

ORDINANCE NO. 28110

AN ORDINANCE OF THE CITY OF SAN JOSÉ TO AMENDING SECTION 19 OF ORDINANCE NO. 27521 TO PERMIT RETIRED MEMBERS OF THE FEDERATED CITY EMPLOYEES RETIREMENT SYSTEM TO ADD DOMESTIC PARTNERS UNDER CERTAIN CIRCUMSTANCES

WHEREAS, on September 13, 2005, the City Council adopted Ordinance No. 27521 amending the Federated City Employees Retirement System (“Federated System”) to implement the requirements of the California Domestic Partner Right and Responsibilities Act of 2003 (the “Act”); and

WHEREAS, Section 19 of Ordinance No. 27521 provides that the provisions of the Ordinance relating to benefits for domestic partners are effective with respect to any person who was a member of the Federated System on or after January 1, 2005, and to the surviving domestic partner of any person who was a member of the Federated System on or after January 1, 2005; and

WHEREAS, the City and the employee organizations representing members of the Federated System have recommended that persons who had domestic partners at the time of retirement but retired prior to January 1, 2005 (the effective date of the Act), be afforded an opportunity to include those domestic partners under the provisions of Ordinance No. 27521; and

WHEREAS, the Board of Administration for the Federated System concurs in the recommendation;

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

SECTION 19 of Ordinance No. 27521 is amended to read as follows:

SECTION 19.

- A. The provisions of SECTION 1 through SECTION 16, inclusive, and the provisions of SECTION 18 of this Ordinance shall be effective with respect to any

person who was a member of the Federated City Employees Retirement System on or after January 1, 2005, and to the surviving domestic partner of any person who was a member of the Federated City Employees Retirement System on or after January 1, 2005.

B. For the purposes of this Ordinance, “domestic partnership” includes a domestic partnership established after a member of the Federated City Employees Retirement System has retired pursuant to the provisions of San José Municipal Code Chapter 3.28 if all of the following requirements are satisfied:

1. Either:
 - a. Prior to retirement the member had filed an Affidavit of Domestic Partnership with the City of San José to enroll the member’s domestic partner in the City’s health benefits program, and the Affidavit of Domestic Partnership was in effect as of the date of retirement; or
 - b. The retired member provides evidence satisfactory to the Board of Administration that the member had established a domestic partnership prior to retirement.
2. Subsequent to retirement, the member and the member’s domestic partner established a registered domestic partnership by filing a Declaration of Domestic Partnership with the Secretary of State pursuant to Division 2.5 of the California Family Code.
3. The Declaration of Domestic Partnership is filed with the Secretary of State and evidence of the establishment and registration of the domestic partnership is filed with the Director of Retirement Services on or before December 31, 2007.
4. The person who is the retired member’s domestic partner pursuant to the Affidavit of Domestic Partnership or pursuant to evidence establishing a domestic partnership is the same person as the retired member’s domestic partner pursuant to the Declaration of Domestic Partnership.

PASSED FOR PUBLICATION of title this 11th day of September, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS,
REED

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk