

ORDINANCE NO. 2018-5

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF NESQUEHONING BOROUGH, CARBON COUNTY, 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

BE IT ENACTED AND ORDAINED by the Council of the Borough of Nesquehoning as follows:

SECTION 1. DEFINITIONS.

The following words shall have the meaning set forth herein, unless the context clearly indicates a different meaning.

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 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 who receives no compensation for his volunteer services. For the purpose of this definition, “compensation” does not include training provided to the member related to the performance of the member’s duties; equipment and supplies provided to the member related to the member’s duties; and, reimbursement of out-of-pocket expenses made by the member in accordance with the bylaws or other governing documents of the volunteer fire company or the nonprofit emergency medical service agency.

SECTION 2. VOLUNTEER SERVICE CREDIT PROGRAM

A) Establishment. The Borough of Nesquehoing 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 serving the Borough of Nesquehoning.

B) Program Criteria. The Council shall establish, by resolution, the annual criteria that must be met to qualify for credits under the program based upon 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, fundraising, facility or equipment maintenance and 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 Nesquehoning Borough.

- (1) Nesquehoning Hose Company No. 1
- (2) New Columbus Fire Company

(3) Hauto Volunteer Fire Company

(4) Nesquehoning Ambulance Service

D) Eligibility Period. An active volunteer must meet the minimum criteria, set by the resolution under this section, during the eligibility period to qualify for the tax credits established under Section 3. The eligibility period shall run from January 1 until December 31 of each year.

E) Recordkeeping. The chief of each volunteer fire company or the supervisor or chief of the nonprofit emergency medical service agency listed in 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 that have met the minimum criteria for the Volunteer Service Credit Program. The notarized eligibility list shall be transmitted to the Borough no later than November 1st of each year. The chief or supervisor shall post the notarized eligibility list in an accessible are of the volunteer agency's facilities.

F) Application. Volunteers that 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.

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 that 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 that were issued tax 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) Supervisor or chief of the nonprofit emergency medical services agency(ies);

(4) Tax officer for the Borough Tax Collection District

D) Injured Volunteers.

(1) An emergency responder that 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 the 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 performing duties to qualify 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 consecutive tax years succeeding the date of the injury.

(4) The volunteer may not claim both the earned income tax credit and the real property tax credit. The volunteer must choose which of these two credits he/she wishes to apply for.

SECTION 3. EARNED INCOME TAX CREDIT.

A) Tax Credit. Each active volunteer who has been certified under the Nesquehoning Borough Volunteer Service Credit Program shall be eligible to receive a tax credit up to \$200.00 of the Earned Income Tax levied by the Borough. When an active volunteer's earned income tax liability is less than the amount of the tax credit, the tax credit shall equal the individual's tax liability.

B) Claim. An active volunteer with a tax credit certificate may file a claim for the tax credit on their Borough earned income tax liability when filing a final return for the preceding calendar year with the tax officer for the Borough Tax Collection District.

C) Rejection of Tax Credit Claim.

(1) The tax officer shall reject a claim for a tax credit if the taxpayer's name is not on the official Tax Credit Register issued by the Borough Secretary.

(2) If the tax officer 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 5.

(3) Taxpayers shall have 30 days to appeal the decision of the tax officer.

SECTION 4. REAL PROPERTY TAX CREDIT.

A) Tax Credit. Each active volunteer who has been certified under the Nesquehoning Borough Volunteer Service Credit Program shall be eligible to receive a real property tax credit of 20% of the Borough tax liability on qualified real property. (Maximum \$200/year). If the tax paid is in the penalty period, the tax credit shall only apply to the base tax year liability.

The property must be the primary residence of the volunteer

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 for which the claim is being filed.

(ii) The tax credit certificate.

(iii) Photo identification.

(iv) Documentation that the tax paid was for qualified real property as defined in this ordinance.

(2) If the active volunteer provides all documents required then the Borough Treasurer shall issue a 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 under Section (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 6.

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

SECTION 5. EIC APPEALS.

A) Any taxpayer aggrieved by a decision under Section 3 shall have a right to appeal said decision.

B) A taxpayer shall have 30 days to appeal a decision or rejection of a claim.

C) All appeal of decision under Section 3 shall follow the provisions of the Act of May 5, 1998, P. L. 301, No. 50, known as the Local Taxpayers Bill of Rights.

D) Note. Reference the procedure identified by the Borough's Local Taxpayer Bill of Rights ordinance.

SECTION 6. REAL PROPERTY TAX CREDIT APPEALS.

A) Any taxpayers aggrieved by a decision under Section 4 shall have the right to appeal this decision.

B) A taxpayer shall have 30 days to appeal a decision or rejection of a claim.

C) All appeals under Section 4 shall follow the provisions of 2 PaC.S., Chapter 5, Subchapter B (relating to practice and procedure of local agencies), and 2 PaC.S., Chapter 7, Subchapter B (relating to judicial review of local agency action), also known as the "Local Agency Law".

SECTION 7. SEVERABILITY.

In the event that provision, section, sentence, clause, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough of Nesquehoning that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence clause, section or part thereof not been included herein.

SECTION 8. EFFECTIVE DATE.

This Ordinance shall become effective five(5) days after enactment.

ENACTED AND ORDAINED by the Council of the Borough of Nesquehoning, Carbon County, Pennsylvania, this 19th day of December, 2018.

BOROUGH OF NESQUEHONING

ATTEST:



SECRETARY



PRESIDENT

APPROVED THIS 19th DAY OF December, 2018.



MAYOR