

ORDINANCE NO. 27711

AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING SECTIONS 3.36.1200, 3.36.1210, 3.36.1230, AND 3.36.1240 OF CHAPTER 3.36 OF TITLE 3 OF THE SAN JOSE MUNICIPAL CODE TO REVISE THE DEFINITION OF SURVIVING CHILD IN THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN EFFECTIVE APRIL 15, 2006 TO DELETE THE REQUIREMENT A CHILD BE CONCEIVED OR ADOPTED PRIOR TO RETIREMENT

WHEREAS, the Police and Fire Department Retirement Plan provides survivorship benefits for certain eligible surviving children of members and retirees of the Plan; and

WHEREAS, the Plan requires that adoption proceedings be completed prior to the retirement of the member; and

WHEREAS, the Plan requires that a child be conceived prior to the retirement of the member; and

WHEREAS, the Board of Administration has recommended the amendment of the Plan to provide surviving children's benefits to children of retired members if the children are adopted or conceived after the retirement of the member;

WHEREAS, the Board of Administration for the Plan has obtained a report from its actuary setting forth the actuarial costs of such amendment; and

WHEREAS, the City Council, the San José Police Officers Association and International Fire Fighters Association Local 230 have concurred in the recommendation of the Board, provided that the amendment does not become effective until April 15, 2006;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. Section 3.36.1200 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.1200 Death Before Receipt Of Retirement Allowance -- When Contributions, Full Allowances And Minimum Payments Are Payable.

- A. The benefits specified in this Section shall be payable in accordance with this Section in each of the following situations:
1. Where a member who is entitled to immediate retirement for service under the provisions of this Chapter dies on or after August 6, 1970, while a member of this plan and before being retired for service or disability;
 2. Where a person who is entitled to immediate retirement for service under the provisions of this Chapter is granted a leave of absence without full compensation and pay and such person dies on or after August 6, 1970, while on such leave of absence and before being retired for service or disability;
 3. Where a person who has been retired for service under the provisions of this Chapter dies on or after August 6, 1970, before receiving any service retirement allowance or pay;
 4. Where a person who has been retired for a service-connected disability under the provisions of this Chapter dies on or after August 6, 1970, during the service-connected disability retirement and before receiving any disability retirement allowance or pay;
 5. Where a member who is not entitled to immediate retirement for service under the provisions of this Chapter dies on or after August 6, 1970, while a member of this plan, but before being retired hereunder for service or disability, if the death arises out of and in the course of his or her employment with the City.

B. Definitions.

For the purposes of this Section, the following terms shall have the following meanings:

1. "Surviving spouse" means the person to whom the deceased person described in subsection A above was married at the time of the deceased

person's death and who survives the deceased person's death, and none other.

2. "Surviving child" and "surviving children" mean the natural or adopted child or children of the deceased person described in subsection A above that meets all of the following requirements:
 - a. The child survives the deceased person's death; and
 - b. The child is unmarried at the time of the deceased person's death; and
 - c. The child is under the age of eighteen years at the time of the deceased person's death; and
 - d. The child is in existence or conceived at the time of the deceased person's death; and
 - e. If the child is an adopted child of the deceased person, the adoption shall have been completed pursuant to law prior to the deceased person's death.

C. Contributions and Interest Payable to Surviving Spouse.

If the deceased person described in subsection A above leaves a surviving spouse, the surviving spouse shall be entitled to receive and shall be paid from the retirement fund a sum of money equal to all contributions of the deceased person to the retirement fund which have not previously been withdrawn from the retirement fund by the deceased person, plus interest on the unwithdrawn contributions as earned by the fund during the deceased person's period of aggregate service, but in no case shall the interest be in excess of two percent per annum.

D. Contributions and Interest Payable to Surviving Children Where No Surviving Spouse.

1. If the deceased person described in subsection A above leaves no surviving spouse but leaves a surviving child or surviving children, each surviving child or children (who is unmarried and has not attained the age of eighteen at the time of payment of unwithdrawn contributions plus interest as provided in this subsection) shall be entitled to receive and shall be paid

from the retirement fund a sum of money equal to all contributions of the deceased person to the retirement fund which have not previously been withdrawn from the retirement fund by the deceased person, plus interest on the unwithdrawn contributions as earned by the fund during the deceased person's period of aggregate service, but in no case shall the interest be in excess of two percent per annum. The sum to be paid to each child shall be determined by dividing the total amount of unwithdrawn contributions plus interest thereon, by the number of surviving children.

2. In the event that the estate of the deceased person establishes by appropriate court action a legal claim to all or any part of the contributions and interest paid to the surviving child or children under this subsection D because of the provisions of San Jose Municipal Code Section 2903.250(d) as it existed on August 6, 1970 (as originally adopted by Ordinance No. 9506), monthly allowances or benefits which would otherwise be payable to any surviving child or surviving children under and by virtue of subsection G of this Section shall be withheld and not paid to such surviving child or children until such time as the total amount of allowances so withheld equals the total amount which the court establishes is due to the estate. In the event such withholding is insufficient to pay such amount due the estate, the City may recover by suit that portion of the amount due the estate which cannot be recovered by withholding such monthly allowances or benefits.

E. Contributions and Interest Payable to Estate Where No Surviving Spouse and No Surviving Children.

If the deceased person described in subsection A above leaves no surviving spouse and no surviving child or children, the deceased person's estate shall be entitled to receive and shall be paid from the retirement fund a sum of money equal to all contributions of the deceased person to the retirement fund which have not previously been withdrawn from the retirement fund by the deceased person, plus interest on the unwithdrawn contributions as earned by the fund during the

deceased person's period of aggregate service, but in no case shall the interest be in excess of two percent per annum.

F. Survivorship Allowance Payable to Surviving Spouse.

If the deceased person described in subsection A above leaves a surviving spouse, such surviving spouse shall be entitled to receive and shall be paid from the retirement fund a monthly survivorship allowance in the amount specified in Section 3.36.1270 of this Chapter, subject to the provisions of subsection H of this Section and to the following:

1. If the deceased person died prior to October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid for the remainder of the surviving spouse's life.
2. Except as provided in Section 3.36.1290, and except in the case where the deceased person had elected an Optional Settlement pursuant to Part 9.5 of this Chapter, if the deceased person died on or after October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid until the surviving spouse marries or dies, whichever is the earlier date, and no longer.

G. Survivorship Allowance Payable to Surviving Child or Children.

If the deceased person described in subsection A above leaves a surviving child or children, the surviving child, or each of the surviving children if there is more than one surviving child, shall be entitled to receive and shall be paid from the retirement fund, subject to the provisions of and except as provided in subsection H of this Section, until he or she marries, attains the age of eighteen years or dies, whichever is the earlier date, and no longer, a monthly survivorship allowance in the amount specified in Section 3.36.1300 of this Chapter.

H. Deduction from Survivorship Allowances.

1. Anything elsewhere in this Section or this part to the contrary notwithstanding, all of the monthly allowances or benefits which would otherwise be payable to any surviving spouse, surviving child or surviving children pursuant to the provisions of subsections F and G of this Section

shall be withheld and not paid to the persons who would otherwise be entitled to the same until such time as the total amount of allowances so withheld equals the total amount paid or payable to a surviving spouse of the deceased person or to the surviving child or children of the deceased person or to the estate of the deceased person pursuant to the provisions of subsections C, D or E of this Section, and the allowances so withheld shall never be paid to the persons who would otherwise have been entitled to the same, it being the intention that the monthly survivorship allowances described in subsections F and G shall not be owing or payable and shall not commence until such time as there shall have elapsed from and after the death of the deceased person a number of months equal to that number obtained by dividing the total amount of money which is payable or paid to the surviving spouse of the deceased person or to the surviving child or children of the deceased person or to the estate of the deceased person pursuant to the provisions of the above subsections C, D or E by the sum of the monthly survivorship allowances which would otherwise be payable to a surviving spouse and to a surviving child or children pursuant to the provisions of subsections F and G of this Section. By way of explanation, if the deceased person should die leaving a surviving spouse and surviving children, and if the amount payable to the spouse pursuant to the provisions of subsection C were nine hundred dollars and the monthly amount payable to the spouse pursuant to subsection F were two hundred dollars and the amount payable to surviving children pursuant to subsection G were one hundred dollars, none of the allowances provided for in subsections F and G would become due or payable until there shall have elapsed from and after the deceased person's death a number of months equal to nine hundred dollars divided by three hundred dollars, or three months. No such allowance shall be paid or be payable to a surviving spouse if at the time such allowance becomes payable the surviving spouse shall have died; and no such allowance shall be paid or payable to any surviving child

if at the time such allowance becomes payable to such child he or she shall have died, married or attained the age of eighteen years.

2. Notwithstanding any of the foregoing to the contrary, contributions and interest payable under subsections C, D and E, at the option of the eligible recipient thereof, either shall be payable in a lump sum or shall be payable monthly in an amount equal to the amount of the monthly survivorship allowance payable pursuant to the provisions of subsections F and G of this Section, until the contributions and interest are exhausted, at which time payment of the monthly survivorship allowance shall commence. In the event that all the eligible recipients die before receiving the total amount of contributions and interest, the amount remaining to be paid shall be paid to the estate of the eligible recipient or, if more than one, the estate of the eligible recipient who dies last. In no event shall the eligible recipient who elects not to receive a lump sum payment of contributions and interest receive any less or more than the monthly survivorship allowance in any month even though the contributions and interest are exhausted within a month.
 3. The particular recipient or parent or guardian, in the case of a minor, or representative of an estate, in the case of an estate, shall exercise the above option in writing no later than thirty days after death of the deceased person on a form to be furnished by this System. Failure to make such election in writing shall be deemed an election to receive the contributions and interest in a lump sum payment.
- I. **Minimum Amount Payable to Estate Where No Surviving Spouse and No Surviving Children.**

If the deceased person described in subsection A should leave no surviving spouse and no surviving child or children, and if, in addition, the amount payable to the deceased person's estate pursuant to the provisions of subsection E of this Section should be less than one thousand dollars, then in that event there shall be paid from the retirement fund to the estate such additional amount as would, when

added to the amount payable to the estate under the provisions of subsection E, equal one thousand dollars.

- J. Anything herein in this part to the contrary notwithstanding, no persons other than those above specified shall be entitled to or receive any benefits or allowances whatsoever because of or as a result of the death of any person described in subsection A above, and no moneys other than those above specified shall be paid or payable to the survivors or estate of the deceased person.

SECTION 2. Section 3.36.1210 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.1210 Death Before Receipt Of Retirement Pay -- When Contributions, Smaller Allowance And Minimum Benefits Are Payable.

- A. The benefits specified in this Section shall be payable in accordance with this Section in each of the following situations:
1. Where a member who is not entitled to immediate retirement for service dies on or after August 6, 1970, while a member of this plan and prior to being retired for service or disability, if such member at the time of his or her death is entitled to credit for not less than two years' service and if, in addition, the death does not arise out of and in the course of his or her employment with the City;
 2. Where a person who has been retired under this plan for a nonservice-connected disability dies on or after August 6, 1970, during his or her nonservice-connected disability retirement before receiving any disability allowance or pay.
- B. **Definitions.**
- For the purposes of this Section, the following terms shall have the following meanings:
1. "Surviving spouse" means the person to whom the deceased person described in subsection A above was married at the time of said deceased

person's death and who survives said deceased person's death, and none other.

2. "Surviving child" and "surviving children" mean the natural or adopted child or children of the deceased person described in subsection A above that meets all of the following requirements:
 - a. The child survives the deceased person's death; and
 - b. The child is unmarried at the time of the deceased person's death; and
 - c. The child is under the age of eighteen years at the time of the deceased person's death; and
 - d. The child is in existence or conceived at the time of the deceased person's death; and
 - e. If the child is an adopted child of the deceased person, the adoption was completed pursuant to law prior to the deceased person's death.

C. Contributions and Interest Payable to Surviving Spouse.

If the deceased person described in subsection A above leaves a surviving spouse, the surviving spouse shall be entitled to receive and shall be paid from the retirement fund a sum of money equal to all contributions of the deceased person to the retirement fund which have not previously been withdrawn from the retirement fund by the deceased person, plus interest on the unwithdrawn contributions as earned by the fund during the deceased person's period of aggregate service, but in no case shall the interest be in excess of two percent per annum.

D. Contributions and Interest Payable to Surviving Children Where No Surviving Spouse.

1. If the deceased person described in subsection A above leaves no surviving spouse but leaves a surviving child or surviving children, each surviving child or children (who is unmarried, and has not attained the age of eighteen at the time of payment of unwithdrawn contributions plus interest as provided in this subsection), shall be entitled to receive and shall be paid from the retirement fund a sum of money equal to all contributions

of the deceased person to the retirement fund which have not previously been withdrawn from the retirement fund by the deceased person, plus interest on the unwithdrawn contributions as earned by the fund during the deceased person's period of aggregate service, but in no case shall the interest be in excess of two percent per annum. The sum to be paid to each child shall be determined by dividing the total amount of unwithdrawn contributions plus interest thereon, by the number of surviving children.

2. In the event that the estate of the deceased person establishes by appropriate court action a legal claim to all or any part of the contributions and interest paid to the surviving child or children under this subsection D because of the provisions of San Jose Municipal Code Section 2903.251(d) as it existed on August 6, 1970 (as originally adopted by Ordinance No. 9506), monthly allowances or benefits which would otherwise be payable to any surviving child or surviving children pursuant to subsection G of this Section shall be withheld and not paid to such surviving child or children until such time as the total amount of allowances so withheld equals the total amount which the court establishes is due to the estate. In the event such withholding is insufficient to pay such amount due the estate, the City may recover by suit that portion of the amount due the estate which cannot be recovered by withholding such monthly allowances or benefits.

E. Contributions and Interest Payable to Estate Where No Surviving Spouse and No Surviving Children.

If the deceased person described in subsection A above leaves no surviving spouse and no surviving child or children, the deceased person's estate shall be entitled to receive and shall be paid from the retirement fund a sum of money equal to all contributions of the deceased person to the retirement fund which have not previously been withdrawn from the retirement fund by the deceased person, plus interest on the unwithdrawn contributions as earned by the fund during the deceased person's period of aggregate service, but in no case shall the interest be in excess of two percent per annum.

F. Survivorship Allowance Payable to Surviving Spouse.

If the deceased person described in subsection A above leaves a surviving spouse, such surviving spouse shall be entitled to receive and shall be paid from the retirement fund a monthly survivorship allowance in the amount specified in Section 3.36.1280 of this Chapter, subject to the provisions of subsection H of this Section and to the following:

1. If the deceased person died prior to October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid for the remainder of the surviving spouse's life.
2. Except as provided in Section 3.36.1290, and except in the case where the deceased person had elected an Optional Settlement pursuant to Part 9.5 of this Chapter, if the deceased person died on or after October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid until the surviving spouse marries or dies, whichever is the earlier date, and no longer.

G. Survivorship Allowance Payable to Surviving Child or Children.

If the deceased person described in subsection A above leaves a surviving child or surviving children, the surviving child, or each of the surviving children, if there is more than one surviving child, shall be entitled to receive and shall be paid from the retirement fund, subject to the provisions of and except as provided in subsection H of this Section, until he or she marries, attains the age of eighteen years or dies, whichever is the earlier date, and no longer, as a monthly survivorship allowance, the amount of monthly survivorship allowance specified in Section 3.36.1300 of this Chapter.

H. Deduction from Survivorship Allowance.

1. Anything elsewhere in this Section of this part to the contrary notwithstanding, all of the monthly allowances or benefits which would otherwise be payable to any surviving spouse, surviving child or surviving children pursuant to the provisions of subsections F and G of this Section shall be withheld and not paid to the persons who would otherwise be entitled to the same until such time as the total amount of allowances so

withheld equals the total amount paid or payable to a surviving spouse of the deceased person or to the surviving child or children of the deceased person or to the estate of the deceased person pursuant to the provisions of subsections C, D or E of this Section, and the allowances so withheld shall never be paid to the persons who would otherwise have been entitled to the same, it being the intention that the monthly survivorship allowances described in subsections F and G shall not be owing or payable and shall not commence until such time as there shall have elapsed from and after the death of the deceased person a number of months equal to that number obtained by dividing the total amount of money which is payable or paid to the surviving spouse of the deceased person or to the surviving child or children of the deceased person or to the estate of the deceased person pursuant to the provisions of the above subsections C, D or E by the sum of the monthly survivorship allowances which would otherwise be payable to a surviving spouse or to a surviving child or children pursuant to the provisions of subsections F and G of this Section. By way of explanation, if the deceased person should die leaving a surviving spouse and surviving children, and if the amount payable to the spouse pursuant to the provisions of subsection C were nine hundred dollars and the monthly amount payable to the spouse pursuant to subsection F were two hundred dollars and the amount payable to surviving children pursuant to subsection G were one hundred dollars, none of the allowances provided for in subsections F and G would become due or payable until there shall have elapsed from and after the deceased person's death a number of months equal to nine hundred dollars divided by three hundred dollars, or three months. No such allowance shall be paid or be payable to a surviving spouse if at the time such allowance becomes payable the surviving spouse shall have died; and no such allowance shall be paid or payable to any surviving child if at the time such allowance becomes payable to such child he or she shall have died, married or attained the age of eighteen years.

2. Notwithstanding any of the foregoing to the contrary, contributions and interest payable under subsections C, D and E, at the option of the eligible recipient thereof, either shall be payable in a lump sum or shall be payable monthly in an amount equal to the amount of the monthly survivorship allowance payable pursuant to the provisions of subsections F and G of this Section, until the contributions and interest are exhausted, at which time payment of the monthly survivorship allowance shall commence. In the event that all the eligible recipients die before receiving the total amount of contributions and interest, the amount remaining to be paid shall be paid to the estate of the eligible recipient or, if more than one, the estate of the eligible recipient who dies last. In no event shall the eligible recipient who elects not to receive a lump sum payment of contributions and interest receive any less or more than the monthly survivorship allowance in any month even though the contributions and interest are exhausted within a month.
3. The particular recipient or parent or guardian, in the case of a minor, or representative of an estate, in the case of an estate, shall exercise the above option in writing no later than thirty days after the death of the deceased person on a form to be furnished by this System. Failure to make such election in writing shall be deemed an election to receive the said contributions and interest in a lump sum payment.

I. **Minimum Amount Payable to Estate Where No Surviving Spouse and No Surviving Children.**

If the deceased person described in subsection A above should leave no surviving spouse and no surviving child or children, and if, in addition, the amount payable to the deceased person's estate pursuant to the provisions of subsection E of this Section should be less than one thousand dollars, then in that event there shall be paid from the retirement fund to the estate such additional amount as would, when added to the amount payable to the estate under the provisions of subsection E, equal one thousand dollars.

- J. Anything herein in this part to the contrary notwithstanding, no persons other than those above specified shall be entitled to or receive any benefits or allowances whatsoever because of or as a result of the death of any person described in subsection A above, and no moneys other than those above specified shall be paid or payable to the survivors or estate of the deceased person.

SECTION 3. Section 3.36.1230 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.1230 Death After Receipt Of Retirement Pay -- When Full Allowance And Minimum Benefits Are Payable.

- A. The benefits specified in this Section shall be payable in accordance with this Section in each of the following situations:
1. Where a person who has been retired for service under the provisions of this Chapter dies after receiving any service retirement allowance or pay;
 2. Where a person who has been retired for a service-connected disability under the provisions of this Chapter dies during his or her service-connected disability retirement after receiving any disability retirement allowance or pay;
- B. **Definitions.**
- For the purposes of this Section, the following terms shall have the following meanings:
1. "Surviving spouse" means the person who survives the deceased person and who was married to the deceased person both at the time of the deceased person's death and at the time the deceased person was retired for service or disability, and no other person. A person married to the deceased person at the time of the deceased person's death or at the time the deceased person was retired is not a "surviving spouse" unless he or she was married to the deceased person at both times.

2. "Surviving child" or "surviving children" means the natural or adopted child or children of such deceased person that meets all of the following requirements:

- a. The child survives the deceased person's death; and
- b. The child is unmarried at the time of the deceased person's death; and
- c. The child is under the age of eighteen years at the time of the deceased person's death; and
- d. The child is in existence or conceived at the time of the deceased person's death; and
- e. If the child is an adopted child of the deceased person, the adoption was completed pursuant to law prior to the deceased person's death.

C. Survivorship Allowance Payable to Surviving Spouse.

If the deceased person described in subsection A above leaves a surviving spouse, the surviving spouse shall be entitled to receive and shall be paid from the retirement fund a monthly survivorship allowance in the amount specified in Section 3.36.1270, subject to the following:

1. If the deceased person retired or died prior to October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid for the remainder of the surviving spouse's life.
2. Except as provided in Section 3.36.1290, and except in the case where the deceased person had elected an Optional Settlement pursuant to Part 9.5 of this Chapter, if the deceased person retired or died on or after October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid until the surviving spouse marries or dies, whichever is the earlier date, and no longer.

D. Survivorship Allowance Payable to Surviving Child or Children.

If the deceased person described in subsection A above leaves a surviving child or surviving children, the surviving child, or each of the surviving children if there is more than one surviving child, shall be entitled to receive and shall be paid from

the retirement fund until he or she marries, attains the age of eighteen years or dies, whichever is the earlier date, and no longer, as a monthly survivorship allowance, the amount of monthly survivorship allowance specified in Section 3.36.1300.

E. Minimum Amount Payable to Estate Where No Surviving Spouse and No Surviving Children.

If the deceased person described in subsection A above should die leaving no surviving spouse and no surviving child or children, there shall be paid from the retirement fund to the deceased person's estate as a death benefit the sum of one thousand dollars and no more.

F. Anything in this Chapter to the contrary notwithstanding, no persons other than those specified above shall be entitled to or receive any benefits or allowances whatsoever because of or as a result of the death of a person described in subsection A of this Section, and no moneys other than those specified above shall be paid or payable to the survivors or estate of the deceased person.

SECTION 4. Section 3.36.1240 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.1240 Death After Receipt Of Retirement Pay -- When Smaller Allowance And Minimum Benefits Are Payable.

A. The benefits specified in this Section shall be payable in accordance with this Section in the following situation:

1. Where a person who has been retired for a nonservice-connected disability under the provisions of this Chapter dies while on such nonservice-connected disability retirement after receiving any disability retirement allowance or pay.

B. Definitions.

For the purposes of this Section, the following terms shall have the following meanings:

1. "Surviving spouse" means the person who survives the deceased person described in subsection A above and who was married to the deceased

2. "Surviving child" or "surviving children" means the natural or adopted child or children of the deceased person described in subsection A above that meets all the following requirements:
 - a. The child survives the deceased person's death; and
 - b. The child is unmarried at the time of the deceased person's death; and
 - c. The child is under the age of eighteen years at the time of the deceased person's death; and
 - d. The child is in existence or conceived at the time of the deceased person's death; and
 - e. If the child is an adopted child of the deceased person, the adoption was completed pursuant to law prior to the deceased person's death.

C. Survivorship Allowance Payable to Surviving Spouse.

If the deceased person described in subsection A above leaves a surviving spouse, the surviving spouse shall be entitled to receive and shall be paid from the retirement fund a monthly survivorship allowance in the amount specified in Section 3.36.1280, subject to the following:

1. If the deceased person retired or died prior to October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid for the remainder of the surviving spouse's life.
2. Except as provided in Section 3.36.1290, and except in the case where the deceased person had elected an Optional Settlement pursuant to Part 9.5 of this Chapter, if the deceased person retired or died on or after October 1, 1999, the monthly allowance payable to the surviving spouse shall be paid

until the surviving spouse marries or dies, whichever is the earlier date, and no longer.

D. Survivorship Allowance Payable to Surviving Child or Children.

If the deceased person described in subsection A above leaves a surviving child or surviving children, the surviving child, or each of the surviving children if there is more than one surviving child, shall be entitled to receive and shall be paid from the retirement fund until he or she marries, attains the age of eighteen years or dies, whichever is the earlier date, and no longer, as a monthly survivorship allowance, the amount of monthly survivorship allowance specified in Section 3.36.1300.

E. Minimum Amount Payable to Estate Where No Surviving Spouse and No Surviving Children.

If the deceased person described in subsection A above leaves no surviving spouse and no surviving child or children, there shall be paid from the retirement fund to the deceased person's estate as a death benefit the sum of one thousand dollars and no more.

F. Anything in this Chapter to the contrary notwithstanding, no persons other than those specified above shall be entitled to or receive any benefits or allowances whatsoever because of or as a result of the death of a person described in subsection A of this Section, and no moneys other than those specified above shall be paid or payable to the survivors or estate of the deceased person.

SECTION 5. The provisions of Sections 1 through 4 of this ordinance shall become effective April 15, 2006. All surviving children's benefits payable prior to April 15, 2006, shall be paid in accordance with the provisions of Chapter 3.36 as though this ordinance had not been adopted.

SECTION 6. The surviving children's benefits provided by this ordinance to children born or adopted after a deceased person's retirement shall be paid to children meeting the eligibility requirements as of April 15, 2006; provided, however, that no benefits shall be paid retroactively for any period prior to April 15, 2006.

PASSED FOR PUBLICATION of title this 2nd day of May, 2006, by the following vote:

AYES: CAMPOS, CHIRCO, CORTESE, LeZOTTE, NGUYEN,
PYLE, REED, WILLIAMS, YEAGER, CHAVEZ

NOES: NONE

ABSENT: GONZALES

DISQUALIFIED: NONE

CINDY CHAVEZ
Vice Mayor

ATTEST:

LEE PRICE, MMC
City Clerk