofit emergency medical service agencies.

B) **Program Criteria.** The Council shall establish, by Resolution, the annual criteria that must be met to qualify for credits under the program based on the following:

- (1) The number of emergency response calls to which a volunteer responds.
- (2) The level of training and participation in formal training and drills for a volunteer
- (3) The total amount of time expended by a volunteer on administrative and other support services, including but not limited to:
  - (i) fundraising
  - (ii) providing facility or equipment maintenance
  - (iii) financial bookkeeping
- (4) The involvement in other events or projects that aid the financial viability, emergency response or operational readiness of a volunteer fire company or a nonprofit emergency medical service agency.
- (5) The total number of years the volunteer has served.

C) **Eligible Entities.** The Volunteer Service Credit Program is available to residents of the Borough who are volunteers of the following volunteer fire companies and nonprofit emergency medical service agencies that provide service to Avoca Borough.

- (1) AVOCA HOSE COMPANY #1
- (2) AVOCA AMBULANCE ASSOCIATION

D) **Eligibility Period.** A volunteer must meet the minimum criteria, set by Resolution under this section, during the eligibility period to qualify for the tax credits established under Section 3.

- (1) For 2017, the eligibility period under the Volunteer Service Credit Program shall run from January 20, 2017 until December 31, 2017.
- (2) For 2018, and each subsequent year thereafter, the eligibility period shall run from January 1<sup>st</sup> until December 31, 2018.

- E) **Recordkeeping.** The chief of each volunteer fire company or the supervisor of the nonprofit emergency medical service agency listed under Section 2(c) shall keep specific records of each volunteer's activities in a service log to establish credits under the Volunteer Service Credit Program. Service logs shall be subject to review by the Borough Council, the State Fire Commissioner and the State Auditor General. The chief, or supervisor, shall annually transmit to the Borough a notarized eligibility list of all volunteers who have met the minimum criteria for the Volunteer Service Credit Program. The notarized eligibility list shall be transmitted to the Borough no later than December 15th of each year. The chief or supervisor shall post the notarized eligibility list in an accessible area of the volunteer agency's facilities.
- F) **Application.** Volunteers who have met the minimum criteria of the Volunteer Service Credit Program shall sign and submit an application for certification to their chief or supervisor. The chief or supervisor shall sign the application if the volunteer has met the minimum criteria of the Volunteer Service Credit Program, and forward it to the Borough Secretary. Applications shall not be accepted by the Borough after April 1<sup>st</sup> of each year.
- G) **Municipal Review.** The Borough Secretary shall review the applications for credit under the Volunteer Service Credit Program and shall cross reference them with the notarized eligibility list. The Borough Council shall approve all applicants who are on the notarized eligibility list. All applicants approved by the Borough Council shall be issued a tax credit certificate by the Borough Secretary.
- H) **Official Tax Credit Register.** The Borough shall keep an official Tax Credit Register of all active volunteers who were issued tax credit certificates. The Borough Secretary shall issue updates, as needed, of the official Tax Credit Register to the following.
- (1) Borough Council;
  - (2) Chief of the volunteer fire company(ies)
  - (3) Chief or supervisor of the nonprofit emergency medical services agency(ies)
- I) **Injured Volunteers.**
- (1) An emergency responder who is injured during an emergency response call may be eligible for future tax credits. The injury must have occurred while responding to, participating in, or returning from an emergency response call with one of the entities listed under Section 2(c).
  - (2) An injured emergency responder shall provide documentation from a licensed physician with the application required under Section 2 stating that their injury prevents them from performing duties to qualify as an active volunteer. In such a case, the injured emergency responder shall be deemed an active volunteer for that tax year.

- (3) An injured emergency responder shall annually submit the application required under Section 2, along with updated documentation from a licensed physician stating that the injury still exists and prevents them from qualifying as an active volunteer. The injured emergency responder shall again be deemed an active volunteer for that tax year. An injured emergency responder shall only be deemed an active volunteer for a maximum of five (5) consecutive tax years.

### **SECTION 3. REAL PROPERTY TAX CREDIT.**

A) **Tax Credit.** Each active volunteer who has been certified under Avoca Borough Volunteer Service Credit Program shall be eligible to receive a real property tax credit of twenty (20%) percent of the Borough tax liability on qualified real property. If the tax is paid in the penalty period, the tax credit shall only apply to the base tax year liability.

B) **Claim.**

(1) An active volunteer with a tax credit certificate may file a claim for the tax credit on their qualified real property tax liability for the Borough's real estate tax levy. The tax credit shall be administered as a refund by the Borough Treasurer. An active volunteer shall file the following with the Borough Secretary:

- (i) A true and correct receipt from the Borough real estate tax collector of the paid Borough real property taxes for the tax year which the claim is being filed.
- (ii) The tax credit certificate.
- (iii) Photo identification.
- (iv) Documentation that the tax was for qualified real property as defined in this Ordinance.

(2) If the active volunteer provides all documents required under this subsection, the Borough Treasurer shall issue the tax refund to the active volunteer.

C) **Rejection of the Tax Credit Claim.**

(1) The Borough Secretary shall reject the claim for a Borough real property tax credit if the taxpayer fails to provide the documents required under Subsection (B)(1).

(2) If the Borough Secretary rejects the claim the taxpayer shall be notified in writing of the decision. The notice shall include the reasons for the rejection and provide the method of appealing the decision pursuant to Section 4.

(3) Taxpayers shall have thirty (30) days to appeal the decision of the Borough Secretary.

**SECTION 4. APPEALS.**

**A) Real Property Tax Credit Appeals.**

- (1) Any taxpayer aggrieved by a decision under Section 3 shall have a right to appeal said decision.
- (2) A taxpayer shall have thirty (30) days to appeal a decision or rejection of claim.
- (3) All appeals under Section 3 shall follow the provisions of 2 Pa. C.S. Chapter 5, Subchapter B (relating to practice and procedure of local agencies), and 2 Pa. C.S. Chapter 7, Subchapter B (relating to judicial review of local agency action), also known as the "Local Tax Law."

**SECTION 5. SEVERABILITY.**

In the event that any provision, section, sentence, clause, or part of this Ordinance is held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of the Ordinance, it being the intent of the Borough Council that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.


**SECTION 6. EFFECTIVE DATE.**

This Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect immediately upon the date of its final passage and adoption.

**ADOPTED, ENACTED AND ORDAINED** by the Council of Avoca Borough at a regular meeting duly held this 15<sup>th</sup> day of FEBRUARY, 2018.


ATTEST

  
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KELLY O'BRIEN, Secretary

  
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JOHN BOONE  
President of Council

(SEAL)

**THE FOREGOING ORDINANCE** is hereby approved by the Mayor of the Borough of Avoca this 15<sup>th</sup> day of FEBRUARY 2018.

  
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ROBERT MULLEN  
Mayor