

CITY OF HOMER
HOMER, ALASKA

ORDINANCE 89-12

AN ORDINANCE OF THE COUNCIL OF THE CITY OF HOMER PROHIBITING THE STORAGE OR DUMPING OF RADIOACTIVE MATERIAL AND PROHIBITING THE DESIGN, PRODUCTION, DEPLOYMENT, LAUNCHING, MAINTENANCE OR STORAGE OF NUCLEAR WEAPONS WITHIN THE CITY OF HOMER AND CALLING FOR AN ELECTION TO RATIFY THE ORDINANCE.

WHEREAS, the people of Homer understand the nuclear arms race and the massive quantity of nuclear waste generated by nuclear industry threaten the economic well-being, health, and safety of the citizens of this city and this country; and

WHEREAS, the people of Homer recognize the need to divert public tax dollars, commercial capital and human skills from production of nuclear weapons and their components to roads, sewage treatment, schools, health care, clean water, housing and other needs; and

WHEREAS, the presence of nuclear waste dumps and storage of weapons would make Homer less attractive to prospective new businesses, home buyers, and visitors and would exert a downward pressure on real property values; and

WHEREAS, the establishment of a Nuclear Free Zone creates a feeling of hope for the future and is a positive action beneficial to the psychological health of residents, especially children; and

WHEREAS, the establishment of a Nuclear Free Zone creates a feeling of good will and friendship that is welcoming to our visitors from near and far;

NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

* Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the Homer Municipal Code.

* Section 2. Amendment of Section. HMC 1.04.060 is amended to read:

1.04.060 Severability of Parts of Code. The sections, subsections, sentences, clauses, phrases and words of this Code are severable and if any part of this Code is declared unconstitutional, invalid, or ineffective for any reason by a valid judgment or decree of any court of competent jurisdiction, such unconstitutionality, invalidity or ineffectiveness shall not affect any of the remaining parts of the sections, subsections, sentences, clauses, phrases and words of this Code.

* Section 3. Adoption of New Chapter. There is adopted a new Chapter 5.06 to the Homer Municipal Code reading:

CHAPTER 5.06

NUCLEAR FREE HOMER

Sections:

- 5.06.010 Purpose
- 5.06.020 Definitions
- 5.06.030 Prohibitions
- 5.06.040 Exclusions
- 5.06.050 Enforcement

5.06.010 Purpose. The purpose of this ordinance is to establish the City of Homer as a Nuclear Free Zone, to acknowledge the orientation of its business community toward peaceful development and to protect the health and safety of the community and its resources on land and sea by prohibiting work on or storage of nuclear weapons or the storing or dumping of radioactive material within the city.

5.06.020 Definitions. For this purpose of this Chapter, the following definitions shall have the meanings set forth below:

a. "Person" means any individual, corporation, institution, or other entity.

b. "Nuclear weapon" means any device, the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei, including the means of guiding, transporting, propelling or triggering of the device, provided that such means is destroyed or rendered useless in the normal guiding, transporting, propelling, or triggering of the device.

c. "Component of a nuclear weapon" means any device, radioactive or non-radioactive, specially designed or modified for exclusive use as part of a nuclear weapon.

d. "Direct activities of the federal government" means actions of the federal government or of its agencies, but shall exclude actions of independent contractors.

e. "Radioactive material" means any radioactive material which is the by-product of any nuclear reaction or nuclear weapons production, any radioactive material or spent energy in the form of particles or rays by spontaneous disintegration of atomic nuclei, and any other material which the Nuclear Regulatory Commission determines to be special nuclear materials, except as specifically exempted in 5.06.040.

5.06.030 Prohibitions. a. Prohibition of Nuclear Weapons Work. After the effective date of this ordinance a person may not knowingly design, produce, deploy, launch, maintain or store nuclear weapons or the components of nuclear weapons. A person may not produce, store or dump radioactive material.

b. Prohibition of storage or dumping of radioactive material. A person may not establish, construct, or operate a radioactive material disposal site or store or dump any radioactive material except as specifically exempted in 5.06.040.

5.06.040 Exclusions. Nothing in this chapter prohibits:

a. The use of radioactive material in nuclear medicine or in medical or other research not intended to be applied in nuclear weapon technology;

b. Any writing or speech devoted to public commentary or debate, or other expression protected by the first amendment to the United States Constitution;

c. Uses of small amounts of radioactive materials for smoke detectors, light-emitting watches and clocks, gauges, and other similar consumer and industrial devices;

d. Uses of small amounts of radioactive materials for educational purposes by a recognized education institution;

e. Industrial applications of x-ray technology and tracer studies;

f. Direct activities of the federal and state government that are exempted by federal or state law from the application of the prohibitions under this chapter;

g. Storage of radioactive materials for activities excluded under this section;

5.06.050 Enforcement. Each violation of this chapter shall be punishable by up to 30 days imprisonment or a \$500 fine or both. Each day upon which a violation occurs or continues is a separate violation.

*Section 4. "Nuclear Free Zone" Sign. The City shall post and maintain at least two signs proclaiming Homer' status as a Nuclear Free Zone, one in a prominent area of the Port and Harbor, the preferred location on the side of the Port and Harbor-master's office(s), and the other outside the City Hall preferably on or adjacent to the existing City Hall sign. The size and other aspects of the sign shall conform to H.M.C 21.60.

* Section 5. Voter Referendum. The City Clerk is authorized and directed to place before the voters at the next regular municipal election a proposition in substantially the following form:

PROPOSITION A

NUCLEAR FREE HOMER

Shall Ordinance No. 89-12 of the City of Homer prohibiting the storage or dumping of radioactive material and prohibiting the design, production, deployment, launching, maintenance, or storage of nuclear weapons within the City of Homer become a part of the Homer Municipal Code?

YES

NO

* Section 6. Codification of Effective Date. If the proposition set out Section 5 of this ordinance is approved by the voters, the Clerk is directed to delete the phrase "on the effective date of this ordinance" wherever that phrase appears in Section 3 of this ordinance and to substitute therefor the date Section 3 takes effect as determined under Section 7.

*Section 7. Effective Date. Sections 1,2, 5 and 7 of this ordinance are effective immediately upon adoption. Sections 3 and 4 and 6 and the whereas clauses in this ordinance are effective beginning the day following the day upon which the Council certifies that a majority of the voters casting votes on the proposition set out in Section 5 voted in favor of the proposition.

ADOPTED this 10th day of July, 1989.

CITY OF HOMER

John P. Calhoun
John P. Calhoun, Mayor

ATTEST:

Patti J. Whalin
Patti J. Whalin, City Clerk

First Reading: June 12, 1989

Public Hearing: June 26, 1989

Second Reading: July 10, 1989

Effective Date: Per Section 7 of Ordinance

Reviewed and approved as to form and content:

Phil Shealy
Phil C. Shealy, City Manager

DATE: 7/13/89

Attorney for City of Homer

DATE: _____