



May 20, 2020

Update from Mayor Mike Reuter

Subject: Local COVID-19 Response to Governor Inslee's Stay Home Stay Safe Order

I want to provide an update on the local progress of opening the community. There has been much discussion recently about the Governor's executive authority and if the local communities should defy, resist or attempt to override the Stay Home Stay Safe Order in an effort to preserve our local economic wellbeing.

I am extremely concerned for the local business owners who have been required to shut down or scale back their operation due to Governor Inslee's Order. Kalama along with the four other cities and Cowlitz County are working with our Health Officer to move Cowlitz County into Phase 2 of the Governor's "Safe Start" plan. Yesterday afternoon (5/19/20) the Incident Management Team (IMT) issued a press release about the progress which is attached at the end of this letter. We will continue to work diligently to satisfy the requirements laid out by the governor to restore our community.

I would like to make clear the position of local municipal government and its authority in the hierarchy of law. As our City Attorney explains it, "The Supremacy Clause and Doctrine of Preemption, is the ruling, based on the U.S. Constitution and the relationship between the Federal Government and State Government and laws, but also applies to the Washington Constitution in its relation to counties and cities within the state. Under the doctrine of preemption, which is based on the Supremacy Clause, state law preempts county or city law, even when the laws conflict." Meaning that even if the Kalama City Council were to pass a law opposing the Governor's Order it would still be ineffective and would not result in legally authorization for business to open. Licensing is partially a state function. While local businesses are required to purchase a City of Kalama Business License, the State of Washington issues and regulates: UBI #'s, Liquor Licenses, Contractor's Licenses and licensure for cosmetology just to name a few. It is probable that local violation could provoke state action rescinding licensure, and result in permanent consequence to our local businesses.

The following is an excerpt from The Washington Association of Prosecuting Attorneys Memorandum dated May 1, 2020: "County legislative authorities that adopt inconsistent regulations or ordinances expose their residents to adverse consequences. A county resident or business whose conduct complies with the local regulation or ordinance is still subject to criminal prosecution for violating the governor's emergency proclamation. *See* RCW 43.06.220(5). The sanctions for violating this law by an individual includes jail and/or fines, while a business can be ordered to pay up to two hundred and fifty thousand dollars (\$250,000.00). *See* RCW 9A.20.021 and RCW 10.01.100(1)(d)."

The memo goes on to outline the liability to the local municipality as well, but the long and short of the intent is; Stay Home Stay Safe is the Governor's restriction and only he (or a judge) has the authority to lift or modify the restrictions of his order.

Open Letter to Community

City of Kalama
195 N. 1st Street
Kalama, WA 98625

I too am frustrated with and tired of the impacts from the Order. While each citizen has free will to decide if they will voluntarily comply or engage in civil disobedience accepting the consequences of their actions, the local division of government cannot instruct its employees to violate state law. Directing our police officers to defy an order from the Governor creates a paradox in which our officers do not have a viable course of action. If the city intentionally violates state law, then we undermine our own credibility and it becomes unreasonable to expect our citizens to comply with the local municipal code if we won't comply with state law.

My staff and I appreciate your continued patience.

Mayor Mike Reuter.

