
Council Bill Number: 115423

Ordinance Number: 121998

AN ORDINANCE relating to relocation assistance, amending and repealing various sections of, and adding new sections to, Chapter 20.84 of the Seattle Municipal Code, to provide for a uniform and equitable relocation assistance policy for Persons displaced as a direct result of City funded Projects and Programs.

Status: Adopted

Note: Relocation Assistance

Vote: 8-0 (Absent: Licata)

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Committee: Finance & Budget

Sponsor: MCIVER

Committee Recommendation: Pass

Index Terms: PROPERTY-LAW, PUBLIC-ASSISTANCE, LAND-ACQUISITION, TENANTS, LANDLORDS

Fiscal Note: [Fiscal Note to Council Bill No. 115423](#)

Electronic Copy: [PDF scan of Ordinance No. 121998](#)

Reference: Related: Ord 104542; Res 23390

Text:

ORDINANCE _____

AN ORDINANCE relating to relocation assistance, amending and repealing various sections of, and adding new sections to, Chapter 20.84 of the Seattle Municipal Code, to provide for a uniform and equitable relocation assistance policy for Persons displaced as a direct result of City funded Projects and Programs.

WHEREAS, both federal law (42 U.S.C. section 4601 et seq.) and state law (RCW Chapter 8.26), require local governments to provide relocation assistance to Persons and businesses displaced by programs or projects financed in whole or part with Federal Financial Assistance; and

WHEREAS, by Resolution 23390, adopted in 1972, the City Council adopted a policy to provide relocation assistance in connection with all City Programs and Projects, including those not receiving Federal Financial Assistance; and

WHEREAS, when the City Council adopted Seattle Municipal Code ("SMC") Chapter 20.84 (Ordinance 104542) in 1975 to implement the provisions of RCW Chapter 8.26 with respect to relocation assistance, the policies expressed in Resolution 23390 to provide relocation assistance to all Persons displaced as a result of City public works Programs and Projects and acquisitions for City Programs and Projects were not incorporated into SMC Chapter 20.84; and

WHEREAS, in 1988 RCW Chapter 8.26 was amended to require local governments to provide relocation assistance to Persons and businesses displaced by programs or projects financed in whole or part with State Financial Assistance, but allowed a local agency to elect not to provide relocation assistance for projects not receiving federal funding; and

WHEREAS, since state law was amended in 1988 (Chapter 90, Laws of Washington 1988, RCW 8.26.010(2) to provide this option and allow local jurisdictions to elect whether to provide relocation assistance for projects or program that do not receive Federal Financial Assistance, the City has taken no action to make any such election; and

WHEREAS, except for amending the definition of "Department Head," SMC Chapter 20.84 has not been amended since 1975, despite changes in federal and state laws affecting the Chapter; and

WHEREAS, one of the stated purposes of RCW Chapter 8.26 is "to establish a uniform policy for the fair and equitable treatment of Persons displaced as a direct result of public works program of the state and local governments in order that such Persons do not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole and to minimize the hardship of displacement on such Persons," (RCW 8.26.010(2)); and

WHEREAS, the City Council intends to amend SMC Chapter 20.84 to accommodate changes in the law since 1975 and to adopt the theme of the policies of Resolution 23390 that a uniform and equitable relocation assistance policy apply to Persons displaced as a direct result of City funded Projects and Programs; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Seattle Municipal Code ("SMC ") section 20.84.010, which was enacted by Ordinance 104542, is amended to read as follows:

Section 20.84.010 ~~Implementation of relocation assistance laws~~ Purpose.

~~The purposes of this chapter is to implement the provisions of RCW Chapter 8.26, state regulations implementing said chapter including WAC Chapter 365-24 and any federal law, rules, regulations or orders pertaining to relocation assistance which may be applicable to any program or project for the acquisition of real property, or any interest therein, which may create a "displaced person" as that term is defined by federal or state law, rules, regulations or orders applicable to such program or project are:~~ (a) to adopt the applicable state and federal laws and regulations for relocation assistance for those City Projects and Programs undertaken with State and Federal Financial Assistance; (b) to establish a uniform policy for the fair and equitable treatment of Persons displaced as a direct result of Programs or Projects undertaken with City Financial Assistance but no Federal or State Financial Assistance in order that such Persons do not suffer disproportionate injuries as a result of Programs designed for the benefit of the public as a whole; (c) to minimize the hardship of displacement on such Persons; and (d) to provide for the payment of relocation assistance similar to that required by the Revised Code of Washington (RCW) Chapter 8.26 and by 42 United States Code (U.S.C.) Chapter 4601 et. seq. to those Persons displaced as a direct result of Programs or Projects undertaken with City Financial Assistance but no State or Federal Financial Assistance.

Section 2. SMC Section 20.84.020, which was enacted by Ordinance 104542, is amended to read as follows:

Section 20.84.020 Applicability.

~~Whenever the City or any department thereof undertakes the acquisition of real property in connection with a program or project a Program or Project is undertaken with City Financial Assistance but no Federal or State Financial Assistance and that may create a "displaced person" Program or Project causes there to be a "Displaced Person" as that term is defined by federal or state law, rules, regulations of orders applicable to such program or project after the effective date of the ordinance codified in this chapter, the provisions of this chapter shall apply. For programs or projects undertaken with Federal or State Financial Assistance, applicable federal and state laws and regulations apply. Whenever a City program or project is undertaken with Federal Financial Assistance, the provisions of 42 U.S.C. section 4601 et. seq. and the regulations adopted for that chapter at 49 CFR (Code of Federal Regulations) 24 et. seq., all as may be amended or supplemented, apply. Whenever a City program or project is undertaken with State Financial Assistance but no Federal Financial Assistance, the provisions of RCW Chapter 8.26 et seq. and the regulations adopted for that chapter control. If the Project or Program receives only City Financial Assistance and no State or Federal Financial Assistance, the provisions of this chapter control. The provisions of the state and federal statutes and regulations may be looked to for guidance in interpreting this chapter.~~

Section 3. SMC Section 20.84.030, which was last amended by Ordinance 120794, is amended to read as follows:

Section 20.84.030 Definitions.

~~For the purpose of this chapter and for the purpose of administering and implementing any federal, state or local relocation assistance statute, law, ordinance, rule, regulation, order or program, applicable to any acquisition of real property or any interest therein by the City or to any program or project involving the City or any of its departments~~
Except as otherwise provided in state and federal statutes and regulations applicable to projects or programs undertaken with State or Federal Financial Assistance, the following definitions apply for the purposes of this chapter:

A. Acquisition means obtaining fee simple title to real property or fee title subject to retention of a life estate or any right of use and occupancy for life, obtaining an interest in real property pursuant to a lease where the lease term, including options for extension, is 50 years or more, and obtaining permanent easements.

B. Agency means a non-City entity or a public corporation defined in Chapter 3.110 that undertakes a Program or Project..

C. Agency Head means the Director or highest administrative official of an Agency having authority over and responsibility for the applicable Program or Project and its costs.

D. Business means any lawful activity, except a Farm Operation, that is conducted:

1. Primarily for the purchase, sale, lease, or rental of personal or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;

2. Primarily for the sale of services to the public;

3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the Project; or

4. By a Nonprofit Organization that has established its nonprofit status under applicable federal or state law.

E. "City Department Head" means the ~~head of the City department~~Director or highest administrative official, e.g., ~~(such as the Director of Transportation, Superintendent of Parks and Recreation, Director of Executive Administration Fleets and Facilities Director, or Director of Finance, among others),~~ of the City Department having authority over and responsibility for the applicable ~~program or project~~ Program or Project and its costs.

~~B. The City Department Head, as defined in subsection A, is declared to be "the executive head of the displacing entity" as those or similar terms may be used in state or federal statutes, rules, regulations or orders.~~

F. City Financial Assistance means a grant, loan or other direct financial contribution provided by the City of Seattle. The following are not considered City Financial Assistance for purposes of this chapter:

1. A grant, loan or other financial assistance provided by, through or administered by the City from state or federal funds or funds deriving from state or federal funds, such as program income;

2. A loan guarantee, credit enhancement or similar assurance provided by the City;

3. Insurance provided by the City;

4. Any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual; or

5. Other form of City Financial Assistance that is not a grant, loan or direct monetary contribution.

G. Comparable Replacement Dwelling means a Dwelling that is:

1. Decent, safe and sanitary as defined in subsection I of this section;
2. Functionally equivalent to the displacement Dwelling. A functionally equivalent Dwelling performs the same function and provides the same utility. While a Comparable Replacement Dwelling need not possess every feature of the displacement Dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a Dwelling may be used. In determining whether a replacement Dwelling is functionally equivalent to the displacement Dwelling, a Department may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement Dwelling. (For examples, see appendix A, 49 CFR section 24.2(a)(6);
3. In an area not subject to unreasonable adverse environmental conditions;
4. In a location generally not less desirable than the location of the displacement Dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the Displaced Person's place of employment;
5. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses;
6. Currently available to the Displaced Person on the private market, except that a Comparable Replacement Dwelling for a Person receiving government housing assistance before displacement may reflect similar government housing assistance, and any requirements of the government housing assistance program relating to the size of the replacement Dwelling apply; and
7. Within the financial means of the Displaced Person.
 - a. A replacement Dwelling purchased by a homeowner in occupancy at the displacement Dwelling for at least 180 days prior to Initiation of Negotiations (a 180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased Mortgage interest costs, and all incidental expenses described in Section 20.84.400, plus any additional amount required to be paid for Replacement Housing of Last Resort under Section 20.84.430.
 - b. For a Tenant or Owner-occupant who actually and lawfully occupied the displacement Dwelling for at least 90 days prior to the Initiation of Negotiations (a 90-day occupant), a Comparable Replacement Dwelling is considered to be within the Displaced Person's financial means if, after receiving rental assistance pursuant to Section 20.84.410, the Displaced Person's portion of the monthly rent plus average monthly Utility Costs for the replacement Dwelling do not exceed thirty percent (30%) of the Displaced Person's gross monthly Household Income from all sources.
 - c. For a Displaced Person who is not eligible to receive a replacement housing payment due to failure to meet the length of occupancy requirements contained in Sections 20.84.400 or 20.84.410, comparable replacement housing is considered to be within the Displaced Person's financial means if, for a period of 42 months, the Department pays that portion of the monthly housing costs for a replacement Dwelling that exceed thirty percent (30%) of the Displaced Person's gross monthly Household Income from all sources. Such payments must be paid under the provisions for Replacement Housing of Last Resort pursuant to Section 20.84.430.

H. Contribute Materially means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the Department determines to be more equitable, a Business or Farm Operation:

1. Had average annual gross receipts of at least \$5,000;
2. Had average annual net earnings of at least \$1,000; or

3. Contributed at least 33 1/3 % of the Owner's or operator's average annual gross income from all sources.

4. If the application of the above criteria creates an inequity or hardship in any given case, the Department may approve the use of other criteria it determines appropriate.

I. Decent, Safe, and Sanitary Dwelling means a Dwelling that meets the applicable standards in the Housing and Building Maintenance Code, Chapter 22.206, is adequate in size to accommodate the occupants, and, for a Displaced Person with a disability, is free of any barriers that would preclude reasonable ingress, egress, or use of the Dwelling by such Displaced Person.

J. Department means The City of Seattle or any of its subdivisions or instrumentalities, including without limitation, any City office, board, or commission, the City Council and any of its committees, and any public corporation defined in Chapter 3.110, that acquires real property, implements a Project, or conducts a Program (including any Program that provides funding for a Project), that directly causes a Person to become a Displaced Person as defined in this chapter. For purposes of a Project or Program that is not undertaken by a Department, the use of the term "Department" throughout this chapter means "Agency."

K. Displaced Person.

1. General. Except as provided in paragraph 2 of this definition, "Displaced Person" means a Person who, as a direct result of any of the following, permanently moves from real property or permanently moves the Person's personal property from real property, and includes a Person who occupies the real property prior to its Acquisition but who does not meet the length of occupancy requirements in Sections 20.84.400 or 20.84.410:

a. A written Notice of Intent to Acquire the real property in whole or part for a Program or Project;

b. The Initiation of Negotiations for the purchase of the real property in whole or part for a Program or Project;

c. The Acquisition of such real property in whole or in part for a Program or Project;

d. A written notice requiring a Person to vacate real property for the purpose of rehabilitation or demolition of the improvements(s) as part of a Program or Project;

e. Written Notice of Intent to Acquire, or the Acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the Person conducts a Business or Farm Operation; or

f. A Voluntary Transaction by an Owner that results in Acquisition of the real property for such a Project or Program and that displaces a Tenant.

2. Persons not displaced. The following is a nonexclusive listing of Persons who do not qualify as Displaced Persons under this chapter:

a. A Person who moves before the Initiation of Negotiations, unless the Department determines that the Person was displaced as a direct result of a Program or Project;

b. A Person who initially enters into occupancy of the property after the date of its Acquisition for the Program or Project;

c. A Person who has occupied the property for the purpose of obtaining assistance under this chapter, as determined by the Department;

d. A Person whom the Department determines is not required to relocate permanently as a direct result of the Project or Program (See appendix A, 49 CFR section 24.2(a)(9)(ii)(D); or

e. A Person whom the Department determines is not displaced as a direct result of a partial Acquisition;

f. A Person who, after receiving a notice of relocation eligibility, is notified in writing that he or she will not be displaced for a Program or Project. Such notice may only be issued if the Person has not moved and the Department agrees to reimburse the Person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

g. A Person who is determined to be in unlawful occupancy or who has been evicted for cause under applicable law, as provided for in Section 20.84.115;

h. A Person who retains the right of use and occupancy of the real property for life following its Acquisition by the Department;

i. An Owner-occupant who moves as the direct result of a rehabilitation or demolition of the real property that was neither a part of nor related to the Program or Project;

j. An Owner-occupant who either voluntarily conveys or moves after voluntarily conveying his or her property, after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Department will not acquire the property (In such cases a Tenant may be a Displaced Person, and any resulting displacement is subject to the requirements of this chapter), and either:

(1) The Department does not have authority to acquire property by eminent domain and the Department informs the Owner of what it believes to be the market value of the property; or

(2) The Department has authority to acquire property by eminent domain, but:

(a) No specific site or property needs to be acquired, although the Department may limit its search for alternative sites to a general geographic area;

(b) The property to be acquired is not part of an intended, planned, or designated Project area where all, or substantially all, of the property within the area is to be acquired within specific time limits;

(c) The Department will not acquire the property if negotiations fail to result in an amicable agreement; and

(d) The Department informs the Owner of what it believes to be the market value of the property.

k. A Person who occupied nonresidential property pursuant to a lease or rental agreement with a fixed term, the term has expired, and the Person moves as a result of the expiration of the term of the lease or rental agreement.

L. Dwelling means the place of permanent or customary and usual residence of a Person, as determined by the Department according to local custom or law, including a single family house; a single family unit in a two-family, multifamily, or multipurpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a Mobile Home; or any other fixed or installed residential unit other than a unit customarily used, and currently (although not necessarily immediately) capable of use, for transportation or recreational purposes.

M. Dwelling Site means a land area that is typical in size for similar Dwellings located in the same neighborhood.

N. Farm Operation means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

O. Federal Financial Assistance means a grant, loan, or other financial contribution provided by the United States (including program income), but does not include a federal loan guarantee, federal credit enhancement, federal insurance, or any interest reduction payment from the federal government to an individual in connection with the

purchase and occupancy of a residence by that individual.

P. Household Income means total gross income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a Business. It does not include income received or earned by dependent children and full time students under 18 years of age. (See Appendix A, 49 CFR section 24.2(a)(14) for examples of exclusions to income.)

Q. Initiation of Negotiations. Unless otherwise specified in this chapter, Initiation of Negotiations means the following:

1. Whenever the displacement results from the Acquisition of the real property by a Department, Initiation of Negotiations means the date of delivery of the initial written offer by the Department to the Owner or the Owner's representative to purchase the real property for the Program or Project. However, if the Department issues a notice of its intent to acquire the real property, and a Person moves after that notice but before delivery of the initial written purchase offer, the Initiation of Negotiations means the date the Person moves from the property.

2. Whenever the displacement is caused by rehabilitation, demolition or Acquisition of the real property by a non-City entity for a Project or Program (and there is no Acquisition by a Department), the Initiation of Negotiations means the date of the notice to the Person that he or she will be displaced by the Program or Project or, if there is no notice, the date the Person actually moves from the property.

3. In the case of permanent relocation of a Tenant as a result of an Acquisition of the property by a Department for a Program or Project through a voluntary conveyance by an Owner- occupant as described in Section 20.84.030 K(2)(j) above, the Initiation of Negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such Tenants under this chapter, until there is a written agreement between the Department and the Owner to purchase the real property.

R. Mobile Home includes manufactured homes and recreational vehicles used as Dwellings.

S. Mortgage means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

T. Nonprofit Organization means an organization that is incorporated under the applicable laws of the State as a non-profit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. section 501 et seq.).

U. Notice of Intent to Acquire means a Department's written communication that is provided to a Person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of City Financial Assistance, which clearly sets forth that the Department intends to acquire the property. A Notice of Intent to Acquire establishes the eligibility for relocation assistance prior to the Initiation of Negotiations and/or prior to the commitment of City Financial Assistance.

V. Owner means a Person who purchases or holds any of the following interests in real property:

1. Fee title, a life estate, a land contract, a 99-year lease, or a lease including any options for extension with at least 50 years to run from the date of Acquisition;

2. An interest in a cooperative housing project that includes the right to occupy a Dwelling;

3. A contract to purchase any of the interests or estates described in paragraphs 1 or 2 of this subsection, or

4. Any other interest, including a partial interest, which in the judgment of the Department warrants consideration as ownership.

W. Person means any individual, family, partnership, corporation, or association.

X. Program or Project means an activity or series of activities undertaken by or expected to be undertaken by a Department or with City Financial Assistance in any phase of the undertaking, and without any State or Federal Financial Assistance.

Y. Small Business means a Business with no more than 500 employees working at the site being acquired or displaced by a Program or Project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a Business for purposes of Section 20.84.320.

Z. State Financial Assistance means a grant, loan, or other financial contribution provided by the State of Washington, but does not include a State guarantee, State insurance, State credit enhancement or any interest reduction payment from the State to an individual in connection with the purchase and occupancy of a residence by that individual.

AA. Tenant means a Person who has the temporary use and occupancy of real property owned by another.

BB. Unlawful Occupant means a Person who has been ordered to move by a court of competent jurisdiction prior to the Initiation of Negotiations, who has been legally evicted, or who occupies property without right, title or payment of rent, with no legal rights to occupy a property under state law. A Department may, at its discretion, consider such a Person to be in lawful occupancy.

CC. Utility Costs mean expenses for electricity, gas, other heating and cooking fuels, water and sewer.

DD. Voluntary Transaction means a donation, exchange, market sale, or other type of agreement entered into without compulsion.

Section 4. SMC Section 20.84.040, which was enacted by Ordinance 104542, is amended to read as follows:

Section 20.84.040 City Department Head -- Authority.

The City Department Head ~~having with~~ authority ~~over~~ and responsibility for a ~~program or project of real property acquisition or for a program or project which~~ Program or Project that may create a "displaced person as that term may now or hereafter be defined by any applicable federal, state or City statute, law, ordinance, rule, regulation or order, ~~shall Displaced Person, is authorized,~~ with respect to such ~~program or project~~ have authority and responsibility for Program or Project, to:

A. ~~Implementing~~ Implement this chapter and any federal, state, or local relocation assistance statute, law, ordinance, rule, regulation, or order applicable to each such program or project ~~which that~~ is subject to ~~his~~ the Department Head's authority;

B. ~~Ascertaining~~ Ascertain the eligibility for and amount of benefits to be paid each applicant;

C. ~~Giving~~ Give all notices ~~of initiation of negotiations, notices and authorizations to vacate, and required or authorized~~ to be provided by this chapter;

D. ~~maintaining~~ Maintain records (including records of delivery and service of ~~such~~ notices) of the activities by or for ~~his~~ the Department pertaining to ~~acquisition, relocation assistance and relocation assistance~~ claims for each ~~program or project~~ Program or Project under ~~his~~ the Department Head's authority. ~~Such authority and responsibility (except issuance of a final decision pursuant to Section 20.84.210) may be delegated~~ The Department Head may delegate such authority to such ~~persons~~ Person as each City Department Head may authorize.

Section 5. A new section SMC Section 20.84.055, is adopted to read as follows:

Section 20.84.055 No Duplication of Payments.

No Person shall receive any payment or assistance under this chapter if that Person receives a payment or assistance under Federal, State, local law or insurance proceeds that is determined by the Department to have the same purpose and effect as such payment under this chapter. A Department is prohibited from making a payment or providing assistance under this chapter that would duplicate a payment or assistance the Person receives under federal, state or other local law, or from insurance proceeds. If, absent this restriction, a Person would be eligible for a payment or assistance under both this chapter and Chapter 22.210, Tenant Relocation Assistance, the Person shall be provided the payments or assistance authorized by this chapter.

Section 6. A new section, SMC Section 20.84.065, is adopted to read as follows:

Section 20.84.065 Administration of Jointly-funded Projects.

Whenever two or more City Departments provide City Financial Assistance to an entity other than a City Department to carry out functionally or geographically related activities for a Program or Project that will result in a Displaced Person, the City Departments shall by agreement designate the City Department Head for purposes of this chapter.

Section 7. A new section, SMC Section 20.84.075, is adopted to read as follows:

Section 20.84.075 Notices-General Requirements.

Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling as determined by the Department. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help. Each notice required to be provided to a property Owner or occupant pursuant to this chapter shall either be personally served or sent simultaneously by certified or registered first-class mail, return receipt requested, and by regular first class mail. Proof of delivery or mailing shall be documented and kept in the relocation files.

Section 8. A new section, SMC Section 20.84.085, is adopted to read as follows:

Section 20.84.085 Relocation Notices.

A. General information notice. As soon as feasible, a Person scheduled to be displaced shall be furnished with a general written description of the relocation program, which description does at least the following:

1. Informs the Person that the Person may be displaced for the Program or Project and generally describes the relocation payment(s) for which the Person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s).
2. Informs the Person that the Person will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the Person successfully relocate.
3. Informs the Person that the Person will not be required to move without at least 90 days' advance written notice, and informs any Person to be displaced from a Dwelling that the Person cannot be required to move permanently unless at least one Comparable Replacement Dwelling has been made available.
4. Describes the Person's right to appeal the Department's determination of a Person's eligibility for, or the amount of, any assistance under this chapter.

B. Relocation eligibility and Notice thereof. Eligibility for relocation assistance begins on the date of a Notice of Intent to Acquire, the Initiation of Negotiations for the occupied property, or the date of actual Acquisition, whichever occurs first. When eligibility begins, the Department shall promptly notify all occupants in writing of their eligibility for

applicable relocation assistance.

C. Ninety-day notice.

1. General. No lawful occupant shall be required to move unless the occupant has received at least 90 days advance written notice of the earliest date by which the occupant may be required to move.
2. Timing of notice. The Department may issue the notice 90 days before it expects the Person to be displaced or earlier.
3. Content of notice. The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a Comparable Replacement Dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a Dwelling is made available.
4. Urgent need. In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the Department determines that a 90-day notice is impracticable, such as when the Person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Department's determination shall be included in the applicable case file.

Section 9. A new section, SMC Section 20.84.095, is adopted to read as follows:

Section 20.84.095 Availability of Comparable Replacement Dwelling Before Displacement.

A. General. No Person to be displaced shall be required to move from his or her Dwelling unless at least one Comparable Replacement Dwelling has been made available to the Person. Where possible, three or more Comparable Replacement Dwellings shall be made available. A Comparable Replacement Dwelling will be considered to have been made available to a Person, if:

1. The Person is informed of its location;
2. The Person has sufficient time, based on then existing industry practice, to negotiate and enter into a purchase agreement or lease for the property; and
3. Subject to reasonable safeguards, the Person is assured of receiving the relocation assistance and acquisition payment to which the Person is entitled in sufficient time to complete the purchase or lease of the property.

B. Circumstances permitting waiver. The Department may grant a waiver of the requirement in subsection A where it is demonstrated that a Person must move because of:

1. A major disaster defined in 42 U.S.C. section 5122;
2. A presidentially declared national emergency; or
3. Another emergency that requires immediate vacation of the real property, such as when continued occupancy of the displacement Dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

C. Basic conditions of emergency move. Whenever a Person to be displaced is required to relocate from the displacement Dwelling for a temporary period because of an emergency described in subsection B of this section, the Department shall:

1. Take whatever steps are necessary to assure that the Person is temporarily relocated to a Decent, Safe, and Sanitary Dwelling;

2. Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and Utility Costs incurred in connection with the temporary relocation; and
3. Make available to the Displaced Person as soon as feasible, at least one Comparable Replacement Dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the Person moves from the temporarily-occupied Dwelling.)

Section 10. A new section, SMC Section 20.84.105, is adopted to read as follows:

Section 20.84.105 Relocation Planning, Advisory Services, and Coordination.

A. Relocation planning. During the early stages of development, Programs or Projects shall be planned in such a manner that the problems associated with the displacement of individuals, families, Businesses, farms, and Nonprofit Organizations are recognized and solutions are developed to minimize the adverse impacts of displacement. Such planning, where appropriate as determined by the Department, shall precede any action by a Department that will cause displacement, and should be scaled to the complexity and nature of the anticipated displacing activity, including an evaluation of Program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study that may include the following:

1. An estimate of the number of households to be displaced including information such as Owner /Tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and Persons with disabilities when applicable.
2. An estimate of the number of Comparable Replacement Dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of Comparable Replacement Dwellings is not expected to be available, the Department should consider housing of last resort actions.
3. An estimate of the number, type, and size of the Businesses, farms, and Nonprofit Organizations to be displaced and the approximate number of employees that may be affected.
4. An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the Businesses should be considered and addressed. Planning for displaced Businesses that are reasonably expected to involve complex or lengthy moving processes or Small Businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.
5. Consideration of any special relocation advisory services that may be necessary and the agencies that will provide them.

B. Relocation assistance advisory services.

1. General. The Department shall carry out a relocation assistance advisory program that offers the services described in subsection B2 of this section. If the Department determines that a Person occupying property adjacent to the real property acquired for the Program or Project is caused substantial economic injury because of such Acquisition, it may offer advisory services to such Person.
2. Services to be provided. The advisory program shall include such measures, facilities, and services as may be necessary or appropriate as determined by the Department, to:
 - a. Determine, for nonresidential (Businesses, farm and Nonprofit Organizations) displacement, the relocation needs and preferences of each Business, farm and Nonprofit Organization, to be displaced and explain the relocation payments and other assistance for which the Business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each Business. At a minimum, interviews with

displaced Business owners and operators should include the following items:

- (1) The Business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the Business to accomplish the move.
- (2) Determination of the need for outside specialists in accordance with Section 20.84.300G(12) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.
- (3) For Businesses, an identification and resolution of personalty/realty issues. Reasonable efforts must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.
- (4) An estimate of the time required for the Business to vacate the site.
- (5) An estimate of the anticipated difficulty in locating a replacement property.
- (6) An identification of any advance relocation payments required for the move, and the Department's legal capacity to provide them.

b. Determine, for residential displacements, the relocation needs and preferences of each Person to be displaced and explain the relocation payments and other assistance for which the Person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each residential Displaced Person.

- (1) Provide current and continuing information on the availability, purchase prices, and rental costs of Comparable Replacement Dwellings, and explain that the Person cannot be required to move unless at least one Comparable Replacement Dwelling is made available.
- (2) As soon as feasible, the Department shall inform the Person in writing of the specific Comparable Replacement Dwelling, the price or rent used for establishing the upper limit of the replacement housing payment, and the basis for the determination, so that the Person is aware of the maximum replacement housing payment for which the Person may qualify.
- (3) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. If such an inspection is not made, the Department shall notify the Person to be displaced that a replacement housing payment may not be made unless the replacement Dwelling is subsequently inspected and determined to be Decent, Safe, and Sanitary.
- (4) Whenever possible, minority Persons shall be given reasonable opportunities to relocate to Decent, Safe, and Sanitary replacement Dwellings that are not located in an area of minority concentration and that are within their financial means. This does not require a Department to provide a Person a larger payment than is necessary to enable a Person to relocate to a Comparable Replacement Dwelling.
- (5) The Department shall offer all Persons, transportation to inspect housing to which they are referred.
- (6) Any Displaced Person that may be eligible for government housing assistance at the replacement Dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement Dwelling, as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

c. Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any Person displaced from a Business or Farm Operation to obtain and become established in a suitable replacement location.

- d. Minimize hardships to Persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate by the Department.
 - e. Supply Persons to be displaced with appropriate information, as determined by the Department, concerning federal, state and local housing programs, disaster loan and other programs administered by the Small Business Administration, and other federal, state and local programs offering assistance to Displaced Persons, as well as technical help to Persons applying for such assistance.
- C. Coordination of relocation activities. Relocation activities shall be coordinated with other Project work so that, to the extent feasible, Persons displaced receive consistent treatment and duplication of functions is minimized.
- D. Advisory services for Persons not displaced. Any Person who occupies property acquired by a Department, when such occupancy began subsequent to the Acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a Program or Project, shall be eligible for advisory services, as determined by the Department, even if not eligible for relocation assistance.

Section 11. A new section, SMC Section 20.84.115, is adopted to read as follows:

Section 20.84.115 Eviction for Cause.

- A. Evictions must conform to applicable state and local law. Any Person who lawfully occupies the real property on the date of the Initiation of Negotiations is presumed to be entitled to relocation payments and other assistance set forth in this chapter unless the Department determines that the Person is evicted after the date of Initiation of Negotiations: 1) for cause, 2) pursuant to an eviction notice received by the Person prior to the Initiation of Negotiations, or 3) because a non-residential term lease has ended.
- B. In any case an eviction may not be undertaken for the purpose of evading the obligation to make available the payments and other assistance provided for by this chapter.
- C. For purposes of determining eligibility for relocation payments, the date of displacement is the date the Person moves, or the date a Comparable Replacement Dwelling is made available, whichever is later. This section applies only to Persons who would otherwise have been displaced by the Program or Project.

Section 12. A new section, SMC Section 20.84.205, is adopted to read as follows:

Section 20.84.205 General Requirements--Claims for Relocation Payments.

- A. Documentation. Any claim for a relocation payment shall be supported by such documentation as may be reasonably required by the Department to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A Displaced Person must be provided reasonable assistance necessary to complete and file any required claim for payment.
- B. Expeditious payments. The Department shall review claims in an expeditious manner. The claimant shall be promptly notified of any additional documentation required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.
- C. Advance payments. If a Person demonstrates need for an advance relocation payment in order to avoid or reduce a hardship, the Department shall issue the payment, subject to such safeguards as are appropriate as determined by the Department to ensure that the objective of the payment is accomplished.
- D. Time for filing.
 - 1. All claims for a relocation payment shall be filed with the Department within 18 months after:

a. For Tenants, the date of displacement;

b. For Owners, the date of displacement or the date of the final payment for the Acquisition of the real property, whichever is later.

2. The Department may waive this time period for good cause.

E. Notice of denial of claim. If the Department disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

F. No waiver of relocation assistance. A Department shall not propose or request that a Displaced Person waive a right or entitlement to relocation assistance and benefits provided by this chapter.

G. Expenditure of payments. Payments provided pursuant to this chapter shall not be considered to constitute City Financial Assistance and do not cause the Person receiving them to be considered a City Project or Program. Accordingly, the requirements of this chapter do not apply to the expenditure of relocation assistance payments by, or for, a Displaced Person.

Section 13. A new section, SMC Section 20.84.215, is adopted to read as follows:

Section 20.84.215 Relocation Payments Not Considered Income.

A. As provided by state and federal law, no relocation payment received by a Displaced Person as a result of displacement for a program or project with Federal or State Financial Assistance shall be considered income for the purpose of any income tax or any tax imposed under Title 82 RCW or for purposes of determining eligibility or the extent of eligibility of any Person for assistance under state law, the Social Security Act or any other Federal law, except for any Federal law providing low-income housing assistance. Such payments shall not be deducted from any amount to which any recipient would otherwise be entitled under Title 74 RCW.

B. A relocation assistance payment received pursuant to this chapter by a Displaced Person as a result of displacement for a Program or Project shall not be considered income to the extent allowed by state and federal law, and shall not be considered income for purposes of determining eligibility for or the extent of eligibility of any Person for City programs.

Section 14. A new section, SMC Section 20.84.225, is adopted to read as follows:

Section 20.84.225 Hearing Examiner Appeals.

A. Actions that may be appealed. Whenever a Person believes a Department has failed to properly consider the Person's application for assistance under this chapter or when a Person believes that an Agency has improperly decided an appeal under Section 20.84.640, including but not limited to the Person's eligibility for, the method of determination of, or the amount of a relocation payment required under this chapter, the aggrieved Person may file a written appeal with the Hearing Examiner. (For appealing Agency decisions, see Section 20.84.640.)

B. Filing of Appeals.

1. Time limit for initiating appeal. A notice of appeal shall be filed with the Hearing Examiner, with a copy to the Department Head, and any filing fee established by the Hearing Examiner paid, within sixty (60) days following receipt of written notice of the Department's determination.

2. Form of Appeal. The notice of appeal must contain a brief statement of the issue(s) on appeal, the specific objections to the decision being appealed along with supporting facts and documentation, the relief sought, the reason(s) why the Person appealing believes he or she is aggrieved by the Department's decision, and the reason(s) why the Person

appealing believes the appeal should be granted. The notice of appeal must list the address of the property involved, the name of the Project or Program if known, the Department making the decision being appealed, the name of the appellant, and the signature, address, phone number, and fax or e-mail address if available, of the Person appealing or the Person's authorized representative. The Hearing Examiner may dismiss any appeal that fails to comply with these requirements after providing the Person a written notice requesting compliance within ten (10) days. Except as provided above, the Hearing Examiner shall consider a written appeal regardless of form.

C. Right to representation. A Person may be represented by legal counsel or other representative in connection with an appeal, but solely at the Person's own expense.

D. Review of files by Person making appeal. The Department shall permit a Person, upon request, to inspect and copy all materials pertinent to his or her appeal, except materials determined to be exempt from disclosure under applicable law, but may impose reasonable copying charges and other reasonable conditions in accordance with applicable law.

E. Hearing Procedures. The appeal and hearing process shall be conducted in accordance with the Hearing Examiner Rules of Practice and Procedure for contested cases.

F. Standard of Review. The Person appealing has the burden of proving by a preponderance of the evidence that the Department's decision was incorrect.

Section 15. A new section, SMC Section 20.84.235, is adopted to read as follows:

Section 20.84.235 Judicial Review.

Judicial review of a Hearing Examiner decision issued pursuant to this chapter must be commenced within thirty (30) days after entry of the Hearing Examiner's decision and pursued in accordance with the requirements of the Administrative Procedures Act, RCW Chapter 34.05.

Section 16. A new section, SMC Section 20.84.300, is adopted to read as follows:

Section 20.84.300 Payment for Actual Reasonable Moving and Related Expenses.

A. General.

1. Any Owner-occupant or Tenant of a Dwelling who qualifies as a Displaced Person under this chapter and who moves from a Dwelling (including a Mobile Home) or who moves from a Business, farm or Nonprofit Organization is entitled to payment of his or her actual moving and related expenses, as the Department determines to be reasonable and necessary.

A non-occupant Owner of a rented Mobile Home is eligible for actual cost reimbursement to relocate the Mobile Home. If a Mobile homeowner-occupant obtains a replacement housing payment under one of the circumstances described in Section 20.84.510A(3), the homeowner- occupant is not eligible for payment for moving the Mobile Home, but may be eligible for a payment for moving personal property from the Mobile Home.

B. Moves from a Dwelling. A Displaced Person's actual, reasonable and necessary moving expenses for moving personal property from a Dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a Dwelling include the expenses described in subsections 20.84.300G (1)-G (7) of this section. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.)

1. Commercial move-moves performed by a professional mover.

2. Self-move-moves that may be performed by the Displaced Person in one or a combination of the following methods:

a. Fixed Residential Moving Cost Schedule as defined in Section 20.84.310.

b. Actual cost move. Supported by receipts for payments made for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting equipment but not exceed the cost paid by a commercial mover.

C. Moves from a Mobile Home. A Displaced Person's actual, reasonable and necessary moving expenses for moving personal property from a Mobile Home may be determined based on the cost of one, or a combination of the following methods: (Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a Mobile Home include those expenses described in subsections 20.84.300G (1)-G (7) of this section. In addition to the items in subsection A of this section, the Owner-occupant of a Mobile Home that is moved and used as the Person's replacement Dwelling, is also eligible for the moving expenses described in subsections 20.84.300 G (8)-G (10) of this section.)

1. Commercial move-moves performed by a professional mover.

2. Self-move-moves that may be performed by the Displaced Person in one or a combination of the following methods:

a. Fixed Residential Moving Cost Schedule as defined in Section 20.84.310.

b. Actual cost move. Supported by receipts for payments made for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting equipment but not exceed the cost paid by a commercial mover.

D. Moves from a Business, farm or Nonprofit Organization. Personal property as determined by an inventory from a Business, farm or Nonprofit Organization may be moved by one or a combination of the following methods: (Eligible expenses for moves from a Business, farm or Nonprofit Organization include those expenses described in subsections 20.84.300G(1)-G (7) and G (11)-G (18) of this section.)

1. Commercial move. Based on the lower of two bids or estimates prepared by a commercial mover. At the Department's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

2. Self-move. A self-move payment may be based on one or a combination of the following:

a. The lower of two bids or estimates prepared by a commercial mover or qualified Department staff person. At the Department's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

b. Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

E. Personal property only. Eligible expenses for a Person who is required to move personal property from real property but is not required to move from a Dwelling (including a Mobile Home), Business, farm or Nonprofit Organization include those expenses described in subsections 20.84.300G(1)-G (7) and G (18) of this section.

F. Advertising signs. The amount of a payment for direct loss of an advertising sign that is personal property shall be the lesser of:

1. The depreciated reproduction cost of the sign, as determined by the Department, less the proceeds from its sale; or

2. The estimated cost of moving the sign, but with no allowance for storage.

G. Eligible actual moving expenses.

1. Transportation of the Displaced Person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Department determines that relocation beyond 50 miles is justified.
2. Packing, crating, unpacking, and uncrating of the personal property.
3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property. For Businesses, farms or Nonprofit Organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes the modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.
4. Storage of the personal property for a period not to exceed 12 months, unless the Department determines that a longer period is necessary.
5. Insurance for the replacement value of the property in connection with the move and necessary storage.
6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the Displaced Person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
7. Other moving-related expenses that are not listed as ineligible under Section 20.84.300H, as the Department determines to be reasonable and necessary.
8. The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a Mobile Home which were not acquired, such as porches, skirting, and awnings, anchoring of the unit, and utility "hookup" charges.
9. The reasonable cost of repairs and/or modifications so that a Mobile Home can be moved and/or made Decent, Safe, and Sanitary.
10. The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the Person is displaced from a mobile home park or the Department determines that payment of the fee is necessary to effect relocation.
11. Any license, permit, fees or certification required of the Displaced Person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.
12. Professional services as the Department determines to be actual, reasonable and necessary for:
 - a. Planning the move of the personal property;
 - b. Moving the personal property;
 - c. Installing the relocated personal property at the replacement location.
13. Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.
14. Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the Business or Farm Operation. The payment shall consist of the lesser of:
 - a. The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Department determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the market value

shall be based on the cost of the goods to the Business, not the potential selling prices.); or

b. The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. If the Business or Farm Operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

15. The reasonable cost incurred in attempting to sell an item that is not to be relocated.

16. Purchase of substitute personal property. If an item of personal property, which is used as part of a Business or Farm Operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the Displaced Person is entitled to payment of the lesser of:

a. The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

b. The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Department's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

17. Searching for a replacement location. A Business, or Farm Operation is entitled to reimbursement for actual expenses, not to exceed \$2,500, as the Department determines to be reasonable, which are incurred in searching for a replacement location, including:

a. Transportation;

b. Meals and lodging away from home;

c. Time spent searching, based on reasonable salary or earnings;

d. Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;

e. Time spent in obtaining permits and attending zoning hearings based on reasonable salary or earnings; and

f. Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

18. Low value/high bulk. When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the Department, the allowable moving cost payment shall not exceed the lesser of: the amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new Business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Department.

H. Ineligible moving and related expenses. A Displaced Person is not entitled to payment for:

1. The cost of moving any structure or other real property improvement in which the Displaced Person reserved ownership. (However, this does not preclude the computation under Section 20.84.400C).

2. Interest on a loan to cover moving expenses;

3. Loss of goodwill;

4. Loss of profits;

5. Loss of trained employees;
6. Any additional operating expenses of a Business or Farm Operation incurred because of operating in a new location except as provided in Section 20.84320 A9.
7. Personal injury;
8. Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant in an appeal;
9. Expenses for searching for a replacement Dwelling;
10. Physical changes to the real property at the replacement location of a Business or Farm Operation except as provided in Section 20.84.300 G3 and Section 20.84.320A.
11. Costs for storage of personal property on real property already owned or leased by the Displaced Person; or
12. Refundable security and utility deposits.

I. Notification and inspection (nonresidential). The Department shall inform the Displaced Person, in writing, of the requirements of this section as soon as possible after the Initiation of Negotiations. This information may be included in the relocation information provided the Displaced Person as set forth in Section 20.84.085. To be eligible for payments under this section the Displaced Person must:

- a. Provide the Department reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the Department may waive this notice requirement after documenting its file accordingly.
- b. Permit the Department to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

J. Transfer of ownership (nonresidential). Upon request and in accordance with applicable law, the claimant shall transfer to the Department ownership of any personal property that has not been moved, sold, or traded in.

Section 17. A new section, SMC Section 20.84.310, is adopted to read as follows:

Section 20.84.310 Fixed Payment for Moving Expenses-- Residential Moves.

Any Person displaced from a Dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed payment as an alternative to a payment for actual moving and related expenses under Section 20.84.300. This payment shall be determined according to the Fixed Residential Moving Cost Schedule approved by the Federal Highway Administration and published in the Federal Register on a periodic basis. The payment to a Person with minimal possessions who is occupying a dormitory style room or a Person whose residential move is performed by an agency at no cost to the Person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule.

Section 18. A new section, SMC Section 2.84.320, is adopted to read as follows:

Section 20.84.320 Reestablishment Expenses--Nonresidential Moves.

In addition to the payments available under Section 20.84.300 for actual reasonable moving and related expenses, a Small Business, farm or Nonprofit Organization is entitled to receive a payment, not to exceed \$50,000, for expenses actually incurred in relocating and reestablishing such Small Business, farm or Nonprofit Organization at a replacement site.

A. Eligible expenses. Reestablishment expenses must be reasonable and necessary, as determined by the Department. They include, but are not limited to, the following:

1. Repairs or improvements to the replacement real property required by federal, state or local law, code or ordinance.
2. Modifications to the replacement property to accommodate the Business operation or make replacement structures suitable for conducting the Business.
3. Construction and installation costs for exterior signing to advertise the Business.
4. Connection to available nearby utilities from the right of way to improvements at the replacement site.
5. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
6. Advertisement of replacement location.
7. Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the Displaced Person's Business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Department a reasonable pre-approved hourly rate may be established.
8. Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the Department.
9. Estimated increased costs of operation during the first 2 years at the replacement site for such items as the following, provided that the replacement site is functionally similar to the displacement site and is not merely an improvement in space at the expense of the City:
 - a. Lease or rental charges,
 - b. Personal or real property taxes,
 - c. Insurance premiums, and
 - d. Utility charges, excluding impact fees.
10. Other items that the Department considers essential to the reestablishment of the Business.

B. Ineligible expenses. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

1. Purchase of capital assets, such as office furniture, filing cabinets, machinery, or trade fixtures.
2. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the Business operation.
3. Interest on money borrowed to make the move or purchase the replacement property.
4. Payment to a part-time Business in the home that does not Contribute Materially to the Household Income.
5. Interior or exterior renovations at the replacement site that are solely for aesthetic purposes, except those listed above in subsection A4.

Section 19. A new section, SMC Section 20.84.330, is adopted to read as follows:

Section 20.84.330 Fixed Payment for Moving Expenses--Nonresidential Moves.

A. Business. A displaced Business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses provided by Sections 20.84.300 and 20.84.320. The payment, except for payment to a Nonprofit Organization, shall equal the average annual net earnings of the Business, computed in accordance with subsection E of this section, but not less than \$1,000 nor more than \$20,000. The displaced Business is eligible for the payment if the Department determines that:

1. The Business owns or rents personal property that must be moved in connection with such displacement and for which an expense would be incurred in such move; and the Business vacates or relocates from its displacement site;
2. The Business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A Business is assumed to meet this test unless the Department determines that it will not suffer a substantial loss of its existing patronage;
3. The Business is not part of a commercial enterprise having more than three other entities that are not being acquired by the Department, and that are under the same ownership and engaged in the same or similar Business activities;
4. The Business is not operated at a displacement Dwelling solely for the purpose of renting such Dwelling to others;
5. The Business is not operated at the displacement site solely for the purpose of renting the site to others; and
6. The Business Contributed Materially to the income of the Displaced Person.

B. Determining the number of Businesses. In determining whether two or more displaced legal entities constitute a single Business that is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

1. The same premises and equipment are shared;
2. Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;
3. The entities are held out to the public, and to those customarily dealing with them, as one Business; and
4. The same Person or closely related Persons own, control, or manage the affairs of the entities.

C. Farm Operation. A displaced Farm Operation may choose a fixed payment in lieu of a payment for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with subsection E of this section, but not less than \$1,000 nor more than \$20,000. In the case of a partial Acquisition of land that was a Farm Operation before the Acquisition, the fixed payment shall be made only if the Department determines that:

1. The Acquisition of part of the land caused the operator to be displaced from the Farm Operation on the remaining land; or
2. The partial Acquisition caused a substantial change in the nature of the Farm Operation.

D. Nonprofit Organization. A displaced Nonprofit Organization may choose a fixed payment of \$1,000 to \$20,000 in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Department determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A Nonprofit Organization is assumed to meet this test unless the Department demonstrates otherwise. Any payment in excess of \$1,000 must be supported with financial statements for the two 12-month periods prior to the

Acquisition. The amount to be used for the payment is the average of two years annual gross revenues less administrative expenses. (See Appendix A, 49 CFR section 24.305(d).)

E. Average annual net earnings of a Business or Farm Operation. The average annual net earnings of a Business or Farm Operation are one-half of its net earnings before federal, state, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the Business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Department determines it to be more equitable. Net earnings include any compensation obtained from the Business or Farm Operation by its Owner, the Owner's spouse, and dependents. The Displaced Person shall furnish the Department proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence the Department determines is satisfactory.

Section 20. A new section, SMC Section 20.84.400, is adopted to read as follows:

Section 20.84.400 Replacement Housing Payment for 180-day Homeowner- occupants.

A. Eligibility. A Displaced Person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the Person:

1. Has actually owned and occupied the displacement Dwelling for not less than the 180 days immediately prior to the Initiation of Negotiations; and

2. Purchases and occupies a Decent, Safe, and Sanitary replacement Dwelling within one year after the later of the following dates (except that the Department may extend such one year period for good cause):

a. The date the Displaced Person receives final payment for the displacement Dwelling or, in the case of condemnation, the date the required amount of just compensation is deposited in the court, or

b. The date the obligation to make a Comparable Replacement Dwelling available is met.

B. Amount of payment. The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed \$22,500. The payment is limited to the amount necessary to relocate to a Comparable Replacement Dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement Dwelling, or the date a Comparable Replacement Dwelling is made available to such Person, whichever is later. The payment shall be the sum of:

1. The amount by which the cost of a replacement Dwelling exceeds the acquisition cost of the displacement Dwelling (price differential), determined in accordance with subsection C of this section; and

2. The increased interest costs and other debt service costs that are incurred in connection with the Mortgage(s) or other purchase loan on the replacement Dwelling, determined in accordance with subsection D of this section; and

3. The necessary and reasonable expenses incidental to the purchase of the replacement Dwelling, determined in accordance with subsection E of this section.

C. Price differential.

1. Basic computation. The price differential to be paid under subsection B1 of this section is the amount that must be added to the acquisition cost of the displacement Dwelling and site to provide a total amount equal to the lesser of:

a. The reasonable cost of a Comparable Replacement Dwelling determined in accordance with Section 20.84.420; or

b. The purchase price of the Decent, Safe, and Sanitary replacement Dwelling actually purchased and occupied by the

Displaced Person.

2. Owner retention of displacement Dwelling. If the Owner retains ownership of his or her Dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement Dwelling shall be the sum of:

- a. The cost of moving and restoring the Dwelling to a condition comparable to that prior to the move; and
- b. The cost of making the unit a Decent, Safe, and Sanitary replacement Dwelling; and
- c. The current market value for residential use of the replacement site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and
- d. The retention value of the Dwelling, if such retention value is reflected in the "acquisition cost" used when computing the replacement housing payment.

D. Increased Mortgage interest costs. The Department shall determine the factors to be used in computing the amount to be paid to a Displaced Person under subsection B2 of this section. The payment for increased Mortgage interest cost shall be the amount that will reduce the balance on a new purchase loan or Mortgage to an amount that could be amortized with the same monthly payment for principal and interest as that for the Mortgage(s) on the displacement Dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide Mortgages that were valid liens on the displacement Dwelling for at least 180 days prior to the Initiation of Negotiations. Subsections D1 through D5 of this section apply to the computation of the increased Mortgage interest cost payment, which payment shall be contingent upon a Mortgage or other purchase loan being placed on the replacement Dwelling.

1. The payment shall be based on the unpaid Mortgage balance(s) on the displacement Dwelling; however, in the event the Person obtains a smaller Mortgage or purchase loan than the Mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. In the case of a home equity loan the unpaid balance is the balance that existed 180 days prior to the Initiation of Negotiations or the balance on the date of Acquisition, whichever is less.

2. The payment shall be based on the remaining term of the Mortgage(s) on the displacement Dwelling or the term of the new Mortgage or purchase loan, whichever is shorter.

3. The interest rate on the new Mortgage or purchase loan used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional Mortgages currently charged by Mortgage lending institutions in the area in which the replacement Dwelling is located.

4. Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

a. They are not paid as incidental expenses;

b. They do not exceed rates normal to similar real estate transactions in the area;

c. The Department determines them to be necessary; and

d. The computation of such points and fees is based on the unpaid Mortgage balance on the displacement Dwelling, less the amount determined for the reduction of such Mortgage balance under this section.

5. The Displaced Person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the Person's current Mortgage(s) are known. The payment shall be made available at or near the time of closing on the replacement Dwelling in order to reduce the new Mortgage or purchase loan as intended.

E. Incidental expenses. The incidental expenses to be paid under subsection B3 of this section or for downpayment assistance under Section 20.84.410C are those necessary and reasonable costs actually incurred by the Displaced Person incident to the purchase of a replacement Dwelling, and customarily paid by the buyer, including the following costs, but limited to the lesser of the amount actually paid or the amount that would have been paid based on the cost of a Comparable Replacement Dwelling:

1. Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees;
2. Lender, FHA, or VA application and appraisal fees;
3. Loan origination or assumption fees that do not represent prepaid interest;
4. Professional home inspection, certification of structural soundness and termite inspection;
5. Credit report;
6. Owner 's and Mortgagee's evidence of title, e.g., title insurance, not to exceed the costs for a Comparable Replacement Dwelling;
7. Escrow agent's fee;
8. State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a Comparable Replacement Dwelling); and
9. Such other costs as the Department determines to be incidental to the purchase.

F. Rental assistance payment for 180-day homeowner. A 180-day homeowner-occupant who could be eligible for a replacement housing payment under subsection A of this section but elects to rent a replacement Dwelling, is eligible for a rental assistance payment not to exceed \$5,250, computed and disbursed in accordance with Section 20.84.410.

Section 21. A new section, SMC Section 20.84.410, is adopted to read as follows:

Section 20.84.410 Replacement Housing Payment for 90-day Occupants.

A. Eligibility. A Tenant or Owner-occupant displaced from a Dwelling is entitled to a payment not to exceed \$5,250 for rental assistance, computed in accordance with subsection B of this section, or down payment assistance, computed in accordance with subsection C of this section, if such Displaced Person:

1. Has actually and lawfully occupied the displacement Dwelling for at least 90 days immediately prior to the Initiation of Negotiations; and
2. Has rented, or purchased, and occupied a Decent, Safe, and Sanitary replacement Dwelling within 1 year (unless the Department extends this period for good cause) after:
 - a. For a Tenant, the date he or she moves from the displacement Dwelling, or
 - b. For an Owner-occupant, the later of:
 - (1) The date the Owner receives final payment for the displacement Dwelling, or in the case of condemnation, the date the required amount is deposited with the court; or
 - (2) The date the Owner moves from the displacement Dwelling.

B. Rental assistance payment.

1. Amount of payment. An eligible Displaced Person who rents a replacement Dwelling is entitled to a payment not to exceed \$5,250 for rental assistance. Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement Dwelling from the lesser of:

- a. The monthly rent and estimated average monthly cost of utilities for a Comparable Replacement Dwelling; or
- b. The monthly rent and estimated average monthly cost of utilities for the Decent, Safe, and Sanitary replacement Dwelling actually occupied by the Displaced Person.

2. Base monthly rental for displacement Dwelling. The base monthly rental for the displacement Dwelling is the lesser of:

- a. The average monthly cost for rent and utilities at the displacement Dwelling for a reasonable period prior to displacement, as determined by the Department. (For an Owner- occupant, use the market rent for the displacement Dwelling. For a Tenant who paid below market rent for the displacement Dwelling, use the market rent, unless its use would result in a hardship because of the Person's income or other circumstances); or
- b. Thirty (30) percent of the Displaced Person's average monthly gross Household Income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 programs. The base monthly rental shall be established solely on the criteria in subsection B2a of this section for Persons with income exceeding the survey's "low income" limits, for Persons refusing to provide appropriate evidence of income, as determined by the Department, and for Persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the Person demonstrates otherwise; or
- c. The total of the amounts designated for shelter and utilities if the Displaced Person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

3. Manner of disbursement. A rental assistance payment may, at the Department's discretion, be disbursed in either a lump sum or in installments. However, except as limited by Section 20.84.420 F providing for payments after death, the full amount vests immediately, whether or not there is any later change in the Person's income or rent, or in the condition or location of the Person's housing.

C. Down payment assistance payment.

1. Amount of payment. An eligible Displaced Person who purchases a replacement Dwelling is entitled to a down payment assistance payment in the amount the Person would receive under subsection B of this section if the Person rented a Comparable Replacement Dwelling. At the discretion of the Department, a down payment assistance payment that is less than \$5,250 may be increased to any amount not to exceed \$5,250. However, the payment to a displaced homeowner shall not exceed the amount the Owner would receive under Section 20.84.400 if he or she met the 180-day occupancy requirement. If the Department elects to provide the maximum payment of \$5,250 as a downpayment, the Department shall exercise this discretion in a uniform and consistent manner, so that eligible Displaced Persons in like circumstances are treated equally. A Displaced Person eligible to receive a payment as a 180-day Owner- occupant under Section 20.84.400 is not eligible for this payment.

2. Application of payment. The full amount of the replacement housing payment for down payment assistance must be applied to the purchase price of the replacement Dwelling and related incidental expenses.

Section 22. A new section, SMC Section 20.84.420, is adopted to read as follows:

Section 20.84.420 Additional Rules Governing Replacement Housing Payments.

A. Determining cost of Comparable Replacement Dwelling. The upper limit of a replacement housing payment shall be based on the cost of a Comparable Replacement Dwelling.

1. If available, at least three Comparable Replacement Dwellings shall be examined and the payment computed on the basis of the Dwelling most nearly representative of, and equal to, or better than, the displacement Dwelling. An adjustment shall be made to the asking price of any Dwelling, to the extent justified by local market data. An obviously overpriced Dwelling may be ignored.
2. If the site of the Comparable Replacement Dwelling lacks a major exterior attribute of the displacement Dwelling Site, (e.g., the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement Dwelling for purposes of computing the replacement housing payment.
3. If the Acquisition of a portion of a typical residential property causes the displacement of the Owner from the Dwelling and the remainder is a buildable residential lot, the Department may offer to purchase the entire property. If the Owner refuses to sell the remainder to the Department, the market value of the remainder may be added to the acquisition cost of the displacement Dwelling for purposes of computing the replacement housing payment.
4. To the extent feasible, Comparable Replacement Dwellings shall be selected from the neighborhood in which the displacement Dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.
5. Multiple occupants of one displacement Dwelling. If two or more occupants of the displacement Dwelling move to separate replacement Dwellings, each occupant is entitled to a reasonable prorated share, determined by the Department, of any relocation payments that would have been made if the occupants moved together to a Comparable Replacement Dwelling. However, if the Department determines that two or more occupants maintained separate households within the same Dwelling, such occupants have separate entitlements to relocation payments.
6. Deductions from relocation payments. A Department shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a Displaced Person is otherwise entitled. Where such a deduction would not prevent the Displaced Person from obtaining a Comparable Replacement Dwelling, a Department may deduct from relocation payments any rent that the Displaced Person owes the Department. The Department shall not withhold any part of a relocation payment to a Displaced Person to satisfy an obligation to any other creditor.
7. Mixed-use and multifamily properties. If the Displacement Dwelling was part of a property that contained another Dwelling unit and/or space used for non-residential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment that is actually attributable to the displacement Dwelling shall be considered the acquisition cost when computing the replacement housing payment.

B. Inspection of replacement Dwelling. Before making a replacement housing payment or releasing the initial payment from escrow, the Department or its designated representative shall inspect the replacement Dwelling and determine whether it is a Decent, Safe, and Sanitary Dwelling.

C. Purchase of replacement Dwelling. A Displaced Person is considered to have met the requirement to purchase a replacement Dwelling, if the Person:

1. Purchases a Dwelling;
2. Purchases and rehabilitates a substandard Dwelling;
3. Relocates a Dwelling which he or she owns or purchases;
4. Constructs a Dwelling on a site he or she owns or purchases;

5. Contracts for the purchase or construction of a Dwelling on a site provided by a builder or on a site the Person owns or purchases; or

6. Currently owns a previously purchased Dwelling and site, valuation of which shall be on the basis of current market value.

D. Occupancy requirements for displacement or replacement Dwelling. No Person shall be denied eligibility for a replacement housing payment solely because the Person is unable to meet the occupancy requirements set forth in this ordinance for a reason beyond his or her control, including:

1. A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, a federal, state or local agency authorized to make such a determination, or the Department; or
2. Another reason, such as a delay in the construction of the replacement Dwelling, military duty, or hospital stay, as determined by the Department.

E. Conversion of payment. A Displaced Person who initially rents a replacement Dwelling and receives a rental assistance payment under Section 20.84.410 B is eligible to receive a payment under Section 20.84.400 or Section 20.84.410 C if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under either of those sections.

F. Payment after death. A replacement housing payment is personal to the Displaced Person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

1. The amount attributable to the Displaced Person's period of actual occupancy of the replacement housing shall be paid.
2. Any remaining payment shall be disbursed to the remaining family members of the displaced household who continue to occupy the replacement Dwelling in any case in which a member of a displaced family dies.
3. Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement Dwelling by or on behalf of a deceased Person shall be disbursed to the estate.

G. Insurance proceeds. To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a Person in connection with a loss to the displacement Dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement Dwelling when computing the price differential.

Section 23. A new section, SMC Section 20.84.430, is adopted to read as follows:

Section 20.84.430. Replacement Housing of Last Resort.

A. Determination to provide replacement housing of last resort. Whenever the Department determines that a Program or Project cannot proceed on a timely basis because Comparable Replacement Dwellings are not available within the monetary limits for Owners or Tenants specified in Section 20.84.400 or Section 20.84.410, the Department is authorized to take cost effective measures under the provisions of this section to provide such a Dwelling. The Department's obligation to make available a Comparable Replacement Dwelling shall be met when such a Dwelling, or assistance necessary to provide such a Dwelling, is offered under the provisions of this section. Any decision to provide last resort housing assistance must be adequately justified either:

1. On a case-by-case basis, for good cause, which means that appropriate consideration, as determined by the Department, has been given to:

- a. The availability of Comparable Replacement Dwellings in the Program or Project area; and
- b. The resources available to provide Comparable Replacement Dwellings; and
- c. The individual circumstances of the Displaced Person; or

2. By a determination that:

- a. There are few, if any, Comparable Replacement Dwellings available to Displaced Persons within an entire Program or Project area; and, therefore, last resort housing assistance is necessary for the area as a whole; and
- b. A Program or Project cannot be advanced to completion in a timely manner without last resort housing assistance; and
- c. The method selected for providing last resort housing assistance is cost effective, considering all elements that contribute to total Program or Project costs. (For example, will the Project or Program delay justify waiting for less expensive Comparable Replacement Dwellings to become available?)

B. Basic rights of Persons to be displaced. Notwithstanding any provision of this section, no Person shall be required to move from a displacement Dwelling unless comparable replacement housing is available to such Person. No Person may be deprived of any rights the Person may have under this chapter. The Department shall not require any Displaced Person to accept a Dwelling provided by the Department under these procedures (unless the Department and the Displaced Person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the Person may otherwise be eligible.

C. Methods of providing replacement housing of last resort. The Department shall have broad latitude in implementing this section, but implementation shall be for reasonable cost, on a case- by-case basis unless an exception to case-by-case analysis is justified for an entire Program or Project.

1. The methods of providing replacement housing of last resort include, but are not limited to:

- a. A replacement housing payment in excess of the limits set forth in Section 20.84.400 or Section 20.84.410. A replacement housing payment under this section may be provided in installments or in a lump sum at the Department's discretion.
- b. Rehabilitation of and/or additions to an existing replacement Dwelling.
- c. Construction of a new replacement Dwelling.
- d. Provision of a direct loan that requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.
- e. Relocation and, if necessary, rehabilitation of a Dwelling.
- f. Purchase of land and/or a replacement Dwelling by the Department and subsequent sale or lease to, or exchange with a Displaced Person.
- g. Removal of barriers for Persons with disabilities.
- h. Change in status of the Displaced Person with his or her concurrence from Tenant to homeowner when it is more cost effective to do so, as in cases where a downpayment may be less expensive than a last resort rental assistance payment.

2. Under special circumstances, consistent with the definition of a Comparable Replacement Dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space

and physical characteristics different from those in the displacement Dwelling, including upgraded, but smaller replacement housing that is Decent, Safe, and Sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a Displaced Person be required to move into a Dwelling that is not functionally equivalent.

3. The Department shall provide assistance under this section to a Displaced Person who is not eligible to receive a replacement housing payment under Section 20.84.400 and Section 20.84.410 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the Person's financial means, which is 30 percent of the Person's gross monthly Household Income. Such assistance shall cover a period of 42 months.

D. The actual amount of assistance shall be limited to the amount necessary to relocate to a Comparable Replacement Dwelling within 1 year from the date the displaced homeowner-occupant is paid for the displacement Dwelling or the date the Person is initially offered a Comparable Replacement Dwelling, whichever is later.

E. The Department is not required to provide Persons owning only a fractional interest in the displacement Dwelling a greater level of assistance to purchase a replacement dwelling than the Department would be required to provide such Persons if they owned fee simple title to the displacement Dwelling. If such assistance is not sufficient to buy a replacement Dwelling, the Department may provide additional purchase assistance or rental assistance.

Section 24. A new section, SMC Section 20.84.500, is adopted to read as follows:

Section 20.84.500 Relocation Assistance-Mobile Homes.

A. Except as otherwise provided by Sections 20.84.510 through 20.84.530, a Person displaced from a Mobile Home and/or mobile home site who meets the basic eligibility requirements of this chapter is entitled to a moving expense payment and a replacement housing payment to the same extent and subject to the same requirements as Persons displaced from conventional Dwellings. Eligible moving cost payments to Persons occupying Mobile Homes are listed in Section 20.84.300 G (1)- G (10).

B. Partial Acquisition of a mobile home park. The Acquisition of a portion of a mobile home park may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Department determines that a Mobile Home located in the remaining part of the property must be moved as a direct result of the Program or Project, the occupant of the Mobile Home shall be considered a Displaced Person who is entitled to relocation payments and other assistance under this chapter.

Section 25. A new section, SMC Section 20.84.510, is adopted to read as follows:

Section 20.84.510 Replacement Housing Payment for 180-day Mobile Homeowner Displaced from a Mobile Home, and/or from the Acquired Mobile Home Site.

A. An Owner-occupant displaced from a Mobile Home or site is entitled to a replacement housing payment, not to exceed \$22,500, under Section 20.84.400 if:

1. The Person occupied the Mobile Home as a Dwelling on the displacement site for at least 180 days immediately before:

a. The Initiation of Negotiations to acquire the Mobile Home, if the Person owned the Mobile Home and the Mobile Home is real property under state law;

b. The Initiation of Negotiations to acquire the mobile home site if the Mobile Home is personal property under state law, but the Person owns the mobile home site;

c. The date of the Department's written notification to the Owner-occupant that the Owner is determined to be displaced

from the Mobile Home as described in subsections A 3(a-d) of this section.

2. The Person meets the other basic eligibility requirements of Section 20.84.400 A; and

3. The Department acquires the Mobile Home as real estate, or acquires the mobile home site from the displaced Owner, or the Mobile Home used as a Dwelling is personal property under state law but the Owner is displaced from the Mobile Home because the Department determines that the Mobile Home:

- a. Is not and cannot economically be made Decent, Safe, and Sanitary;
- b. Cannot be relocated without substantial damage or unreasonable cost;
- c. Cannot be relocated because there is no available comparable replacement site; or
- d. Cannot be relocated because it does not meet mobile home park entrance requirements.

B. Replacement housing payment computation for a 180-day Owner who is displaced from a Mobile Home. The replacement housing payment for an eligible displaced 180-day Owner is computed as described in Section 20.84.400B incorporating the following, as applicable:

1. If the Department acquires the Mobile Home as real estate and/or acquires the Mobile Home site, the acquisition cost used to compute the price differential payment is the actual amount paid to the Owner as just compensation for the Acquisition of the Mobile Home, and/or site, if owned by the displaced mobile homeowner.
2. If the Department does not purchase the Mobile Home as real estate but the Owner is determined to be displaced from the Mobile Home and eligible for a replacement housing payment based on subsection A1a of this section, the eligible price differential payment for the purchase of a comparable replacement Mobile Home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement Mobile Home (i.e., purchase price of the replacement Mobile Home less trade-in or sale proceeds of the displacement Mobile Home); or, the cost of the Department selected comparable Mobile Home less the Department's estimate of the salvage or trade-in value for the Mobile Home from which the Person is displaced.
3. If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional Comparable Replacement Dwelling.

C. Rental Assistance payment for a 180-day Owner-occupant who is displaced from a leased or rented mobile home site. If the displacement mobile home site is leased or rented, a displaced 180-day Owner-occupant is entitled to a rental assistance payment computed as described in Section 20.84.410B. This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the Mobile Home, to the purchase of a replacement Mobile Home or conventional Decent, Safe, and Sanitary Dwelling.

D. Owner-occupant not displaced from the Mobile Home. If the Department determines that a Mobile Home is personal property and may be relocated to a comparable replacement site, but the Owner-occupant elects not to do so, the Owner is not entitled to a replacement housing payment for the purchase of a replacement Mobile Home. However, the Owner is eligible for moving costs described in Section 20.84.300 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or Section 20.84.520 as applicable.

Section 26. A new section, SMC Section 20.84.520, is adopted to read as follows:

Section 20.84.520 Replacement Housing Payment for 90-day Mobile Home Occupants.

A displaced Tenant or Owner-occupant of a Mobile Home used as a Dwelling and/or site is eligible for a replacement housing payment, not to exceed \$5,250, under Section 20.84.410 if:

- A. The Person actually occupied the displacement Mobile Home and used it as a Dwelling on the displacement site for at least the 90 days immediately prior to the Initiation of Negotiations;
- B. The Person meets the other basic eligibility requirements of Section 20.84.410 A; and
- C. The Department acquires the Mobile Home and/or mobile home site, or the Mobile Home is not acquired by the Department but the Department determines that the occupant is displaced from the Mobile Home because of one of the circumstances described in Section 20.84.510 A3.

Section 27. A new section, SMC Section 20.84.620, is adopted to read as follows:

Section 20.84.620. Assurances, Monitoring and Corrective Action.

- A. Assurances. Before The City approves any grant to, or contract or agreement with an Agency under which City Financial Assistance will be made available for a Program or Project that may result in a Displaced Person under this chapter, the Agency must provide appropriate assurances to the City that it will comply with and be responsible for compliance with the requirements of this chapter.
- B. Monitoring and corrective action. The Department Head responsible for the contract is authorized to monitor compliance with this chapter. Upon notice and request from the Department Head, the Agency shall take the corrective action requested or necessary to comply with this chapter.
- C. Prevention of fraud, waste, and mismanagement. The Agency shall take appropriate measures to carry out this chapter in a manner that minimizes fraud, waste, and mismanagement.

Section 28. A new section, SMC Section 20.84.630, is adopted to read as follows:

Section 20.84.630 Recordkeeping and Reports.

- A. Records. An Agency shall maintain adequate records of its displacement activities in sufficient detail to demonstrate compliance with this chapter. These records shall be retained for at least 3 years after the displacement occurs.
- B. Confidentiality of records. Unless otherwise provided by law, records maintained by an Agency in accordance with this chapter are confidential, except that they may be made available to the Department to determine compliance with this chapter.
- C. Reports. An Agency shall submit a report of its displacement activities under this chapter when requested by the City Department Head. Normally, such reports will be submitted every 3 years, unless the Department Head requests a report more frequently.

Section 29. A new section, SMC Section 20.84.640, is adopted to read as follows:

Section 20.84.640 Agency Appeals.

- A. Actions that may be appealed. Whenever a Person believes an Agency has failed to properly consider the Person's application for assistance under this chapter, including but not limited to the Person's eligibility for, the method of determination of, or the amount of a relocation payment under this chapter, the aggrieved Person may file a written appeal with the Agency.
- B. Filing of Appeals.
 - 1. Time limit for initiating appeal. A notice of appeal shall be filed with the Agency within twenty (20) days following receipt of written notice of the Agency's determination. The Agency shall send a copy of any appeal filed to the City

Department Head within seven (7) days after receipt of the appeal.

2. Form of Appeal. The notice of appeal must contain a brief statement of the issues on appeal, the specific objections to the decision being appealed, along with supporting facts and documentation, the relief sought, the reason(s) why the Person appealing believes he or she is aggrieved by the Agency's decision, and the reason(s) why the Person appealing believes the appeal should be granted. The notice of appeal must list the address of the property involved, the name of the Project or Program if known, the Agency making the decision being appealed, the name of the appellant, and the signature, address, phone number, and fax or e-mail address if available, of the Person appealing or the Person's authorized representative. The appeal notice must attach a copy of all written documents and certifications or facts upon which the Person appealing is relying. The Agency may dismiss any appeal that fails to comply with these requirements after providing written notice to the Person filing the appeal requesting compliance within ten (10) days.

C. Right to representation. A Person may be represented by legal counsel or other representative in connection with an appeal, but solely at the Person's own expense.

D. Review of files by Person making appeal. The Agency shall permit a Person to inspect and copy all materials pertinent to the Person's appeal, except materials classified as confidential by the Agency, but may impose reasonable conditions in accordance with applicable law.

E. Agency official to review appeal. The Agency official conducting the review of the appeal shall be either the Agency Head or his or her authorized designee. However, the official conducting the review shall not have been directly involved in the action appealed.

F. Hearing Process. The Agency shall consider all written materials submitted by the Person, and all other available information obtained by the Agency after investigation.

G. Decision. The Agency shall issue a written decision within thirty (30) days after submission of all of the documents required by subsection B. The written decision shall contain the reasons for the decision and the provisions for further appeal and shall be mailed to the Person appealing by first class mail with proof of mailing attached and a copy retained in the Agency's files. This decision is the final decision of the Agency.

H. Appeal of Agency Decision. Any Person aggrieved by the final decision of the Agency may file an appeal with the Hearing Examiner, with a copy to the Agency, in accordance with the procedures in Section 20.84.225, except that any such further appeal must be filed with the Hearing Examiner within twenty (20) days of the date of the Agency's decision. The appeal will be conducted in accordance with the procedures for appeals under Section 20.84.225. Any judicial review shall be in accordance with Section 20.84.235.

Section 30. SMC Sections 20.84.050, 20.84.060, 20.84.070, 20.84.080, 20.84.090, 20.84.100, 20.84.110, 20.84.120, 20.84.130, 20.84.140, 20.84.150, 20.84.160, 20.84.170, 20.84.180, 20.84.190, 20.84.200, 20.84.210, 20.84.220, and 20.84.230 are repealed.

Section 31. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any Person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular Person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other Persons and all other circumstances, shall remain valid and enforceable.

Section 32. Any act made consistent with the authority and prior to the effective date of this ordinance is hereby ratified and confirmed.

Section 33. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by

Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2005, and signed by me in open session in authentication of its passage this ____ day of _____, 2005.

President _____ of the City Council

Approved by me this ____ day of _____, 2005.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2005.

City Clerk

(Seal)

Sandy Watson/smw

Relocation Assistance

September 8, 2005

version # 2

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