

Hello Adam,

Our office, the City of Kalama, and most of Washington are definitely feeling the crush this stay home – stay safe order is putting on the economy, our state, and our professional and personal lives. I can understand Councilman Merz's frustration with the order and especially the uncertainty of when it will really end. I also understand his strong desire to get the City of Kalama and its citizens back to work and a sense of normalcy. That is what I wish as well. But as legal counsel to the City of Kalama, I do need to make you, the Mayor, and the City Council aware of the potential legal issues of issuing any city proclamation, order, statement, or other action that directly states or suggests the City of Kalama, or its citizens actively disobey PROCLAMATION BY THE GOVERNOR AMENDING PROCLAMATIONS 20-05 AND 20-25 20-25.1 EXTENDING STAY HOME – STAY HEALTHY TO MAY 4, 2020.

We have discussed these same concerns with MRSC, other city attorneys, the Washington State Attorney General's office, and with other city officials. Our biggest legal concerns with any city or governing body issuing a city proclamation, order, or statement suggesting or ordering items that are contradictory to the Governor's Stay Home – Stay Safe Order are as follows:

First, it would potentially leave the City (as a business and government entity), individuals, mayor and council members, and local businesses open to state monetary or governmental sanctions, or criminal prosecution under RCW 43.06.220 as stated in the most recent proclamation: PROCLAMATION BY THE GOVERNOR AMENDING PROCLAMATIONS 20-05 AND 20-25 20-25.1 EXTENDING STAY HOME – STAY HEALTHY TO MAY 4, 2020. There may not be any sanctions or prosecutions, but there is a possibility and legal authority by the state to do so. I do know the Attorney General's office has been very active about enforcing eviction prohibitions, garnishment prohibitions, and following up on business openings mentioned through the reporting website set up by the Governor's office. I have already had to field several phone calls and emails with the A.G.'s office on behalf of clients in the past three weeks. We have worked them all out, but there is a lot of activity in ensuring compliance by the state government.

Second, your proposed worst case scenario, or other less dramatic scenarios in which a business or individual is sued and in turn joins the City as a defendant in a lawsuit because the business or person was told by the City they could open, etc. are all possible scenarios where a city may be involved in a suit. Actively instructing the City or citizens to go against the Stay Home – Stay Safe order is going to open the City up to *possible* litigation, and there is no way to phrase an order that would protect the City of Kalama against it. There is a reason you have not seen several cities in Washington issue any of these types of orders to date. I do want to clarify that this does not mean the City may not have legal remedies to fight any suits brought against it, especially on Constitutional grounds, but know that kind of a fight will cost money and tie the City up in litigation for quite some time.

Third, given that an order boycotting the governor's order, or simply suggesting or ordering it be ignored or suggesting that the people of Kalama not abide by the order would almost definitely be grounds for AWC RMSA to deny covering the City in any lawsuits should they so choose. I doubt it would be enough for the insurance company to stop covering the City all together, but I would be very surprised if they agreed to cover any lawsuits arising from it, as it is a clear and direct violation of RCW 43.06.220 stated earlier. I would suggest that if the City does wish to put out any proclamation, order, or statement suggesting the City not follow the terms of PROCLAMATION BY THE GOVERNOR AMENDING PROCLAMATIONS 20-05 AND 20-25 20-25.1 EXTENDING STAY HOME – STAY HEALTHY TO MAY 4, 2020, that a draft of the City's proclamation, order, or statement be sent to AWC before it is voted on or sent out to the public to get in writing an answer from them about potential coverage in the future.

There are other issues that may arise as well, dealing with cost, actions blamed on the city for failure to comply with state rules, loss of state funding options, or other potential consequences that while may sound unjust, are still potential issues for the City Council to consider before issuing any proclamation, statement, or order. Please keep us involved in this hearing, any drafts being considered, or any other statements being made by council or the mayor. I would also be happy to speak directly with any council member, the mayor, you or Coni to ensure we are all aware of the potential legal hurdles, concerns, helps I can offer, and any other issues that may arise.

Best Regards,  
Sam

**Samuel D. Satterfield**

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