

ORDINANCE NO. 220

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 176, PART II, OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF MIDDLE SMITHFIELD, AS HERETOFORE AMENDED; ADDING TO CHAPTER 176 AN ARTICLE V, VOLUNTEER SERVICE CREDIT PROGRAM; ESTABLISHING LOCAL TAX CREDITS FOR QUALIFIED VOLUNTEER MEMBERS OF VOLUNTEER FIRE COMPANIES AND NONPROFIT EMERGENCY MEDICAL SERVICE AGENCY; AND ESTABLISHING ADMINISTRATIVE PROCEDURES AND APPEALS

WHEREAS, the Board of Supervisors of the Township of Middle Smithfield has heretofore adopted a comprehensive compilation of ordinances of the Township entitled the "Code of the Township of Middle Smithfield" (the "Code"); and

WHEREAS, any and all additions, amendments, deletions, or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board of Supervisors to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes; and

WHEREAS, whenever such additions, amendments, deletions, or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto; and

WHEREAS, Section 1506 of the Second Class Township Code, Act of May 1, 1933, P .L . 103, No . 69, as amended by the Act of November 9, 1995, P .L . 350, No. 60, found at 53 P .S. 66506, entitled "General Powers," authorizes the Board of Supervisors to make and adopt ordinances necessary for the proper management, care and control of the Township, and its finances and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufacturers; and

WHEREAS, Chapter 79A of Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, Act of Nov. 21, 2016, P.L. 1509, No. 172, found at 35 Pa. C.S. Section 79A03 *et seq.*, entitled "Incentives for Municipal Volunteers of Fire Companies and Nonprofit Emergency Services Agencies," authorizes municipal governments to grant local tax credits to volunteers at volunteer fire companies and nonprofit emergency medical service agencies; and

WHEREAS, the Board of Supervisors of the Township of Middle Smithfield acknowledges the value and the absence of public cost for volunteer firefighters and nonprofit emergency medical services provided by active volunteers for the benefit of residents of the Township of Middle Smithfield; and

WHEREAS, the Board of Supervisors desires to encourage individuals to volunteer in a volunteer fire company or nonprofit emergency medical service agency that services the residents of the Township of Middle Smithfield; and

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, to wit:

SECTION 1: The Code of the Township of Middle Smithfield is hereby amended by adding an Article V, "Volunteer Service Credit Program" to Chapter 176, as set forth in Exhibit "A" hereto, the provisions of which are incorporated by reference as though set forth at length.

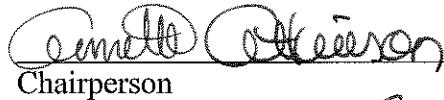
SECTION 2: If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that such remainder shall be and shall remain in full force and effect.

SECTION 3: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

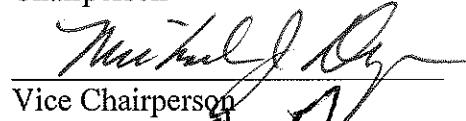
SECTION 4: This ordinance shall take effect five (5) days after the date of its enactment.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania this 26th day of April, 2018.

TOWNSHIP OF MIDDLE SMITHFIELD BOARD OF SUPERVISORS

  
Amelie O'Leary

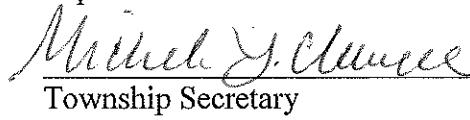
Chairperson

  
Michael J. O'Leary

Vice Chairperson

  
Mark Dore

Supervisor

  
Michael J. Cleaver

Township Secretary

(TOWNSHIP SEAL)

EXHIBIT "A" TO ORDINANCE

Chapter 176, Article V, "Volunteer Service Credit Program"  
(attached hereto)

## **Article V – Volunteer Service Credit Program**

### **§ 176-50. DEFINITIONS.**

The following words and phrases when used in this Article 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 § 176-51(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§ 176-51(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.

### **§ 176-51. VOLUNTEER SERVICE CREDIT PROGRAM.**

**A) Establishment.** The Township of Middle Smithfield 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 Township of Middle Smithfield 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:
  1. fundraising
  2. providing facility or equipment maintenance
  3. 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 Township of Middle Smithfield who are volunteers of the following volunteer fire companies and nonprofit emergency medical service agencies that provide service to the Township of Middle Smithfield:

1. Bushkill Ambulance
2. Suburban EMS
3. Bushkill Fire Company
4. Marshalls Creek Fire Company
5. Shawnee Volunteer Fire Company

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 §§ 176-52 or 176-53. The eligibility period shall run from January 1<sup>st</sup> until November 1<sup>st</sup>.

E) **Recordkeeping.** The Chief of each volunteer fire company or the supervisor of the nonprofit emergency medical service agency listed under § 176-51(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:

1. The Township of Middle Smithfield Director of Operations or the Director of Operation's designee,
2. The State Fire Commissioner and
3. The State Auditor General.

The chief, or supervisor, shall annually transmit to the Township 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 Secretary of the Township of Middle Smithfield no later than November 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 Township Secretary. Applications shall not be accepted by the Township after April 1<sup>st</sup> of each year.

G) **Municipal Review.** The Township Secretary shall review the applications for credit under the Volunteer Service Credit Program and shall cross reference them with the notarized eligibility list. The Township Board of Supervisors shall approve all applicants that are on the notarized eligibility list. All applicants approved by the Township Board of Supervisors shall be issued a tax credit certificate by the Township Secretary.

H) **Official Tax Credit Register.** The Township of Middle Smithfield shall keep an official Tax Credit Register of all active volunteers that were issued tax credit certificates. The Township Secretary shall issue updates, as needed, of the official Tax Credit Register to the following:

1. Board of Supervisors;
2. Chief of the volunteer fire company(ies);
3. Chief or supervisor of the nonprofit emergency medical services agency(ies);
4. Tax officer for the Township's Tax Collection District

I) **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§ 176-51(C).
2. An injured emergency responder shall provide documentation from a licensed physician with the application required under § 176-51 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§ 176-51, 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.

J) **Eligibility.** A volunteer's eligibility to receive a tax credit under this Article shall be determined on an annual basis. Eligibility in a prior year does not, by itself, make the volunteer eligible in a subsequent year. Each year the volunteer must comply with the minimum criteria of the Volunteer Service Credit Program in order to be eligible for any tax credit associated with service in that year. Eligibility for tax credits shall begin with service in the calendar year 2018. Notwithstanding the foregoing, no eligibility for tax credits shall exist until the Township Board of Supervisors has adopted a resolution establishing the minimum criteria of the Volunteer Service Credit Program.

## **§ 176-52. EARNED INCOME TAX CREDIT.**

A) **Tax Credit.** Each active volunteer who has been certified under the Township's Volunteer Service Credit Program shall be eligible to receive a tax credit of up to Two Hundred and Fifty Dollars (\$250.00) of the Earned Income Tax levied by the Township. 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 as to the volunteer's local earned income tax liability when filing a final return for the preceding calendar year with the tax officer for the Middle Smithfield Tax Collection District.

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

1. The tax officer shall reject a claim for a tax credit if the taxpayer is not on the official Tax Credit Register issued by the Township 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 § 176-54.
3. Taxpayers shall have 30 days to appeal the decision of the tax officer.

## **§ 176-53 . REAL PROPERTY TAX CREDIT.**

A) **Tax Credit.** Each active volunteer who has been certified under the Township's Volunteer Service Credit Program shall be eligible to receive a real property tax credit of Ten percent (10%) of the volunteer's Township real estate 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 Township's real estate tax levy.

The tax credit shall be administered as a refund by the Township Treasurer. An active volunteer shall file the following with the Township Secretary:

- i. A true and correct receipt from the municipal real estate tax collector of the paid municipal 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 paid was for qualified real property as defined in this Article.

2. If the active volunteer provides all documents required under this subsection, the Township treasurer shall issue the tax refund to the active volunteer.

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

1. The Township Secretary shall reject the claim for a municipal real property tax credit if the taxpayer fails to provide the documents required under subsection (B)(1).
2. If the Township 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 § 176-54.
3. Taxpayers shall have 30 days to appeal the decision of the Township Secretary.

**§ 176-54. APPEALS.**

**A) Earned Income Tax Credit Appeals.**

1. Any taxpayer aggrieved by a decision under § 176-52 shall have a right to appeal said decision.
2. A taxpayer shall have 30 days to appeal a decision or rejection of claim.
3. All appeals of decisions under § 176-52 shall follow the provisions of the Act of May 5, 1998, P.L.301, No. 50, known as the Local Taxpayers Bill of Rights, and those procedures established by the Township of Middle Smithfield thereunder, or the regulations of the tax officer of the Monroe Tax Collection District, as applicable.

## **B) Real Property Tax Credit Appeals**

1. Any taxpayer aggrieved by a decision under § 176-53 shall have a right to appeal said decision.
2. A taxpayer shall have 30 days to appeal a decision or rejection of claim.
3. All appeals under § 176-53 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 Agency Law."