

Ordinance No. 6368

6368 - AN ORDINANCE declaring the City of Olympia, Washington A NUCLEAR FREE ZONE.

THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Title

This Ordinance shall be known as "The City of Olympia Nuclear Free Zone Act."

Section 2. Purpose

The Purpose of this Act is to establish the City of Olympia, Washington as a nuclear free zone in that the development, production, transportation, storage, processing, disposal and/or use of nuclear weapons is prohibited within the city limits, and that citizens and representatives are urged to redirect resources previously used to develop, produce, transport, store, process, dispose or use nuclear weapons toward endeavors which promote sustainability and enhance life such as human services including child care, housing, schools, health care, emergency services, public transportation, public assistance and jobs.

Section 3. Findings

It is the finding of the Olympia City Council that:

- 1.** The nuclear arms race has been accelerating for over fifty years, diverting the world's scarce resources, undermining sustainability, and presenting humanity with the threat of nuclear holocaust.
- 2.** There is no adequate method to protect Olympia residents in the event of nuclear war or the accidental or deliberate detonation of a nuclear weapon.
- 3.** As both a port and capital city, Olympia is a potentially attractive target for the use of nuclear weapons by terrorists and countries possessing nuclear weapons.
- 4.** The use of resources for nuclear weapons prevents these resources from being used for other human needs, including jobs, housing, education, health care, public transportation and services for youth, the elderly and the disabled.
- 5.** The United States, as a leading producer of nuclear weapons, should take the lead in the process of global rejection of the arms race and the elimination of the threat of impending nuclear holocaust. The US signed the Nuclear Non-Proliferation Treaty (NPT) in 1970. Article VI of the NPT commits the US and other nuclear states to nuclear disarmament. At the 2000 NPT Review Conference, the US agreed to a 13 point program of action towards the nuclear disarmament requirement of Article VI. The US has not

acted in good faith to meet its obligations under Article VI of the NPT, nor to implement the 13 point program it agreed to in 2000.

6. An emphatic expression of the feelings on the part of private citizens and local governments can help initiate such steps by the United States and the other nuclear weapons powers.

7. On February 1, 2005, The Olympia City Council passed a resolution endorsing the Mayors for Peace 2020 Vision Campaign, and the US Conference of Mayors Resolution calling for the verifiable and enforceable elimination of all nuclear weapons by the year 2020, the 75th anniversary of the Hiroshima and Nagasaki bombings.

8. The City of Olympia has embraced the concept of sustainability as an overarching community philosophy and has implemented numerous programs and policies to realize sustainability, and the threats posed by the continued existence of nuclear weapons is inconsistent with the goal of achieving a sustainable community.

9. In view of the Nuremberg Principles, which hold individuals accountable for crimes against humanity, and the illegality of nuclear weapons under international law, according to the International Court of Justice; in adopting this Ordinance this community seeks to end its complicity with preparations for fighting a nuclear war.

Section 4. Prohibition of Nuclear Facilities

A. No nuclear weapons shall be developed, produced, transported, stored, processed, disposed of, nor used within the City of Olympia. No facility, equipment, components, supplies or substance for the development, production, transportation, storage, processing, disposal or use of nuclear weapons shall be allowed in the City of Olympia. This prohibition shall take effect upon adoption.

B. No person, corporation, laboratory or institution or other entity in the City of Olympia knowingly and intentionally engaged in development, testing, evaluation, production, maintenance, storage, transportation and/or disposal of nuclear weapon or the components of nuclear weapons shall commence any such work within the City of Olympia after the adoption of this Ordinance.

Section 5. Investment of City Funds

The City Manager shall, within one year of adoption of this Ordinance, propose a socially responsible investment policy and implementation plan, specifically addressing any investments the City may have or may plan to have in industries and institutions which are knowingly and intentionally engaged in the development, testing, evaluation, production, maintenance, storage, transportation and or disposal of nuclear weapons or their components, and shall submit said proposal to the City Council for their consideration and implementation.

Section 6. Eligibility for City Contracts

A. The City of Olympia shall grant no awards or contracts for any purpose to any person, firm, corporation or entity which is knowingly or intentionally engaged in the development, research, production, maintenance, storage, transportation and/or disposal of nuclear weapons or their components. It will be the responsibility of any recipient of a city contract or award to certify by a notarized statement to the City Clerk that it is not knowingly or intentionally engaged in the above defined activity. Notice of this certification shall be included in all "Requests for Proposals" issued by the City.

B. Exceptions may be granted if the City Manager makes a specific determination that no reasonable alternative exists, taking into consideration the following factors:

1. The availability of alternative services, goods and equipment, or other supplies substantially meeting required specifications of the proposed contract; and,
2. Quantifiable additional costs resulting from use of available alternatives.

C. If such certification is not provided, the City of Olympia shall make public the contractor's involvement with nuclear weapons at a regularly scheduled City Council meeting. The Mayor of the City of Olympia shall send a letter to the contractor that cites Olympia as a nuclear weapon free zone and requests the contractor to cease its involvement with the production of nuclear weapons.

Section 7. Exclusions

The provisions of Section 4 of this Ordinance shall not apply to the activities of the government of the United States, its agencies, departments, boards and commissions, or to the transportation of nuclear weapons or components thereof along interstate or national highways of the United States located within the corporate boundaries of the City of Olympia. For purposes of this section, "interstate or national highways" shall include any roadway which is or does become part of the interstate or national highway system as described in Sections 103 (b) and (c) of Title 23 of the United States Code. Further, nothing in this Ordinance shall be construed to prohibit or regulate the research and application of nuclear medicine or the use of fissionable materials for smoke detectors, light-emitting watches and clocks, and other applications where the primary purpose is unrelated to nuclear weapons development or fabrication. Nothing in this Ordinance shall be interpreted to infringe upon the rights guaranteed by the first amendment to the U.S. Constitution nor upon the power of Congress to provide for the common defense.

Section 8. Enforcement

A. Any violation of Section 4 of this Ordinance shall be a civil infraction, punishable in accordance with the procedures set forth in Chapter 4.50 of the Olympia Municipal Code,

as it may be amended from time to time. Each day for which the violation exists after issuance of a civil infraction citation shall constitute a separate offense.

B. As an additional and concurrent penalty for any violation of Section 4 of this Ordinance found to have been committed after issuance of a citation for a civil infraction pursuant to Section 8.A above, the City's Public Works Director may terminate any or all City utility service to that person. As used in this subsection 8.B, "City utility service" shall mean water service, sewer service, solid waste removal service, and/or stormwater drainage service.

C. In addition to or in lieu of enforcement under Sections 8.A and/or 8.B of this Ordinance, and without limitation or election of any other available remedy, the City may apply to a court of competent jurisdiction for an injunction enjoining any violation of this Ordinance. The court shall award attorney's fees and costs to any party who succeeds in obtaining an injunction hereunder.

Section 9. Severability

If any section, sub-section, paragraph, sentence, or word of this Act shall be held unconstitutional either on its face or as applied, the unconstitutionality of the section, sub-section, paragraph, sentence, or word or the application thereof shall not affect the other sections, sub-sections, paragraphs, sentences, and words of this Act, and the applications thereof; and to that end the section, sub-sections, paragraphs, sentences, and words of this Act are intended to be severable.

Section 10. Definitions

Nuclear weapon is defined to be any device in which explosion results from the energy released by reactions involving atomic nuclei, either fission, or fusion, or both. A component of a nuclear weapon is defined to be any device, radioactive material or non-radioactive material, the primary purpose of which is to contribute to the operation of a nuclear weapon.

Section 11. Notification

A. Upon adoption of this Ordinance, and annually thereafter, the Mayor shall send a cover letter referencing the NPT and a certified copy of this Ordinance to the President of the United States, to the ambassadors of all nations at that time believed to be possessing nuclear weapons, to the Secretary General of the United Nations, and to the director of the International Atomic Energy Agency.

B. In addition, copies of this Ordinance shall annually be sent to the Governor of the State of Washington, to the United States Senators from Washington, to the United States Representatives representing the City of Olympia, to our State Representatives and Senators, to the Thurston County Commissioners, and to the City of Lacey and City of Tumwater Councils.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Approved by the Mayor

Yes

Attest (City Clerk)

Approved as to Form (City Attorney)

Yes

Passed: 08/23/2005

Approved: 08/23/2005

Published: 8/30/2005