

CITY OF KENT RELOCATION POLICY

PURPOSE

The purpose of this policy is to create a relocation plan providing for the relocation of persons, including families, business concerns, and others, displaced by the City of Kent, which relocation plan shall include, but not be limited to, the proposed method for the relocation of businesses and/or residents who will be displaced from their businesses and/or dwelling accommodations in decent, safe and sanitary dwelling accommodations within their means, or with provision for adjustment payments to bring such accommodations within their means, and without undue hardship, and reasonable moving costs;

I) Payments for moving and related expenses.

(A) Residential moves

(1) Actual reasonable expenses: any displaced owner-occupant or tenant of a dwelling who qualifies as a displaced person is entitled to payment of his or her moving and related expenses as the Community Development Department determines to be reasonable and necessary, within the following formula:

100% if the move is within the City of Kent, Ohio or a Joint Economic Development District of which the City of Kent, Ohio is a member;

75% if the move is within Brimfield Township, Ohio and Franklin Township, Ohio outside of a Joint Economic Development District;

50% if the move is outside of Brimfield Township, Ohio and Franklin Township, Ohio, but within Portage County, Ohio.

10% if the move is outside of Portage County, Ohio.

Eligible expenses are:

(a) Transportation of the displaced person and personal property.

(b) Packing, crating, unpacking and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances, and other personal property. Purchase of household appliances and other personal property that are not included in the move are not eligible costs for reimbursement.

(d) Storage of the personal property for a period not to exceed six months, unless the Community Development Department determines that a longer period is necessary.

(e) Insurance for the replacement value of the property in connection with the move and necessary storage.

(f) 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.

(g) Other moving related expenses that are not listed as ineligible under this rule as the Community Development Department determines to be reasonable and necessary.

(2) Fixed payment: any person displaced from a dwelling or a seasonal residence is entitled to receive a fixed expense as an alternative to a payment for actual moving and related expenses. The fixed payment shall be determined by the

Community Development Department. This includes a provision that the schedule payment to a person with minimal personal possessions who is in occupancy of a dormitory style room shared by two or more other unrelated persons or a person whose residential move is performed by an agency at no cost to the person shall be limited to fifty dollars.

(B) Non residential moves

(1) Actual reasonable eligible expenses: any business operation which qualifies as a displaced person is entitled to payment of his or her moving and related expenses as the Community Development Department determines to be reasonable and necessary, within the following formula:

100% if the move is within the City of Kent, Ohio or a Joint Economic Development District of which the City of Kent, Ohio is a member;

75% if the move is within Brimfield Township, Ohio and Franklin Township, Ohio outside of a Joint Economic Development District;

50% if the move is outside of Brimfield Township, Ohio and Franklin Township, Ohio, but within Portage County, Ohio.

10% if the move is outside of Portage County, Ohio.

Eligible expenses are:

(a) Transportation of personal property.

(b) Packing, crating, unpacking and uncrating of the personal property.

(c) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated machinery, equipment, and other personal property, including substitute personal property. This includes connection to utilities available nearby. It also includes modifications to the personal property 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. (Expenses for providing utilities from the right-of-way to the building or improvement are excluded.)

(d) Storage of the personal property for a period not to exceed six months unless the City of Kent determines that a longer period is necessary.

(e) Insurance for the replacement value of the personal property in connection with the move and necessary storage.

(f) Any license, permit, 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 or certification.

(g) 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. If the displaced person elects to take full responsibility for the move of the residence, the City of Kent may make a payment for the person's moving expenses in an amount not to exceed 75% of the lower of two acceptable bids or estimates obtained by the City of Kent or its designee. At the City of Kent's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate. The City of Kent is not responsible for any damaged personal property involved in a self-move.

(h) Professional services necessary for moving the personal property.

(i) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(j) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business operation. The payment shall consist of the lesser of the fair market value of the item for continued use at the displacement site, less the proceeds from its sale, or the estimated cost of moving the item, but with no allowance for storage. To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling price.

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

(1) Purchase of substitute personal property is not an eligible cost for reimbursement

(m) Searching for a replacement location: a displaced business is entitled to reimbursement for actual expenses, not to exceed one thousand dollars, as the agency determines to be reasonable, which are incurred in searching for a replacement location including transportation, meals and lodging away from home, time spent searching based on reasonable salary or earnings, and 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 site.

(n) Other moving related expenses as the agency determines to be reasonable and necessary that are not listed as ineligible under this rule.

(2) Notification and inspection: the following requirements apply to payments under this rule:

(a) The City of Kent shall inform the displaced person, in writing, of the following requirements, as soon as possible, after the initiation of negotiations. This information may be included in the relocation information provided to the displaced person as set forth in this ordinance.

(i) The displaced person must provide the City of Kent reasonable advance written notice of the approximate date of the start of the move or disposition of the personal property and a list of the items to be moved. However, the City of Kent may waive this notice requirement after documenting its file accordingly.

(ii) The displaced person must permit the City of Kent to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move. The non-residential displaced person or company shall make available tangible personal property tax returns as requested by the City of Kent.

(3) Self moves: If the displaced person elects to take full responsibility for the move of the business, the City of Kent may make a payment for the person's moving expenses in an amount not to exceed 75% of the lower of two acceptable bids or estimates obtained by the City of Kent or its designee. At the City of Kent's discretion, a payment for a low cost or uncomplicated move may be based on a single bid or estimate, if the single bid or estimate is below \$2,000.00. The City of Kent is not responsible for any damaged personal property for moves under this section.

(4) Transfer of ownership: upon request and in accordance with applicable law, the claimant shall transfer to the City of Kent, ownership of any personal property that has not been moved, sold, or traded in.

(5) Advertising signs: the amount of a payment for direct loss of an advertising sign which is personal property shall be the lesser of the depreciated value of the sign, as determined by the City of Kent, less the proceeds from its sale, or the estimated cost of moving the sign, but with no allowance for storage.

(6) Reestablishment expenses: in addition to the payments available under this rule, a small business, or nonprofit organization may be eligible to receive a payment, not to exceed ten thousand dollars, for expenses actually incurred in relocating and establishing such small business, or nonprofit organization at a replacement site.

(a) Eligible expenses: reestablishment expenses must be reasonable and necessary, as determined by the City of Kent. They include the following:

(i) Repairs or improvements to the replacement real property as required by federal, state or local law, code, or ordinance.

(ii) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(iii) Construction and installation costs, not to exceed one thousand five hundred dollars for exterior signing to advertise the business.

(iv) Provision of utilities from right-of-way to improvements on the replacement site.

(v) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.

(vi) Licenses, fees and permits when not paid as part of moving expenses.

(vii) Feasibility surveys, soil testing and marketing studies.

(viii) Advertisement of replacement location, not to exceed one thousand five hundred dollars.

(ix) Professional services in connection with the purchase or lease of a replacement site.

(x) Estimated increased costs of operation during the first two years at the replacement site not to exceed five thousand dollars for such items as lease or rental charges, personal or real property taxes, insurance premiums, and utility charges, excluding impact fees.

(xi) Expenses in excess of the regulatory maximums set for construction and installation costs, advertisement of replacement location, or estimated increased costs of operation, may be considered eligible if large and legitimate disparities exist between costs of operation at the displacement site and costs of operation at an otherwise similar replacement site. In such cases the regulatory limitation for reimbursement of such costs may, at the request of the agency, be waived by the federal agency funding the program or project, but in no event shall total costs payable under this section exceed the ten thousand dollar statutory maximum.

(b) Ineligible expenses: the following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible.

(i) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, of trade fixtures.

(ii) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

(iii) Interior or exterior refurbishments at the replacement site which are for aesthetic purposes, except for redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.

(iv) Interest on money borrowed to make the move or purchase the replacement property.

(v) Payment to a part-time business in the home which does not contribute materially to the household income.

(c) 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 owner retention procedures.

(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 incurred because of operating in a new location except as provided under reestablishment procedures.

(7) Personal injury.

(8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the agency.

(9) Expenses for searching for a replacement dwelling.

(10) Physical changes to the real property at the replacement location of a business except as provided in paragraphs (B)(1)(c) and (B)(6)(a) of this rule.

(11) Costs for storage of personal property on real property already owned or leased by the displaced person.

(d) Fixed payment for moving expenses: non-residential moves.

(1) Business: a displaced business that remains in operation after displacement may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses and that remains in operation after displacement, actual reasonable reestablishment expenses. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with paragraph (d)(2) of this rule, but not less than one thousand dollars nor more than twenty thousand dollars. The displaced business is eligible for the payment if the agency determines that:

(a) The business owns or rents personal property which 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.

(b) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the City of Kent, and which are under the same ownership and engaged in the same or similar business activities. In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent which:

(i) The same premises and equipment are shared.

(ii) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled.

(iii) The entities are held out to the public, and to those customarily dealing with them, as one business.

(iv) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others.

(d) The business is not operated at the displacement site solely for the purpose of renting the site to others.

(e) The business contributed materially to the income of the displaced person during the two taxable years prior to displacement.

(2) Average annual net earnings of a business: the average annual earnings of a business are one half of its net earnings before federal, state and local income taxes during the two taxable years immediately prior to the taxable year in which it was displaced. If the business was not in operation for the full two taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the two 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 City of Kent determines it to be more equitable. Net earnings include any compensation obtained from the business operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the City of Kent proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence which the City of Kent determines is satisfactory.

(e) Discretionary utility relocation payments

(1) Whenever a program or project undertaken by the City of Kent causes the relocation of a utility facility and the relocation of the facility creates extraordinary expenses for its owner, the City of Kent may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

(a) The utility facility legally occupies state or local government property, or property over which the state or local government has an easement or right-of-way; and

(b) The utility facility's right of occupancy thereon is pursuant to state law or local ordinance specifically authorizing such use or where such use and occupancy has been granted through a franchise, use and occupancy permit or other similar agreement; and

(c) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the City of Kent; and

(d) There is no federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the City of Kent's program or project; and

(e) State or local government reimbursement for utility moving costs or payment of such costs by the City of Kent is in accordance with state law.

(2) For purposes of this section, the term "extraordinary expenses" means those expenses which, in the opinion of the City of Kent, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(3) A relocation payment to a utility facility owner for moving costs under this rule may not exceed the cost to functionally restore the service disrupted by the federally assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The City of Kent and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment.