

**ORDINANCE NO. 388**

**AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, ESTABLISHING A BUSINESS RELOCATION ASSISTANCE PROGRAM BY ADOPTING A NEW CHAPTER 5.30, BUSINESS RELOCATION ASSISTANCE, TO THE UNIVERSITY PLACE MUNICIPAL CODE AND PROVIDING FOR ECONOMIC RELOCATION ASSISTANCE TO BUSINESSES DISPLACED BY CITY PUBLIC WORKS PROJECTS**

WHEREAS, the City of University Place after extensive study, planning and discussion has determined that it is in the best interests of the Citizens of the City of University Place to provide for business relocation assistance to establish a uniform policy for the equitable treatment of businesses displaced as a result of City public works projects designed for the benefit of the public at large; and

WHEREAS, the City of University Place finds that public confidence in the process of acquiring real estate for public works projects will be enhanced by the establishment of a business relocation assistance program; and

WHEREAS, the City of University Place recognizes the varying rights of business tenants and business owners to use and enjoy real property is not adequately addressed in State Law and accordingly has sought to create a policy to recognize those varying rights; and

WHEREAS, the City of University Place has elected not to comply with the provisions of RCW 8.26.035 through 8.26.115 and RCW 8.26.180 through 8.26.200; and

WHEREAS, it is in the public interest to create a business relocation assistance policy;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Establishing Business Relocation Assistance Program By Adopting a New Chapter 5.30 to the University Place Municipal Code. The City of University Place hereby adopts a new Chapter 5.30, Business Relocation Assistance, to the University Place Municipal Code, as follows:

**Chapter 5.30 Business Relocation Assistance**

Section 5.30.010 Purposes and Scope:

(1) The purposes of this Chapter are:

- (a) To establish a uniform policy for the fair and equitable treatment of businesses displaced as a result of public works programs of the City of University Place which are designed for the benefit of the public; and
- (b) To encourage and expedite the acquisition of real property for public works projects by agreement, to reduce litigation, to assure consistent treatment of business owners affected by City public works projects, and to promote public confidence in City acquisition practices.

(2) Nothing in this Chapter may be construed as creating in any condemnation proceeding brought under the power of eminent domain any element of value or damage separate and distinct from a real property interest.

Section 5.30.020 Definitions:

(1) The term "City" means the City of University Place, a municipal corporation of the State of Washington.

(2) The term "displaced business" means any business that is required to move from real property taken as a result of construction of a public works project within the City.

(3) The term "business" means any lawful activity, except for a farm operation, that is considered:

- (a) Primarily for:
  - 1. The purchase, sale, lease, and rental of personal and real property;
  - 2. The manufacture, processing, or marketing of products, commodities, or other personal property; or
  - 3. Any combination of these activities.
- (b) Primarily for the sale of services to the public;
- (c) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
- (d) By a nonprofit organization that has established its nonprofit status under applicable federal or state law.

(4) The term "nonprofit organization" means an organization that is incorporated under the applicable laws of a state as a nonprofit organization and exempt from paying federal income taxes under Section 501 of the Internal Revenue Code. (26 U.S.C. 501)

(5) The term "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 for home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(6) The term "reestablishment expenses" means:

- (a) Repairs or improvements to the replacement real property as required by local law, code or ordinance.
- (b) Modifications to the replacement real property to accommodate the business operation.
- (c) Construction and installation costs for exterior signing to advertise the business.
- (d) Provisions for utilities from right of ways to improvements to the replacement site.
- (e) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.
- (f) Licenses, fees, and permits when not paid as part of moving expenses.
- (g) Feasibility surveys, soil testing and market studies.
- (h) Advertisement of replacement location.
- (i) Professional services in connection with the purchase or lease of replacement site.
- (j) Estimated increased in expenses limited to two years at the replacement site for such items as:
  - i. Personal or real property taxes;
  - ii. Insurance premiums;
  - iii. Utility charges; and
  - iv. Impact fees or one-time assessments for anticipated heavy utility usage.

(7) The term "non-reimbursable expenses" means:

- (a) The cost of moving items not considered personal property.

- (b) Loss of business, profits, good will, or trained employees (includes loss due to downtime).
- (c) Personal injury.
- (d) Additional operating expenses because of operating in a new location except as provided for as reestablishment expenses.
- (e) Any legal fee or other cost for preparing a claim for a relocation payment or for any appeal of your relocation benefits.
- (f) Physical changes to real property at the replacement location except as provided for as reestablishment expenses.
- (g) Cost for storage on real property already owned or leased by you.

Section 5.30.030 Payment for Moving and Related Expenses:

(1) Whenever a program or project to be undertaken by the City will result in the displacement of any business, the City shall reimburse the displaced business for:

- (a) Actual and reasonable expenses in moving personal property in amount not to exceed one thousand dollars;
- (b) Actual and reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, in accordance with criteria established by the lead agency, but not to exceed one thousand dollars;
- (c) Actual reasonable expenses in searching for a replacement business location not to exceed one thousand dollars; and

(2) Reasonable relocation expenses for improvements to the replacement location are limited by the number of square feet of the facility moved from and by the following limitations.

- |     |                                 |                 |
|-----|---------------------------------|-----------------|
| (a) | Direct Moving Expenses          | max. \$1.50/sf  |
| (b) | Reestablishment Expenses        | max. \$2.00/sf  |
| (c) | Related Moving Expenses         | fixed \$1000.00 |
| (d) | Additional Restaurant Allowance | max. \$2.00/sf  |
- Restaurants are entitled to this additional sum for actual expenses incurred in moving specialty equipment.

*Provided*, that tenants that relocate outside of the City shall only be entitled to 50% of the amounts listed above.

Eligible expenses for moving personal property include:

- (a) Transportation costs for a distance up to 50 miles.
- (b) Packing crating, unpacking and uncrating.
- (c) Disconnecting, dismantling, removing, reassembling and reinstalling relocated machinery, equipment and other personal property.
- (d) Modifications to personal property required by code.

Section 5.30.040 Relocation Assistance Advisory Services:

(1) Programs or projects undertaken by the City shall be planned in a manner that recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions that will cause displacements, the problems associated with the displacement of businesses, and provides for the resolution of the problems in order to minimize adverse impacts on displaced business and to expedite program or project advancement and completion.

(2) The City shall ensure that the relocation assistance advisory services described in subsection (3) of this section are made available to all displaced businesses.

(3) The relocation assistance advisory program required by subsection (2) shall include such measures, facilities, or services as may be necessary or appropriate in order to:

- (a) Determine, and make timely recommendations on, the needs and preferences, if any, of displaced businesses for relocation assistance;
- (b) Provide current and continuing information on the availability, sales prices, and rental charges of comparable replacement business units for displaced businesses and suitable locations for businesses; and
- (c) Assist a displaced business in obtaining and becoming established in a suitable replacement location;
- (d) Provide other advisory services to displaced businesses in order to minimize hardships to them in adjusting to relocation; and
- (e) Coordinate relocation activities performed by the agency with other federal, state, or local governmental actions in the community that could affect the efficient and effective delivery of relocation assistance and related services.

**Section 5.30.050 Contracts for Service – Use of Services of Other Agencies:**

In order to prevent unnecessary expenses and duplication of functions, and to promote uniform and effective administration of relocation assistance programs for displaced businesses the City may enter into contracts with any individual, firm, association, or corporation for services in connection with this chapter or may carry out its functions under this chapter through any federal or state agency or local public agency having an established organization for conducting relocation assistance programs.

**Section 5.30.060 Relocation Assistance Payments Not Income:**

Payments received by a displaced business under this chapter are for reimbursement of relocation expenses and shall not be considered income.

**Section 5.30.070 Severability-Conflict with Federal Requirements:**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**Section 5.30.080 Appeal of Administrative Decision:**

The City Manager or designee shall make an administrative decision setting the relocation assistance amount for each business affected by a City public works project. The administrative decision shall be set forth in writing and mailed to the affected business. Any appeal of this administrative decision must be made by filing a Notice of Appeal at the City Permit Center within fourteen (14) days of the date of the decision. The filing fee for such an appeal shall be \$250. The City's Hearing Examiner shall conduct an open record appeal hearing and enter findings of fact and conclusions of law within twenty-one days of the hearing date. The decision of the Hearing Examiner shall be the final decision of the City. Any appeal thereafter shall be to the Pierce County Superior Court.

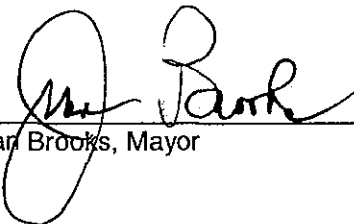
**Section 2. Authorizing the City Manager to Develop Guidelines.**

The City Manager or designee is hereby authorized to take all necessary steps to create guidelines to provide assistance for business relocation consistent with this ordinance. Any such guidelines shall take effect immediately after they have been received and filed at a meeting of the City Council.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 4. Publication and Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall be effective five (5) days after its publication.

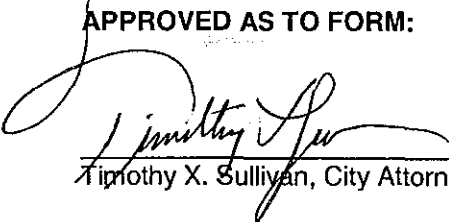
**PASSED BY THE CITY COUNCIL ON THIS 16TH DAY OF JUNE 2003.**

  
\_\_\_\_\_  
Jean Brooks, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Catrina Craig, City Clerk

**APPROVED AS TO FORM:**

  
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Timothy X. Sullivan, City Attorney

Date of Publication: 6/19/03  
Effective Date: 6/24/03