

Chapter 12.90 NUCLEAR FREE BERKELEY ACT

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12.90.010 Name.

This Chapter shall be known as "The Nuclear Free Berkeley Act." (Ord. 5784-NS § 1, 1986)

12.90.020 Purpose.

The purpose of this act is to make Berkeley nuclear-free; that is:

- A. To oppose the arms race by prohibiting work for nuclear weapons;
- B. To begin a peace conversion plan;
- C. To establish a citizen's right to know about nuclear weapons work;
- D. To minimize City contracts with and investments in the nuclear weapons industry;
- E. To prohibit nuclear reactors;

- F. To prohibit food irradiation plants;
- G. To require labelling of irradiated food sold in Berkeley; and,
- H. To oppose the nuclear fuel cycle as a whole. (Ord. 5784-NS § 2, 1986)

12.90.030 Findings.

The people of Berkeley find that:

- A. The nuclear arms race poses an intolerable threat to humanity.
- B. Berkeley is already a prime target in the event of a nuclear war, and because the continuing arms race increases the likelihood of nuclear war, fear of such a war directly endangers our health and safety. There is no adequate method to protect Berkeley residents in the event of a nuclear war. Children are especially frightened, depressed and disturbed by having to face the threat of extinction each day.
- C. Our national leaders continue to build and deploy new weapons systems despite the 1982 vote by the people of Berkeley and many other communities favoring a bilateral freeze in the "testing, production and further development of nuclear weapons . . ."
- D. The threat to use nuclear weapons is an integral part of United States foreign policy. Since 1948, the U.S. has threatened to use nuclear weapons in Europe, the Middle East, Asia and the Caribbean to protect U.S. military and business interests. Since the Nuremberg principles hold individuals accountable for crimes against humanity, and since nuclear weapons cannot be used without indiscriminately killing civilians and violating accepted international rules of war, then nuclear weapons are illegal, and should be prohibited within the City. We will not remain silent while policies of global death and destruction are carried out in our name.
- E. Federal spending for nuclear weapons production harms the nation's economy and the City's ability to provide needed human services. Compared to tax money spent meeting human needs, military spending requires fewer workers; weapons production thus increases unemployment in our City. The funds, personnel and other resources presently committed to work for nuclear weapons are misdirected and should be redirected toward urgently needed human services such as job training, social services for children, the elderly and disabled, shelter for the homeless, education, housing, health care, public transportation, emergency services and general public assistance. City investments in, and contracts with companies that engage in work for nuclear weapons are inconsistent with this goal.

F. Uranium mines, refining facilities, transportation of radioactive materials, nuclear reactors, and radioactive waste are part of a "nuclear fuel cycle" integral to nuclear weapons production. The entire cycle endangers our health and safety, as follows:

Mining, refining, and transportation of radioactive materials directly endangers the health of the workers involved.

Transportation of radioactive materials risks accidents releasing radioactivity into the environment.

Radiation is routinely released from all operating nuclear reactors, including reactors powering aircraft carriers and submarines in San Francisco Bay, while accidents such as Three Mile Island release still more.

There is no safe means known for the disposal of nuclear waste.

Any valid purpose served by the existing nuclear reactor in our City (such as research into safe nuclear waste disposal) would be better served by reactors already in existence in less populated areas far from earthquake faults.

G. Within the City of Berkeley there are facilities that engage in specific work for nuclear weapons or that are otherwise part of the nuclear fuel cycle, including:

1. The University of California's system-wide administration, which runs both Livermore and Los Alamos National Laboratories;
2. Etcheverry reactor on the U.C. Berkeley campus; and
3. Numerous business firms that work under contract or sub-contract to produce nuclear weapons components.

H. The security requirements accompanying the nuclear weapons industry threaten the civil liberties of the people of Berkeley and restrict the freedom of information necessary to make decisions concerning the future of the community. (Ord. 5784-NS § 3, 1986)

12.90.040 Prohibition of work for nuclear weapons.

A. Cessation of Present Activities. No person, corporation, university, laboratory, institution or other entity shall, within the City of Berkeley, knowingly engage in work for nuclear weapons. This prohibition shall take effect two years after adoption of this act.

B. Prohibition of Commencement of Work for Nuclear Weapons. No person, corporation, university, laboratory, institution or other entity which is not, as of the date this act is adopted, engaged in work for nuclear weapons, shall, within the City of Berkeley, commence any such activities after the date this act is adopted.

C. Exclusions. Nothing in this section shall be construed to prohibit the following:

1. Any activity not specifically described in this section;
2. Any unclassified research, study, evaluation or teaching;
3. The research and application of nuclear medicine; and
4. Uses of radioactive material for smoke detectors, light emitting watches and clocks, and other applications not related to the development of nuclear weapons. (Ord. 5784-NS § 4, 1986)

12.90.050 Prohibition of nuclear reactors.

A. Cessation of Present Activities. No person, corporation, university, laboratory, institution or other entity shall, within the City of Berkeley, operate or cause to be built a nuclear reactor. This prohibition shall take effect two years after adoption of this act.

B. Exclusions:

1. Any activity not specifically described in this section;
2. Any research, study, evaluation, teaching or training activities not involving the actual operation of a nuclear reactor;
3. The operation of particle accelerators and related equipment; and,
4. The construction and operation of experimental fusion reactors. (Ord. 5784-NS § 5, 1986)

12.90.060 Food irradiation plants and labelling.

A. No facility using radioactive isotopes for the purpose of irradiating food intended for human consumption shall be constructed or operated within the City of Berkeley.

B. Any food intended for human consumption that has been irradiated in such a facility, or by any similar facility using X-ray radiation, and is intended for sale within Berkeley shall be prominently labelled "Treated With Ionizing Radiation." (Ord. 5784-NS § 6, 1986)

12.90.070 Nuclear free contracts and investments.

A. Contracts. The City of Berkeley shall grant no contract to any person or business which knowingly engages in work for nuclear weapons, unless the City Council makes a specific determination that no reasonable alternative exists, taking into consideration the following factors:

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

B. Investments. The City of Berkeley shall refrain from making any new investments in businesses that knowingly engage in work for nuclear weapons or the components of nuclear weapons. Within two years of the adoption of this act, the City of Berkeley shall divest itself of all such investments currently held by it (including pension funds).

The City Council shall adopt a socially responsible plan with respect to county and pension fund investments and shall implement such plans consistent with the intent of this act. (Ord. 5784-NS § 7, 1986)

12.90.080 Community right to know.

So long as any work for nuclear weapons continues within the City of Berkeley, the following monitoring of such activities shall be carried out by the City through such agencies as the City Council shall designate:

A. Annual reporting: Each person, corporation, university, laboratory, institution or other entity engaged in work for nuclear weapons (hereinafter designated as "nuclear weapons agent") shall prepare an annual report which names the weapon, weapons systems or weapon component it works on and states the reasons for continuation of such work: these reports shall be filed with the designated City agency and shall also be made available for inspection and copying by any interested member of the public.

B. Information: The City may call upon any nuclear weapons agent to provide further information as needed to keep the community adequately informed about the work for nuclear weapons.

C. Signs: Every facility within the City of Berkeley engaged in work for nuclear weapons shall be required to install and maintain signs, clearly visible to any passing person, identifying the facility with the legend "NUCLEAR WEAPONS WORK CONDUCTED HERE."

D. Fee: Each nuclear weapons agent shall be assessed a fee at rates determined by the City which shall be at least adequate to cover, in the aggregate, the costs of administering this act.

E. Education: The City, through its own agencies and in cooperation with other local governmental agencies and educational organizations and interested citizen groups, shall assist and promote educational activities including but not limited to curriculum in all public schools and adult education programs, to advance public awareness and understanding of work for nuclear weapons and related matters as addressed in this act. (Ord. 5784-NS § 8, 1986)

12.90.090 Sanction and citizen empowerment.

So long as any work for nuclear weapons continues in Berkeley, the City shall, acting through agencies designated by the City Council:

A. Assess, each year, the report of each nuclear weapons agent called for in Section 19.90.080, and decide whether, according to the intentions of this act, continuation of that agent's work for nuclear weapons should continue.

B. In each case where the decision reached in subsection A is negative, the City shall so notify the nuclear weapons agent, with a formal request to cease and desist from that activity.

C. Each nuclear weapon agent being so notified and requested to cease and desist may appeal this decision to the City Council, within thirty days of receipt of said notices.

D. Failure of any nuclear weapons agent to comply with a cease and desist notice within sixty days following its receipt or following an unsuccessful appeal shall be met with any or all of the following sanctions as the City Council may choose:

1. Cut-off of any or all services by the City to the party concerned;
2. Levying of fines as suits the circumstances;
3. Advising citizens to avoid cooperation with the work of the party concerned; and
4. Providing assistance and encouragement, as appropriate, to citizens who may volunteer to impede, passively or actively by nonviolent means, the work on nuclear weapons by the party concerned. (Ord. 5784-NS § 9, 1986)

12.90.100 Transportation.

Any transportation of nuclear weapons, the fissionable components of nuclear weapons, enriched uranium, plutonium or high-level radioactive waste is, in the interest of the public safety, subject to the following restrictions:

A. In each situation, the City of Berkeley shall determine the safest reasonable routes and means of transport for the movement of any of the above-listed materials. Before approving such determination, the City Council shall convene at least one public hearing with adequate notice being given so as to ensure maximum public participation in the hearings. Following selection and approval of the route and means, full public notice shall be given as to this information and as to the additional restrictions of this section.

B. Each vehicle involved in such transportation shall have signs clearly visible for fifty feet in each direction warning "Transportation of Nuclear Materials."

C. Prior to each instance of shipment of such materials, adequate public notice shall be given. Particular attention shall be paid to giving notice directly adjacent to the route of transport. (Ord. 5784-NS § 10, 1986)

12.90.110 Public notice of nuclear free zone.

Every road entering the City of Berkeley which has a sign marking the City limits as of the date of the passage of this act will also be marked, equally prominently, with a sign reading "Nuclear Free Zone, established by City of Berkeley initiative ordinance, 1986." These signs shall be posted no later than January 1, 1987, and shall be at least two feet by three feet. (Ord. 5784-NS § 11, 1986)

12.90.120 Redirection of resources toward human needs.

The City of Berkeley Peace and Justice Commission shall solicit testimony from the public and shall prepare a detailed plan for the conversion of labor, resources and physical plants to peaceful and productive uses. This peace conversion plan shall be completed within two years of the adoption of this act. The commission shall ensure the participation of organized labor. (Ord. 5784-NS § 12, 1986)

12.90.130 Definitions.

"Nuclear weapon" is any device, the intended explosion of which results from the energy released by reactions involving atomic nuclei, either fission or fusion, or both. This definition of nuclear weapons includes the means of transporting, guiding, propelling or triggering the weapon if and only if such means is destroyed or rendered useless in the normal propelling, triggering, or detonation of the weapon.

"Component of a nuclear weapon" is any device, radioactive or non-radioactive, the primary intended function of which is to contribute to the operation of a nuclear weapon (or be a part of a nuclear weapon).

"Work for nuclear weapons" is any work the purpose of which is the development, testing, production, maintenance or storage of nuclear weapons or the components of nuclear weapons; or any secret or classified research or evaluation of nuclear weapons; or any operation, management, or administration of such work.

"Nuclear reactor" is any device, the purpose of which is to release energy from non-explosive reactions involving the fission of atomic nuclei. (Ord. 5784-NS § 13, 1986)

12.90.140 Enforcement.

Each violation of this act shall be punishable by up to thirty days imprisonment and a five hundred dollar fine. Each day shall be deemed a separate violation.

Residents of the City of Berkeley shall also have the right to enforce this act by appropriate civil actions for declaratory or injunctive relief. Reasonable attorney's fees and court costs shall be awarded to prevailing plaintiff in such litigation. (Ord. 5784-NS § 14, 1986)

12.90.150 Severability clause.

If any section, subsection, paragraph, or word of this act shall be held to be invalid, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences or words of this act, and the applications thereof; and to that end the sections, subsections, paragraphs, sentences and words of this act shall be deemed to be severable. (Ord. 5784-NS § 15, 1986)