

Mayor Mark Jensen and Borough Assembly Members
Petersburg Borough Assembly
PO Box 329
Petersburg, AK 99833

September 2020

RE: Proposed Ordinance #2020-19

Dear Mayor Jensen and Petersburg Borough Leaders,

There are many voices you have not heard related to the ordinance now in third reading and set for a vote. Not everyone is comfortable calling into a public forum, writing a letter to the editor, or trying to get a private meeting with you. But there are concerns.

What follows is NOT a referendum on those who have led the way on this latest challenge with CoVid-19 responses. People have been quick to say that XXX is a nice guy or XXX has served the town for XXX years. There is much appreciation for the work done and the time devoted. However, as a ruling body in voting for the current Ordinance #2020-19 that codifies tremendous powers in the hands of one or a few, that vote must be considered as if you are handing these powers not to those you know and trust...but as if giving those powers to your worst political adversary, the person or people with whom you most disagree, your grandest enemy, and those you don't trust or respect. That's what law does.

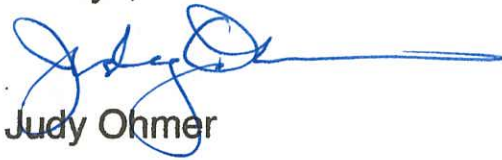
As written Ordinance 2020-19 is an overreach that has what could be frightening consequences. Some of what would be allowed in that wording has now been ruled unconstitutional in a recent case by a Federal judge from the Western District of Pennsylvania. An article about that 66-page judgement is attached. Within it Judge Stickman says: "Even a vigilant public may let down its guard over its constitutional liberties only to find that liberties, once relinquished, are hard to recoup." That voices some of the concerns I hear on the streets of Petersburg.

In asking that Ordinance 2020-19 be nullified in its entirety...it is not to leave the town without a plan...but to have a plan that is fitting for Petersburg, Alaska and not something highjacked from a city in California or wherever it came from...in a copy-and-paste that is offensive in a town that has always pulled together in both good times and in challenge.

With more awareness in the public now in what Ordinance 2020-19 can mean, let's go back to the drawing board and create something that is appropriate for our town. And let's keep in mind while developing a better plan than is currently in place that, as Dr. Peter Breggin has said: "The US Constitution and the Bill of Rights are INTENDED FOR emergencies, not EXPENDABLE DURING emergencies." We can clarify lines of communication without giving up liberties we won't get back.


For now, we present signature pages with the expressed position asking that you please vote down Ordinance 2020-19 in its entirety.

Always,

A handwritten signature in blue ink, appearing to read 'Judy Ohmer', with a long horizontal flourish extending to the right.

Judy Ohmer

Federal judge rules Pennsylvania governor's coronavirus restrictions unconstitutional

by [Anthony Leonardi, Breaking News Reporter](#) & [Cassidy Morrison, Healthcare Reporter](#) |  | September 14, 2020 03:52 PM

A federal judge ruled that Gov. Tom Wolf's business closures and gathering limits to decrease coronavirus transmission were unconstitutional.

"Even in an emergency, the authority of government is not unfettered," District Court Judge William Stickman wrote in a decision Monday. "The liberties protected by the Constitution are not fair-weather — freedoms in place when times are good but able to be cast aside in times of trouble."

Stickman, a Trump appointee in the Western District of Pennsylvania, sided with the individual counties that brought the suit, ruling that parts of Wolf's coronavirus restrictions violated both the First and Fourteenth Amendments to the Constitution.

Pennsylvania argued the restrictions, which included an indoor social gathering limit of 25 people, were a legitimate exercise of the state's police powers during a public health emergency. However, Stickman concluded the language of the July 15 order describing the duration of restrictions, which reads "until further notice," was too broad and that the congregate limits "violate the right of assembly enshrined in the First Amendment."

Stickman also took aim at the components of the state's order that closed the operations of businesses, determining they violated both the Fourteenth Amendment's due process clause, which prevents the government from depriving life, liberty, or property without due process, and the equal protection clause, which requires states to govern with impartial judgment.

Under Wolf's three-phase reopening plan, only "life-sustaining" businesses were permitted to reopen, such as grocery stores, while schools were ordered closed. Stickman sided with plaintiffs who said that the decision to differentiate between "life-sustaining" and "non-life-sustaining" was an "arbitrary, ad hoc process."

Small businesses ordered to shut down, the plaintiffs argued, often sell the same products or services as big-box retailers. Stickman said it is "paradoxical" that an order meant to keep people apart allowed the largest retailers with the highest occupancy limits, such as Home Depot and Walmart, to remain open.

"The Court recognizes that Defendants were facing a pressing situation to formulate a plan to address the nascent COVID-19 pandemic... But in making that choice, they were not merely coming up with a draft of some theoretical white paper, but rather, determining who could work and who could not," Stickman said.

Stickman added that the "solution to a national crisis can never

Federal Judge Says Pennsylvania Democrat Governor's Lockdown Orders Are Unconstitutional

SEPTEMBER 14, 2020 By Tristan Justice

A federal judge in Pennsylvania ruled Monday the state Democratic governor's lockdown orders are unconstitutional, violating both the First and 14th Amendments.

The lawsuit, brought by Butler, Fayette, Greene, and Washington counties joined by Pittsburg-area Republican Congressman Mike Kelly and several state representatives, was filed in May arguing Gov. Tom Wolf's orders implemented with state Health Secretary Rachel Levine to shut down businesses violated constitutional liberties. Seven businesses that included several hair salons and an appliance store had also joined the suit.

"Does a governor, any governor, our governor, Wisconsin's governor, whomever, do they have the authority – through the Constitution through the United States of America – to shut down the economy the way they did or force closures of any businesses?" Washington County Commissioner Nick Sherman told a Pittsburg CBS affiliate in July.

In the 66-page ruling, U.S. District Court Judge for the Western District of Pennsylvania William Stickman struck down Wolf's limits on indoor and outdoor gatherings of up to 25 and 250 people, respectively. The limitations, Stickman wrote, violate "the right of assembly enshrined in the First Amendment."

Stickman ruled that the governor's stay-at-home order, which required closure of businesses, which were deemed essential, violated the First Amendment of the novel Wuhan coronavirus, infringing

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discriminated based upon arbitrary “life sustaining” and “non-life sustaining” standards breaching 14th Amendment protections.

In the ruling, Stickman said he “believes that defendants undertook their actions in a well-intentioned effort to protect Pennsylvanians from the virus. However, good intentions toward a laudable end are not alone enough to uphold governmental action against a constitutional challenge. Indeed, the greatest threats to our system of constitutional liberties may arise when the ends are laudable, and the intent is good — especially in a time of emergency.”

Stickman emphasized that once liberties erode under a public emergency, they become difficult to repossess.

“Even a vigilant public may let down its guard over its constitutional liberties only to find that liberties, once relinquished, are hard to recoup,” Stickman wrote.

Wolf’s office told the Inquirer they “are reviewing the decision.”

Tristan Justice is a staff writer at The Federalist focusing on the 2020 presidential campaigns. Follow him on Twitter at @JusticeTristan or contact him at Tristan@thefederalist.com.

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