

ORDINANCE NO. 1367

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF ARCATA
AMENDING THE ARCATA MUNICIPAL CODE
RELATING TO BOARDS, COMMISSIONS AND COMMITTEES**

**TITLE II - ADMINISTRATION
CHAPTER 3 - BOARDS AND COMMISSIONS
ARTICLE 1 - GENERAL PROVISIONS
AND
TITLE V – SANITATION AND HEALTH
CHAPTER 9 – NUCLEAR WEAPONS FREE ZONE ACT**

The City Council of the City of Arcata does ordain as follows:

Section 1. Title II (*Administration*), Chapter 3 (*Boards and Commissions*), Article 1 (*General Provisions*), Section 2201(B) (*Definitions*) is hereby amended as follows:

SEC. 2201. Definitions.

B. Commission. "Commission" shall mean a standing committee created by the Council with final decision-making authority as specifically provided herein. Decisions of a commission are reviewable by the Council through established appeal procedures. Commission members shall obtain ethics training, as required by AB 1234, Government Code section 53234 et seq.

Section 2. Title II (*Administration*), Chapter 3 (*Boards and Commissions*), Article 3 (*Design Review Commission*), Sections 2212 - 2218 are hereby amended as follows:

ARTICLE 3 – HISTORIC AND DESIGN REVIEW COMMISSION

SEC. 2212. Creation.

The Historic and Design Review Commission is hereby created. For purposes of this ordinance, the Historic and Design Review Commission is the same as the Design Review Committee created and defined in the Arcata Land Use and Development Guide, and any Historic and Design Review Authority, or similar type of entity, that may be created in successor land use codes adopted by the City. The powers and duties of the Historic and Design Review Commission are outlined as follows:

- A. To promote building and site design in Arcata which is of high aesthetic and functional quality and in harmony with nearby community areas.
- B. To establish criteria and standards for review of the various types of building and development projects in the City, including adoption of design guidelines to assist prospective project applicants in the design of their projects.

C. To conduct preliminary review of the design of proposed projects and provide comments and suggestions to assist applicants and their representatives in creating designs that will be compatible with adopted criteria and standards.

D. To review and take action to approve, approve subject to conditions and modifications, or to deny applications for design review permits as provided in the Land Use and Development Guide, Title IX of the Arcata Municipal Code, and any successor land use code adopted by the City.

E. To periodically evaluate completed projects and provide recognition of those projects that have special merit or which are exemplary in terms of carrying out the design criteria and standards.

F. To exercise any other powers and duties as may be assigned by the Land Use and Development Guide, Title IX of the Arcata Municipal Code, or any successor land use code adopted by the City.

G. To implement the Historic Landmarks Element of the City of Arcata General Plan: 2020;

SEC. 2213. (Reserved)

SEC. 2214. Meetings.

The Historic and Design Review Commission shall hold regular meetings twice monthly.

SEC. 2215. Membership.

The Historic and Design Review Commission shall consist of seven members and shall reflect the following areas of expertise:

A. Three members who have qualified training or experience, or have a demonstrated interest in historic preservation, or are members of the Arcata Historical Society.

B. Two members who are either architects, landscape designers or landscape architects, building designers, or other design professionals. One of these may be a building contractor.

C. One member who is a resident of the community with interest in design.

D. One member who has an understanding of solar siting and design.

SEC. 2216. Term.

Members of the Historic and Design Review Commission shall serve for a four-year term. The annual expiration date of a term for a Historic and Design Review Commission member shall be October 31.

SEC. 2217. Secretary.

The Director of Community Development, or his/her designee, shall be the Secretary to the Historic and Design Review Commission.

SEC. 2218. Conflict of Interest Code.

The provisions of the City of Arcata Conflict of Interest Code, Title II, Chapter 8, shall apply to all members of the Arcata Historic and Design Review Commission.

Section 3. Title II (*Administration*), Chapter 3 (*Boards and Commissions*), Article 7 (*Parks and Recreation Committee*), Section 2231 is hereby amended as follows:

ARTICLE 7 - PARKS AND RECREATION COMMITTEE

SEC. 2231. Creation, Powers and Duties.

The Parks and Recreation Committee is hereby created. Its powers and duties shall be:

- A. To serve in an advisory capacity to the Council, Commissions, or City staff, as appropriate, on matters pertaining to public recreation, parklands, local and regional trails and related facilities.
- B. To serve in an advisory capacity to the Council and City staff on matters pertaining to art, literature, music, theatre, and other related activities.
- C. To recommend to the Council and City staff the acceptance or rejection of offers of donations of money, personal property and real property to be used for recreation, cultural arts, or parkland purposes.
- D. To serve in an advisory capacity to the Council and City staff with respect to the establishment of user/rental fee schedules for parks, sports fields and public facilities.
- E. To resolve differences and seek solutions to scheduling and use conflicts of City recreational facilities.
- F. To establish rules and regulations for use and improvement of public parklands, recreation areas, squares, and grounds, including playgrounds, concessions and recreational and related facilities and programs installed and maintained therein.
- G. To serve in an advisory capacity to the Council and City staff with respect to policies for the acquisition, development and improvement of parklands and recreational areas.
- H. To recommend to the Council a comprehensive recreation and parkland use program based on the needs and interest of the community to assure and stimulate public interest, and to solicit to the fullest extent the cooperation of schools, local youth and public and private agencies.

Section 4. Title II (*Administration*), Chapter 3 (*Boards and Commissions*), Article 9 (*Wetlands and Creeks Committee*), Section 2238 is hereby amended as follows:

ARTICLE 9 - WETLANDS AND CREEKS COMMITTEE

SEC. 2238. Creation, Powers and Duties.

The Wetlands and Creeks Committee is hereby created. Its powers and duties shall be:

- A. To serve in an advisory capacity to the Council, Commissions, or City Staff as appropriate in matters relating to the policies affecting creeks, riparian areas, wetland and tideland resources of Arcata.
- B. To make recommendations to City staff on the management of vegetation, recreation, wildlife, and fisheries of the City-owned wetlands and creek zones, including the Arcata Marsh and Wildlife Sanctuary.
- C. To make recommendations to City staff on City-sponsored creeks and wetlands restoration and enhancement projects.
- D. To make recommendations during the environmental review process on projects that may involve or affect a creek, riparian area, wetland or tideland resource of Arcata.
- E. To provide community outreach and education in regard to stormwater pollution control, aquatic resources awareness, estuarine and riparian restoration and creek and wetland awareness issues.

Section 5. Title II (*Administration*), Chapter 3 (*Boards and Commissions*), Article 12 (*Open Space and Agriculture Committee*), Section 2251(*Creation, Powers and Duties*) is hereby amended as follows:

ARTICLE 12 - OPEN SPACE AND AGRICULTURE COMMITTEE

SEC. 2251. Creation, Powers and Duties.

The Open Space and Agriculture Committee is hereby created. Its powers and duties shall be as follows:

- A. To serve in an advisory capacity to the City Council, Commissions, or City staff as appropriate in regard to matters that relate to policies affecting open space and agriculture.
- B. To participate in the preparation and development of a detailed open space program to implement the Open Space Element of the General Plan.
- C. To provide recommendations to the Council, Commissions, or City staff as appropriate on the acquisition and/or protection opportunities for open space and agricultural lands.
- D. To provide recommendations to the Council, Commissions or City staff as appropriate for specific actions to take to secure open space.
- E. To provide recommendations to the Council, Commissions or City staff as appropriate for promotion of sustainable agriculture.

Section 6. Title V (*Sanitation and Health*), Chapter 9 (*Arcata Nuclear Weapons Free Zone Act*), Sections 5900 – 5908; and Title II (*Administration*), Chapter 3 (*Boards and Commissions*), Article 4 (*Nuclear Weapons and Free Zone Peace Commission*), Sections 2219 – 2222 are hereby amended as follows:

TITLE V - SANITATION AND HEALTH CHAPTER 9 - ARCATA NUCLEAR WEAPONS FREE ZONE ACT

SEC. 5900. Name.

This ordinance shall be known as the "Arcata Nuclear Weapons Free Zone Act."

SEC. 5901. Finding and Purpose.

The people of Arcata find that the presence of nuclear weapons facilities within Arcata is in direct conflict with the maintenance of the community's public health, safety, and economic well-being.

Accordingly, the purpose of this ordinance is to establish the City of Arcata as a Nuclear Weapons Free Zone in which work on nuclear weapons, and the storage or transportation of nuclear weapons is prohibited or appropriately restricted.

This ordinance's further purpose is to minimize the City of Arcata's contracts for and purchases of the products and services of nuclear weapons contractors, and to phase out investments of public funds in nuclear weapons contractors, within the constraints of state and federal law.

SEC. 5902. Definitions.

The following words and terms shall, for the purposes of this Ordinance, have the specified meanings:

- (a) "Nuclear weapon" is any material or device having the potential for the explosive release of energy from radioactive nuclei; including any computer program, mechanism or system, or the transportation, deployment, guidance, launching, propulsion, detonation or delivery of nuclear weapons(s).
- (b) "Nuclear weapons work" is any production, testing, evaluation, storage, possession, maintenance, development, evaluation of, or research on, nuclear weapons; or the parts or components of nuclear weapons; or any contract to engage in such activity; or any operation, management or administration of such activity.
- (c) "Weapons-related nuclear waste" is a radioactive material which is the by-product of the production of nuclear weapons. All radioactive material has the potential for use as a weapon.
- (d) "Person" is any natural person, business or corporation, institution, laboratory, financial institution, association or other entity.
- (e) "Nuclear weapons contractor" is any person engaged in nuclear weapons work, either directly or due to its status as an affiliate of any other person(s) so engaged, or who has caused any other person to engage in nuclear weapons work.
- (f) "Public funds" are all monies, grants, funds or other assets received and/or managed by, or that are otherwise under the control of the City of Arcata, and any notes, bonds, securities, certificates of indebtedness or other fiscal obligations issued by the City of Arcata.
- (g) "Product" is, but is not necessarily limited in its meaning to, any good, commodity, computer program, material, supply, vehicle, machinery, and/or equipment, or any service.
- (h) "Product of a nuclear weapons contractor" is any product manufactured, produced, grown, obtained from or provided by a nuclear weapons contractor, or to which further work or material manufactured, produced or grown by a nuclear weapons contractor is added such that a substantial transformation of the product is effected.
- (i) "Affiliate" is any person who directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the other specified person.

(j) "Contract" is any written agreement or purchase order made on behalf of or by the City of Arcata or any of its agencies or employees, or by the City of Arcata on behalf of any other person, to receive or supply, or any actual receipt or supply of any funds, products, or other consideration, tangible or intangible, having any value.

"List of Nuclear Weapons Contractors" is a publicly accessible list, and shall be used to screen contracts to ensure their compliance with this Chapter and to assist in the identification of nuclear free contract sources. The List of Nuclear Weapons Contractors shall be composed of the most current information available, including reports of contracts with federal agencies known to let contracts of nuclear weapons work (specifically including the Departments of Defense and Energy), information obtained from other jurisdictions with nuclear free contracting requirements, and such other information, as the City Manager, or his/her designee, or the Nuclear Weapons Free Zone and Peace Committee may consider useful and complying with the requirements of said act.

SEC. 5903. Prohibition of Nuclear Weapons Work.

No person shall, within the City of Arcata, knowingly engage in nuclear weapons work.

SEC. 5904. Nuclear Weapons Free Zone and Peace Committee.

The Arcata City Council shall appoint a Nuclear Weapons Free Zone and Peace Committee.

SEC. 5905. Prohibition of Transportation.

The transportation of nuclear weapons and weapons-related nuclear wastes is prohibited on all roadways which are within the exclusive jurisdiction of the City of Arcata.

SEC. 5906. Nuclear Weapons Free Contracts.

A. Prohibited Contracts: The City of Arcata shall not, except as provided by Sub-Section E of this ordinance, enter into any contract either with a nuclear weapons contractor or for any product of a nuclear weapons contractor. However, nothing in this Section shall be construed to:

- i) Bar a contract until and unless the affected nuclear weapons contractor has been placed on the list of nuclear weapons contractors specified in Sub-Section D of this Section; or
- ii) Prohibit contracts for amounts less than five hundred dollars (\$500.00) or to any other matters not specifically delineated within this Section.

B. Review of Contracts:

- i) Utilizing the List of Nuclear Weapons Contractors, and such other information as may be available, the City Manager, or his/her designee, shall undertake a comprehensive review of such contracts in order to determine their compliance with the requirements of this Section.
- ii) Commencing with the first full calendar month after the effective date of this Section, the City Manager, or his/her designee, shall, no later than ten (10) working days after the first day of each month, identify all contracts having a value of five hundred dollars (\$500.00) or more that were entered into

during the previous month and identify the producer(s) or manufacturer(s) origin with respect to each contract.

iii) If, following his/her review under the foregoing provisions of this Sub-section, the City Manager makes a preliminary finding that the City either has or might in the future enter into a contract for the product of a nuclear weapons contractor, the City Manager shall immediately notify the affected nuclear weapons contractor(s) as to such preliminary finding and the specific basis therefor, and as to their right to an administrative appeal under the provision of Sub-section C of this Section.

C. Nuclear Weapons Contractor Appeals: Any person notified under the provision of Paragraph B (iii) of this Section may, within forty (40) days following such notification, file a written appeal with the City Manager for the purpose of contesting the preliminary finding. Failure on the part of said person to appeal the preliminary finding within said forty (40) day period shall result in forfeiture of that person's right to contest the preliminary finding. Following the receipt of any such appeal, the City Manager, or his/her designee, shall reconsider his/her preliminary finding and make a final determination of nuclear weapons contractor status not later than ninety (90) days after the date of notification of the preliminary finding.

D. Determination of Nuclear Weapons Contractor Status:

i) So long as any person remains on the list of nuclear weapons contractors maintained by the Nuclear Weapons Free Zone and Peace Committee, the City of Arcata shall, except as provided in Sub-section E of this Section, make no contract with that person or for any product of that person.

ii) A person shall be identified as a nuclear weapons contractor and placed on the list of nuclear weapons contractors following either:

a) A failure by any such person identified as a nuclear weapons contractor in a preliminary finding of the City Manager, or his/her designee, to file a written appeal under the provision of Sub-section C of this Section; or

b) A final determination by the City Manager that the evidence presented in such appeal supported the preliminary finding.

iii) Each person added to the list of nuclear weapons contractors shall be immediately informed in writing of such addition and the reasons therefor, and of their right to provide the Nuclear Free Weapons Zone and Peace Committee with evidence that may subsequently support said person's removal from the list of nuclear weapons contractors.

iv) A person may be removed from the list of nuclear weapons contractors only if the Committee finds that the person has divested itself of all connection with nuclear weapons work such that it is no longer a nuclear weapons contractor.

E. Findings of No Reasonable Alternative:

i) The City Manager may, by means of making findings of no reasonable alternative, make exceptions to the prohibition of Sub-section A of this Section. Such a finding of no reasonable alternative may be made after it shall have been found that:

- a) A good faith effort has been made to comply with the requirements of this Section and in particular to identify and utilize non-nuclear-related sources for contracts;
 - b) The specifications, if any, have been written so as to maximize the utilization of alternatives.
 - c) A thorough survey of the list of nuclear weapons contractors has been made by City Manager of all available alternatives to the proposed contract, and that no such alternative is capable of meeting the contract specifications within the specified five percent (5%) cost differential. City staff shall specify at least three (3) alternatives that have been considered and rejected, and the precise reasons, therefor, of where fewer than three (3) alternatives are found to be available, what efforts have been made to identify alternatives.
 - d) The cost of utilizing any alternative source for the proposed contract would increase the cost of the proposed contract by more than five percent (5%). Said five percent (5%) cost differential shall not, however, as required and defined by relevant State law, apply to "public project" contracts for amounts of more than five thousand dollars (\$5,000.00), except that the City shall, where appropriate, as allowed by State law, contract separately for the "supplies and materials" portion of such contracts where such separate contracting will result in more complete compliance with the intent of this Section.
- ii) The City Manager shall provide the Committee with a monthly list of contracts for which a finding of no reasonable alternative was made.

SEC. 5907. Nuclear Weapons Free Zone Sign.

The City shall place and maintain window decals reading "NUCLEAR WEAPONS FREE ZONE" at the entrance to City Hall and appropriate signage at other public places. (Ord. No. 1299, 2/02/00)

SEC. 5908. Nuclear Weapons Free Zone Commemoration Day.

Nuclear Weapons Free Zone Commemoration Day shall be observed within the City of Arcata during the week of August 6th of each year.

SEC. 5910. Exclusions.

Nothing in this Ordinance shall be construed to prohibit or restrict the following:

- i) Any activity not specifically described in this Ordinance;
- ii) The development or application of nuclear medicine;
- iii) The manufacture or use of commercial products containing small amounts of radioactive materials such as smoke detectors, light emitting watches and clocks, or gauges, the purpose of which is not to work toward the development of nuclear weapons;
- iv) Basic unclassified research or arms control research; or
- v) Direct activities of the federal and state government to which any application of this Ordinance is preempted by existing law.

SEC. 5907. Enforcement.

Each violation of this ordinance shall be punishable as a misdemeanor. Each day of violation shall be deemed a separate violation.

Alternatively, at the direction of the City Council, the City Attorney shall file an action in a court of appropriate jurisdiction to enjoin any violation of this ordinance.

SEC. 5908. Severability Clause.

If any section, sub-section, paragraph, sentence, or word of this ordinance shall be held to be invalid, either on its face or as applied, the invalidity of such provision shall not affect the other sections, sub-sections, paragraphs, sentences and words of this Ordinance, and the applications thereof; and to that end the sections, sub-sections, paragraphs, sentences and words of this Ordinance shall be deemed to be severable.

ARTICLE 4 - NUCLEAR WEAPONS FREE ZONE AND PEACE COMMITTEE**SEC. 2219. Creation, Powers and Duties.**

The Nuclear Weapons Free Zone and Peace Committee is hereby created. Its powers and duties shall be as follows:

A. To maintain and regularly update a publicly accessible list of nuclear weapons contractors, which the City Manager, or his/her designee, shall use to screen contracts to ensure their compliance with the requirements of Arcata Municipal Code, Title V, Chapter 9 (Nuclear Weapons Free Zone Act). The list of nuclear weapons contractors shall be composed of the most current information available, including reports of contracts with federal agencies known to enter into contracts for nuclear weapons work (specifically including the Departments of Defense and Energy), information obtained from other jurisdictions with nuclear weapons free contracting requirements, and such other information as the City Manager, or his/her designee, or the Nuclear Weapons Free Zone and Peace Committee may consider useful in complying with the requirements of said Act.

B. Coordinate community activities that promote peace in Arcata, such as:

1. The observation of the Nuclear Weapons Free Zone Commemoration Day within the City of Arcata during the week of August 6 of each year;
2. The creation and distribution of peace book covers;
3. Neighborhood community building; and
4. Workshops on nonviolent conflict resolution, public forums and peace summits, speakers, and written materials on nuclear weapons, weapons-related waste, the impacts of war on our community, and alternatives to war.

C. Cooperate with local schools, school boards and colleges as a resource for promoting peace among our children and youth with activities such as:

1. Non-violent conflict resolution trainings;
2. Assistance and support in the development of Peace curricula;
3. Assuring honesty and integrity to prevent harassment of students by recruiters.

D. Develop and maintain contacts with similar committees in other cities.

E. Review and make recommendations to the City Council on peace related resolutions or ordinances brought before Council for consideration.

F. Maintain contact with the Pacific Gas and Electric Company regarding spent nuclear fuel storage through a liaison to the PG&E Community Advisory Board.

SEC. 2220. Meetings.

The Nuclear Weapons Free Zone and Peace Committee shall hold regular meetings once monthly or as necessary upon the call of the Chair.

SEC. 2220.2. Term.

The annual expiration date of a term for a Nuclear Weapons Free Zone and Peace Committee member shall be January 31.

SEC. 2221. Secretary.

The City Manager, or his/her designee, shall serve as the Secretary to the Nuclear Weapons Free Zone and Peace Committee.

Section 7: This Ordinance will take effect thirty (30) days after the date of its adoption.

DATE: December 19, 2007

ATTEST:

/s/ Michael Hackett
City Clerk, City of Arcata

APPROVED:

/s/ Mark E. Wheetley
Mayor, City of Arcata

CLERK'S CERTIFICATE

I hereby certify that the foregoing is a true and correct copy of **Ordinance No. 1367**, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 19th day of December, 2007, by the following vote:

AYES: **WHEETLEY, GROVES, MACHI, PITINO, STILLMAN**

NOES: **NONE**

ABSENT: **NONE**

ABSTENTIONS: **NONE**

/s/ Michael Hackett
City Clerk, City of Arcata