

**BOROUGH OF WIND GAP
COUNTY OF NORTHAMPTON
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 458

AN ORDINANCE OF THE BOROUGH OF WIND GAP, COUNTY OF NORTHAMPTON, COMMONWEALTH OF PENNSYLVANIA, AMENDING EXISTING BOROUGH ORDINANCE NO. 410 ALLOWING FOR THE SALE, USE AND CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE BOROUGH PARK PREMISES AT SPECIAL EVENTS AS DETERMINED AND APPROVED BY BOROUGH COUNCIL ALONG WITH ESTABLISHING A CURFEW FOR THE PARK PREMISES

WHEREAS, the Borough of Wind Gap is an incorporated Borough and municipality existing as a political subdivision of the County of Northampton, Commonwealth of Pennsylvania maintaining a municipal office with an address at 29 Mechanic Street, Wind Gap, Northampton County, PA 18091; and,

WHEREAS, the Borough has a Borough Park (hereinafter referred to as "the Park") along East Third Street and Lehigh Avenue; and,

WHEREAS and by Wind Gap Borough Ordinance No. 410 (as amended), the Borough of Wind Gap has adopted rules and regulations for the use of the Park and related facilities along with establishing enforcement procedures and penalties for violation of said ordinance and/or rules and regulations; and,

WHEREAS, the aforesaid Borough Ordinance recites that "alcoholic beverages are not permitted on the Park premises". See Section No. One (1), subsection (c) of Ordinance No. 410; and,

WHEREAS, the Park is used for inter alia special events throughout the year such as the Borough carnival, the "Summer Sounds" program and a car show; and,

WHEREAS, various social, fraternal, benevolent, community and civic organizations (such as the Wind Gap Fire Company) utilize these special events in order to raise funds for their respective organizations; and,

WHEREAS, it has been a long standing tradition in the Slate Belt Area of Northampton County that such organizations (such as the fire company) have a stand or tent for the sale of food and/or alcoholic beverages and the proceeds of the sale of such items assist in the aforesaid fund raising efforts; and,

WHEREAS, Borough Council believes that the sale, use and consumption of alcoholic beverages in, at or on the Park premises at special events (but only as determined and approved by Borough Council) will assist and promote the fundraising efforts of the aforesaid various organizations; and,

WHEREAS, Borough Council also believes that the use and consumption of alcoholic beverages (sensibly and in moderation) at the Park will not adversely affect the safety, health and welfare of its residents; and,

WHEREAS, Borough Council also believes that a curfew for the Park premises is reasonable and necessary and promotes the safety, health and welfare of its residents; and,

WHEREAS and pursuant to the Borough Code (53 P.S. Section 47701) and other applicable law, the Borough may provide, improve, maintain and regulate inter alia public parks.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, AND IT IS
HEREBY ORDAINED AND ENACTED, by the Council of the Borough of Wind Gap,
County of Northampton and Commonwealth of Pennsylvania, as follows:

SECTION 1. All of the above recitals are herein incorporated by
reference.

SECTION 2. Borough Ordinance No. 410, Section 1(c) as presently
written is deleted and is rewritten to read as follows:

- "(c) The sale, use and consumption of alcoholic beverages are not permitted in, at or on the Park premises except at special events. These special events shall be determined and approved by Borough Council; and, Borough Council shall also have the authority to establish any rules or regulations for the sale, use and/or consumption of alcoholic beverages in, at or on the Park premises including inter alia requiring that any organization must secure any and all necessary permits for the sale, use and consumption of alcohol."

Borough Ordinance No. 410 is amended to add a new Section 1(j) as follows:

- "(j) A curfew shall be established. The Park shall be closed from 10:00 p.m. to 6:00 a.m. on a daily basis except for the tennis and the basketball courts which can be utilized (weather permitting) inasmuch as those facilities have at-night lighting available. Further, the times of this curfew may be amended in the future by resolution (as opposed to ordinance) since any change in the curfew hours is merely administrative (and not legislative) in nature."

SECTION 3. The terms, conditions and provisions of this Ordinance are severable. If any such term, condition or provision 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 of the remaining terms, conditions or provisions of

this Ordinance; and it is hereby declared to be the intent of the Borough that this Ordinance would have been adopted and enacted had such unconstitutional, illegal or invalid term, condition or provision not been included herein.

SECTION 4. The terms, conditions and provisions of Borough Ordinance No. 410 (and any other Borough ordinances) that are inconsistent herewith shall be deemed vacated and/or repealed; but, any other terms, conditions and provisions of those or any other Borough ordinances which are not inconsistent herewith shall remain in full force and effect.

SECTION 5. This Ordinance shall become effective five (5) days after its adoption.

ORDAINED AND ENACTED into an Ordinance this 4th day of June, 2007.

ATTEST:

BOROUGH OF WIND GAP

Louise Firestone
Louise Firestone, Secretary and
Borough Administrator

By: Kerry Gassler
Kerry Gassler, President

THIS ORDINANCE was vetoed by Mitchell D. Mogilski, Sr., Mayor, by his written objections filed and presented at a regular meeting of Borough Council held on Tuesday, June 19, 2007. Borough Council then proceeded to reconsider of the ordinance. The veto was overridden by vote of Borough Council (upon motion duly made and seconded) by voice vote of 6 to override and 1 abstention and noted in the meeting minutes. Accordingly, the veto was overridden as per the Borough Code, 53 P.S. Section 46007(a); and, the ordinance has full force and effect.

ATTEST:

Louise Firestone
Louise Firestone, Secretary and
Borough Administrator