

ORDINANCE NO. C-36299

An ordinance establishing the City of Spokane as a zone free of nuclear armaments; enacting a new chapter 18.09 of the Spokane Municipal Code.

WHEREAS, the nuclear arms race has been accelerating for more than three-quarters of a century, draining the world's resources and presenting humanity with the ever-mounting threat of nuclear holocaust; and

WHEREAS, there is no adequate method to protect Spokane residents in the event of nuclear war; and

WHEREAS, nuclear war threatens to destroy most higher life forms on this planet; and

WHEREAS, the use of resources for new 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; and

WHEREAS, the United States already has a sufficient stockpile of nuclear weapons to defend itself and destroy the world several times over; and

WHEREAS, the United States, as a leading producer of nuclear weapons, should take the lead in the process of global slowdown of the arms race and the negotiated elimination of the threat of impending holocaust; and

WHEREAS, an emphatic expression of the feelings on the part of private residents and local governments can help initiate such steps by the United States and the other nuclear weapons powers; and

WHEREAS, Spokane is on record in support of a bilateral nuclear weapons freeze and has expressed its opposition to civil-defense crisis relocation planning for nuclear war; and

WHEREAS, Fairchild Air Force Base no longer utilizes nuclear weapons in its mission of protecting our community; and

WHEREAS, the failure of governments of nuclear nations to adequately reduce or eliminate the risk of ultimately destructive nuclear attack requires that the people themselves, and their local representatives, take action; and

WHEREAS, the production of nuclear energy creates highly radioactive nuclear waste whose transportation by rail or vehicle through the City can create substantial risk to the public safety and welfare of the City.

NOW THEREFORE, the City of Spokane does ordain:

Section 1. That there is enacted a new chapter 18.09 of the Spokane Municipal Code to read as follows:

Section 18.09.010 Purpose

The purpose of this title is to establish the City of Spokane as a zone free of nuclear weapons, prohibiting work on nuclear weapons and limiting harmful exposure to high-level nuclear waste within City limits. Residents and representatives are urged to redirect resources previously used for the production of nuclear weapons towards endeavors which promote and enhance life, including economic development, childcare, housing, schools, health care, emergency services, public transportation, energy conservation, small business support and jobs.

Section 18.09.020 Definitions

As used in this chapter, the following terms shall have the meanings indicated:

A. "Component of a nuclear weapon" is any device, radioactive substance or nonradioactive substance designed knowingly and intentionally to contribute to the operation, launch, guidance, delivery, or detonation of a nuclear weapon.

B. "Nuclear weapon" is any device with the sole purpose of the destruction of human life and property by an explosion resulting from the energy released by a

fission or fusion reaction involving atomic nuclei.

C. "Nuclear weapons producer" is any person, firm, corporation, limited liability company, institution, facility, parent, or subsidiary thereof, engaged in the production of nuclear weapons or their components.

D. "Production of nuclear weapons" includes the knowing or intentional research, design, development, testing, manufacture, evaluation, maintenance, storage, transportation, or disposal of nuclear weapons or their components.

E. A "product produced by a nuclear weapons producer" is any product which is made wholly or primarily by a nuclear weapons producer, except that products which, prior to their intended purchase by the City, have been previously owned and used by an entity other than the manufacturer or distributor; such products shall not be considered produced by a nuclear weapons producer if, prior to their purchase by the City, more than 25% of the useful life of such product has been used or consumed, or within one year after it has been put into service by the previous nonmanufacturer owner. The "useful life of a product" shall be defined, where possible, by the applicable rules, regulations or guidelines of the United States Internal Revenue Service.

#### Section 18.09.030 Nuclear Facilities Prohibited

A. The production of nuclear weapons shall not be allowed in the City. No facility, equipment, components, supplies, or substance used to produce nuclear weapons shall be allowed in the City.

B. No person, corporation, university, laboratory, institution, or other entity in the City knowingly and intentionally engaged in the production of nuclear weapons shall commence any such work within the City after adoption of this chapter.

#### Section 18.09.040 Investment of City Funds

The City Council shall consider a socially responsible investment policy, 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 production of nuclear weapons.

#### Section 18.09.050 Eligibility for City Contracts

A. The City and its officials, employees or agents shall not knowingly or intentionally grant any award, contract, or purchase order, directly or indirectly, to any nuclear weapons producer.

B. The City and its officials, employees or agents shall not knowingly or intentionally grant any award, contract or purchase order, directly or indirectly, to purchase or lease products produced by a nuclear weapons producer.

C. The recipient of a City contract, award or purchase order shall certify to the City Clerk by a notarized statement that it is not knowingly or intentionally a nuclear weapons producer.

D. The City shall phase out the use of any products of a nuclear weapons producer which it owns or possesses. Insofar as nonnuclear alternatives are not available, for the purpose of maintaining a product during its normal useful life and for the purpose of purchasing or leasing replacement parts, supplies and services for such products, subsections (A) and (B) of this section shall not apply.

E. The City shall identify a source annually that maintains a list of nuclear weapons producers to guide the City, its officials, employees and agents in the implementation of subsections (A) through (C) of this section. The list shall not preclude application or enforcement of these provisions to or against any other nuclear weapons producer.

#### F. Waivers.

1. The provisions of subsections (A) and (B) of this section may be waived

by resolution passed by a majority vote of the City Council; provided that:

- i. After a diligent good-faith search, it is determined that a necessary good or service cannot reasonably be obtained from any source other than a nuclear weapons producer;
  - ii. A resolution to consider a waiver be on file with the City Clerk under the normal timing as laid out in Council's Rules and shall not be added by a suspension of those Rules.
2. The reasonableness of an alternative source shall be determined upon the consideration of the following factors:
- i. The intent and purpose of this chapter;
  - ii. Documented evidence establishing that the necessary good or service is vital to the health or safety of the residents or employees of the City, with the understanding that the absence of such evidence shall diminish the necessity for waiver;
  - iii. The recommendations of the Mayor and/or City Administrator;
  - iv. The availability of goods or services from a non-nuclear-weapons producer reasonably meeting the specification or requirements of the necessary good or service;
  - v. Quantifiable substantial additional costs that would result from the use of a good or service of a non-nuclear-weapons producer; provided, that this factor shall not become the sole consideration.

#### Section 18.09.060 Exclusions

A. Nothing in this chapter 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 purpose is unrelated to the production of nuclear weapons. Nothing in this chapter shall be interpreted to infringe upon the rights guaranteed by the First Amendment to the United States Constitution nor upon the power of Congress to provide for the common defense.

B. Nothing in this chapter shall be interpreted, construed or applied to prevent the City Council, Mayor or the City Administrator or their designee from acting to remedy, ameliorate or prevent an emergency situation presenting a clear and present danger to the public health, safety and general welfare, as defined in Chapter 2.04 of the Spokane Municipal Code; provided, that should any such emergency situation require the purchase of products or services from or entry into a contract with a nuclear weapons producer then the Mayor or City Administrator shall notify the City Council within three working days of the City's actions.

C. Nothing in this chapter shall be interpreted, construed, or applied to supersede or bypass any procurement regulations, whether those regulations are legislative or administratively promulgated; provided, however, that no procurement regulations pertaining to the granting of any award, contract or purchase order shall alter or abrogate the intent or requirements of this chapter.

#### Section 18.09.070 Violations and Penalties

A. Any violation of this chapter shall be a Class 1 Civil Infraction.

B. Without limitation or election against any other available remedy, the City or any of its residents may apply to a court of competent jurisdiction for an injunction enjoining any violation of this chapter. The court shall award attorney's fees and costs to any party who succeeds in obtaining an injunction hereunder.

PASSED by the City Council on \_\_\_\_.

Council President

Attest: Approved as to form:

City Clerk Assistant City Attorney

Mayor Date