

ORDINANCE NO. 28164

AN ORDINANCE OF THE CITY OF SAN JOSÉ AMENDING SECTION 3.36.020.3 OF CHAPTER 3.36 OF TITLE 3 OF THE SAN JOSE MUNICIPAL CODE TO INCLUDE INCENTIVE PAY FOR FIRE ANTI-TERRORIST TRAINING IN COMPENSATION FOR PURPOSES OF CALCULATION OF BENEFITS IN THE POLICE AND FIRE DEPARTMENT RETIREMENT PLAN

WHEREAS, pursuant to the “Opinion and Award in Interest Arbitration Proceeding Pursuant to San Jose City Charter Section 1111” dated August 3, 2007, effective July 1, 2006, all members of the Police and Fire Department Retirement Plan (the “Plan”) who are represented by the International Association of Fire Fighters, Local 230 will receive antiterrorism training pay; and

WHEREAS, the antiterrorism training pay is to be included as pensionable compensation for purposes of calculating retirement benefits; and

WHEREAS, the City Council has adopted a resolution to implement the arbitration award; and

WHEREAS, the Board of Administration for the Plan has recommended that the Plan be amended to implement the arbitration award with respect to antiterrorism training pay for members of the Plan who are represented by Local 230;

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

Section 3.36.020.3 of Chapter 3.36 of Title 3 of the San José Municipal Code is amended to read as follows:

3.36.020.3 “Compensation”.

- A. “Compensation” means the monthly remuneration paid in cash out of funds controlled by the City to a member in payment for his or her services to the City, excluding the monetary value, if any, of living quarters, board, lodging, fuel, laundry or other advantages of any nature furnished a member in payment of his or her services. Also, when the compensation of a member is a factor in any computation to be made under this Chapter, there shall be excluded from such compensation any payments based on overtime put in by a member, any travel

or uniform or expense allowance, any insurance or medical or surgical or hospital benefits, any worker's compensation benefits, any retirement or death or survivorship benefits, any payments paid on a per diem, per hour or any other basis than a monthly basis, and any and all other fringe benefits.

- B. "Compensation" shall include holiday pay or any compensation paid to a member in lieu of holiday pay in the case of:
1. Any member who retires under the provisions of this Chapter, either for service or disability, on or after July 5, 1992; and
 2. Any former member who separates from City service on or after July 5, 1992, and elects to allow his or her accumulated contributions to remain in the retirement fund pursuant to Section 3.36.1640.
- C. "Compensation" shall include premium pay paid pursuant to the Fair Labor Standards Act (FLSA) for regularly scheduled hours for employees who are assigned to a work week averaging fifty-six hours per week over a twelve-month period, subject to the following limitations:
1. "Compensation" shall only include FLSA premium pay which is earned and payable on or after December 28, 1997.
 2. "Final compensation" including FLSA premium pay shall not exceed the one hundred eight percent limitation imposed by Section 3.36.020.5 B. 2.
 3. This subsection C shall apply only in the case of:
 - a. A member who retires under the provisions of this Chapter, either for service or disability, on or after July 5, 1998; and
 - b. A former member who separates from City service on or after July 5, 1998, and elects to allow his or her accumulated contributions to remain in the retirement fund pursuant to Section 3.36.1640; and
 - c. A member who dies on after July 5, 1998, while in City service for which the member receives service credit in this Plan.
- D. "Compensation" shall include incentive pay for successful completion, on an annual basis, of training in Police Anti-Terrorist Tactics as certified by the Police Department to the City Finance Department.

- E. "Compensation" shall include incentive pay for completing and maintaining an Emergency Medical Technician (EMT) certificate, but only such EMT incentive pay which is earned and payable on or after July 7, 1991.
- F. "Compensation" shall include Anti-Terrorism Training Pay received by members of the Plan who are employed in the Fire Department, but only such pay which is earned and payable on or after July 1, 2006.

PASSED FOR PUBLICATION of title this 6th day of November, 2007, by the following vote:

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

NOES: NONE

ABSENT: CONSTANT

DISQUALIFIED: NONE

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk