

ORDINANCE NO. 0-2008-24

AN ORDINANCE AUTHORIZING THE VILLAGE OF WINDHAM TO WITHDRAW FROM THE WINDHAM TOWNSHIP FIRE DISTRICT UNDER SECTION 505.37(C) OF THE OHIO REVISED CODE DECLARING AN EMERGENCY AND REPEALING ALL PRIOR INCONSISTENT ORDINANCES.

WHEREAS, Windham Township allegedly created a Fire District in 1965 which included both the incorporated and unincorporated areas of the Township; and

WHEREAS, the Village of Windham was legally part of Windham Township in 1965 when the District was allegedly first created; and

WHEREAS, neither the Township nor the Fire District have been able to, despite repeated requests by the Village, produce any documents regarding the original terms or conditions for the creation of the Township Fire District; and

WHEREAS, the Village of Windham seceded from the Township in 1993, and if it were a member of the Township Fire District at that time, the secession would have terminated its membership thereto; and

WHEREAS, the Village of Windham filed, in December 2007, a lawsuit in Portage County Court of Common Pleas (being Case No. 07-CV-1774 on that court's docket) wherein notice was given of its intent to withdraw from the District; and

WHEREAS, the County Auditor has continued to collect taxes from the Village of Windham residents and pay these revenues to the Windham Township Fire District; and

WHEREAS, even though the Village of Windham seceded from the Township Fire District in 1993 as a matter of law and the Village of Windham sought a declaration from the Court of Common Pleas of Portage County of this fact in 2007, the Council of the Village of Windham has decided to exercise its right and authority to withdraw from the District as set forth in Section 505.37(C) of the Ohio Revised Code in order to terminate the collection of taxes from the residents of the Village; and

WHEREAS, this matter is an emergency measure affecting the health, safety and general welfare of the residents of the Village of Windham because tax revenues have continuously been assessed to Village residents and shall continue to be assessed until the Village formally withdraws from the Windham Township Fire District; and

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Windham, Portage County, Ohio, three-fourths or more of the members elected thereto concurring that:

Section One: That the Village of Windham pursuant to Section 505.37(C) of the Ohio

Revised Code does withdraw from the Windham Township Fire District effective upon the earliest date permissible by law.

Section Two: That this Ordinance is hereby declared to be an emergency measure, the immediate passage of which is necessary for the public health, safety and welfare and for the reason that the Portage County Auditor continues to collect taxes from Village residents and shall continue to do so until the Village withdraws from the Windham Township Fire District pursuant to Section 505.37(C) of the Ohio Revised Code, wherefore this Ordinance shall take effect and be in full force immediately upon its passage.

Section Three: This Ordinance is being passed in order to cease the collection of taxes from Village residents by the County Auditor (or any other government official), and shall not constitute an admission by the Fire District that it has been a member of the Fire District since 1993. The Village maintains that it has not been a member of the Fire District since succession from the Fire District as a result of the secession in 1993, and as set forth more fully the complaint filed against Windham Township in the Court of Common Pleas of Portage County, Ohio; and

Section Four: That it is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance 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.

First Reading: November 25, 2008
Second Reading: December 23, 2008
Third Reading: December 29, 2008

Passed in Council this 29th day of December, 2008.

Vote of Council: Ayes: Mrs. Barrett, Mr. Garrett, Mrs. Rininger, Mr. Slusher, Mr. Snyder
Nays: Mrs. Meszaros

ATTEST:

APPROVED:

Village Fiscal Officer

Mayor

I hereby certify that this Ordinance was duly published by public posting at predesignated posting places.

Village Fiscal Officer

Date: _____

Date: _____

Date: _____

Date: _____

Date: _____