

RESOLUTION R-2018-8

A RESOLUTION DETERMINING THAT THEODORE DESALVO IS IN NEED OF A REASONABLE ACCOMODATION TO COMPLY WITH SECTION 505.15 OF THE WINDHAM CODIFIED RESOLUTIONS AND GRANTING SUCH AN ACCOMMODATION.

WHEREAS, Section 505.15 of the Windham Codified Ordinances prohibits individuals from keeping farm animals on land in residential neighborhoods in the Village of Windham; and

WHEREAS, Theodore DeSalvo, a citizen who resides at 9075 Horn Road in the Village of Windham has requested the Council of the Village of Windham to grant him, pursuant to the Fair Housing Act, 42 USC § 3604 a reasonable accommodation to Section 505.15 of the Windham Codified Ordinances so as to allow Mr. DeSalvo to keep three ducks in a designated area of his land; and

WHEREAS, in response to Mr. DeSalvo's request a meeting was held with members of the Village administration where the following information was provided by Mr. DeSalvo and considered by the administration:

1. Jennifer Solivas Maluyao, MD, in a letter dated September 19, 2017 opined that two to three ducks are sufficient to assist Mr. DeSalvo in treatment of multiple sclerosis and chronic depression.
2. The affirmative defense set forth in Windham Codified Ordinance 505.15 of keeping the animal on the restraint device (such as a leash) should not apply to ducks.
3. The pen presently in Mr. DeSalvo's backyard may be used to comply with the requirement that farm animals need to be maintained no closer than 25 feet from the edge of your property. The pen may have to be moved to meet this requirement; and

WHEREAS, in an effort to show the Windham Village Council how Mr. DeSalvo's proposal complies with some of the requirements set forth in Ordinance 505.15 Mr. DeSalvo has submitted a site plan of the DeSalvo lot showing a proposed location of the pen for the ducks in compliance with the 25-foot setback requirement; and

WHEREAS, subject to certain conditions the Village Council desires to grant a reasonable accommodation to Theodore DeSalvo, to keep up to three ducks at his house located at 9075 Horn Road, in the Village of Windham.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Windham, County of Portage, State of Ohio, the majority or more of its members concurring that:

Section One: That Theodore DeSalvo is granted a reasonable accommodation to compliance with the requirements of Windham Codified Ordinance 505.15 as follows:

1. Up to three ducks of the same sex may be kept in enclosure identified as "Duck Crate" on the attached site plan marked for identification as Exhibit A, and incorporated herein by reference.
2. The Duck Crate must be located at least 25 feet away from the side and rear property lines on the DeSalvo property at all times.
3. The three ducks do not have to be kept on a leash.
4. The three ducks may only be released from the Duck Crate and outside when in the presence of Mr. DeSalvo or his wife, Colleen DeSalvo.

Section Two: Failure to comply with the conditions set forth in the Resolution shall be grounds for the Council to reconsider the reasonable accommodation granted in this Resolution.

Section Three: It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council and that all deliberations of this Council, and of any of its committees that resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

Passed in Council First Reading February 27, 2018
 Second Reading March 27, 2018
 Third Reading April 23, 2018

Vote of Council: Ayes: 5
 Nays: 0

ATTEST:

APPROVED:

Fiscal Officer, Cheree M. Taylor

Deborah Blewitt, Mayor

APPROVED AS TO FORM:

Village Solicitor, Thomas Reitz