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2 **CLERK'S OFFICE**

3 **APPROVED**

4 Date: 7-13-99

Submitted by:

Chairman of the Assembly at the  
Request of the Mayor

Prepared by:

Police and Fire Retirement Board

For Reading:

June 8, 1999

ANCHORAGE, ALASKA

AO NO. 99-86

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11 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.85 TO  
12 ELIMINATE THE BENEFIT REDUCTION UPON REMARRIAGE OF A SURVIVING SPOUSE OF  
13 A DECEASED MEMBER.

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15 WHEREAS, Section 3.85.040 of the Anchorage Municipal Code authorizes the Police and  
16 Fire Retirement Board to administer the Police and Fire Retirement System; and

17  
18 WHEREAS, in accordance with the code, the Retirement Board recommends a change to  
19 the Municipal Code to eliminate the current benefit reduction that occurs when a survivor  
20 remarries; now, therefore,

21  
22 THE ASSEMBLY HEREBY ORDAINS:

23  
24 Section 1. Anchorage Municipal Code Section 3.85.140 is amended to read as follows:

25 **3.85.140 Occupational death benefits.**

26 A. The death of a member or retired member caused or expedited by an accident  
27 occurring during the performance of official duties for the municipality, or by any  
28 heart, lung or respiratory system illness, is an occupational death, except that the  
29 death of a retired member hired on or after July 1, 1977, who was receiving  
30 benefits under section 3.85.110 or section 3.85.130 who dies of any heart, lung  
31 or respiratory illness shall be an occupational death only if death occurs on or  
32 prior to the seventh anniversary of the member's retirement.

33 B. When a member dies an occupational death, the beneficiaries who the member  
34 has designated in the manner prescribed by the board and in accordance with  
35 this section shall be entitled to benefits equal to  $66\frac{2}{3}$  percent of the member's  
36 monthly compensation. Benefits payable to surviving or disabled children shall  
37 be made to a guardian, custodian or trustee designated by the member, or a  
38 court of competent jurisdiction. In the absence of a proper designation at the  
39 time of the member's death, the following beneficiaries shall be entitled to that  
40 benefit as provided in this section:

- 41  
42 1 The surviving spouse until his or her death, at which time benefits shall  
43 transfer only to surviving children under the age of 18, and disabled  
44 children, [OR UNTIL THE TIME OF REMARRIAGE OF THE SURVIVING  
45 SPOUSE, AT WHICH TIME BENEFITS SHALL BE REDUCED TO 50  
46 PERCENT OF THE RETIREMENT BENEFITS THAT THE MEMBER

1 OF DEATH AND THE REMAINDER SHALL BE TRANSFERRED ONLY TO  
2 SURVIVING CHILDREN OF THE MEMBER,] as a class. In the event of a  
3 member's line of duty death, disabled children are eligible to receive the  
4 benefits described in this section as surviving children without regard to  
5 their age. Eligibility for such benefits cease immediately upon a  
6 determination by the social security administration that the child is no  
7 longer disabled;

8 2. If no spouse survives the member, then surviving children under the age  
9 of 18, as a class, or disabled children;

10 3. If no spouse, no children under the age of 18, or no disabled children  
11 survive the member, then dependent parents, as a class; or

12 4. If no spouse, no children under the age of 18, no disabled children or  
13 dependent parents survive the member, then dependent siblings under  
14 the age of 18, as a class.

15 C. If a member chooses to designate beneficiaries, such designation shall be made  
16 only in accordance with this subsection, as follows:

17 1 Regardless of any beneficiary designation by a member, the member's  
18 surviving spouse shall be entitled to receive 50 percent of the retirement  
19 benefits to which that member was entitled at death. The member may  
20 also designate the surviving spouse to receive all or a portion of the  
21 remaining death benefits or the member may designate any surviving  
22 children then under the age of 18, whether as a class or individuals, or  
23 disabled children.

24 [2. IF A SURVIVING SPOUSE REMARRIES, THE BENEFITS  
25 THEREAFTER PAID TO THAT SPOUSE SHALL NOT EXCEED THE  
26 BENEFIT GUARANTEED BY SUBSECTION B.1 OF THIS SECTION.]

27 2.[3.] When a surviving child reaches age 18, or a disabled child ceases to be  
28 considered disabled by the social security administration, the benefits the  
29 child was previously receiving shall be transferred to the surviving spouse  
30 who is alive [AND HAS NOT REMARRIED] or, in the absence of such a  
31 surviving spouse, to the surviving children under the age of 18 as a class,  
32 or disabled children.

33 3.[4.] A surviving spouse may waive payment of any or all benefits under this  
34 section by executing a notarized statement in a form prescribed by the  
35 board.

36 D. The retirement board shall, determine whether or not the death of a member is  
37 occupational based upon medical reports and other evidence satisfactory to the  
38 retirement board. The retirement board shall in all instances recognize the above  
39 provisions; however, consideration will not be limited to these provisions.

40 E. No additional insurance, annuity or other compensation shall have any bearing  
41 on the payment of death benefits as outlined in this section.  
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43  
44

**Section 2.** Anchorage Municipal Code Section 3.85.150 is amended to read as follows:

**3.85.150**      **Nonoccupational death benefits.**

A. When a member or retired member who retires after February 29, 1972, dies a nonoccupational death, the beneficiaries who he has designated in the manner prescribed by the retirement board and in accordance with this section shall be entitled to benefits equal to 50 percent of the member's monthly compensation. In the absence of a proper designation at the time of the member's death, the following beneficiaries shall be entitled to that benefit, as provided in this section:

1. The surviving spouse until his or her death, at which time benefits shall transfer only to surviving children under the age of 18, [OR UNTIL THE TIME OF REMARRIAGE, AT WHICH TIME BENEFITS SHALL BE REDUCED TO 50 PERCENT OF THE RETIREMENT BENEFITS THAT THE MEMBER WAS ENTITLED TO RECEIVE AT THE TIME OF DEATH AND THE REMAINDER SHALL BE TRANSFERRED ONLY TO SURVIVING CHILDREN OF THE MEMBER,] as a class.

2. If no spouse survives the member, then surviving children under the age of 18, as a class.

3. If no spouse and no children under the age of 18 survive the member, then dependent parents, as a class.

4. If no spouse, no children under the age of 18, and no dependent parents survive the member, then dependent siblings under the age of 18, as a class.

B. If a member chooses to designate beneficiaries, such designation shall be made only in accordance with this subsection, as follows:

1. Regardless of any beneficiary designation by a member, his surviving spouse shall be entitled to receive 50 percent of the retirement benefits to which that member was entitled at death. The member may also designate his surviving spouse to receive all or a portion of the remaining death benefits or he may designate any of his surviving children then under the age of 18, whether as a class or individuals.

[2. IF A SURVIVING SPOUSE REMARRIES, THE BENEFITS THEREAFTER PAID TO THAT SPOUSE SHALL NOT EXCEED THE BENEFIT GUARANTEED BY SUBSECTION A.1 OF THIS SECTION.]

2.[3.] When a surviving child reaches the age of 18, the benefits that he was previously receiving shall be transferred to the surviving spouse who is alive [AND HAS NOT REMARRIED] or, in the absence of such a surviving spouse, to the surviving children under the age of 18 as a class.

3.[4.] A surviving spouse may waive payment of any or all benefits under this section by executing a notarized statement in a form prescribed by the board.

- 1 C. No additional insurance or other compensation shall have any bearing on the  
2 payment of death benefits outlined in subsection A of this section.
- 3 D. Benefits under this subsection are retroactive and shall be paid for a  
4 nonoccupational death occurring subsequent to February 29, 1972. The  
5 beneficiary of a member hired on or after July 1, 1977, who dies a  
6 nonoccupational death shall be entitled to benefits as described in this section;  
7 however, such benefits shall not exceed 100 percent of the retiree's benefit when  
8 living.
- 9 E. A member hired on or after July 1, 1977, is not eligible to receive  
10 nonoccupational death benefits unless he has had five years of accredited  
11 service prior to the date of death.  
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14 **Section 3.** Anchorage Municipal Code Section 3.85.260 is amended to read as follows:  
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16 **3.85.260 Pre-retirement death benefits.**  
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- 18 A. When a member of Plan III dies prior to retirement, whether of occupational or  
19 nonoccupational causes, the beneficiaries who the member has designated in  
20 the manner prescribed by the board and in accordance with subsection B of this  
21 section shall be entitled to 75 percent of any disability benefit to which the  
22 member would have been entitled had the member survived with a disability.  
23 Benefits payable to surviving or disabled children shall be made to a guardian,  
24 custodian or trustee designated by the member, or a court of competent  
25 jurisdiction. In the absence of a proper beneficiary designation at the time of the  
26 member's death, the following beneficiaries shall be entitled to that benefit, as  
27 provided in this section:
- 28 1. The surviving spouse until his or her death, at which time benefits shall  
29 transfer only to surviving children under the age of 18, and disabled  
30 children, [OR UNTIL THE TIME OF REMARRIAGE OF THE SURVIVING  
31 SPOUSE, AT WHICH TIME BENEFITS SHALL BE REDUCED TO 50  
32 PERCENT OF THE RETIREMENT BENEFIT THAT THE MEMBER WAS  
33 ENTITLED TO RECEIVE AT THE TIME OF DEATH AND THE  
34 REMAINDER SHALL BE TRANSFERRED ONLY TO THE MEMBER'S  
35 SURVIVING OR DISABLED CHILDREN,] as a class. In the event of a  
36 member's line of duty death, disabled children are eligible to receive the  
37 benefits described in this section as surviving children without regard to  
38 their age. Eligibility for such benefits cease immediately upon a  
39 determination by the Social Security Administration that the child is no  
40 longer disabled;
  - 41 2. If no spouse survives the member, then surviving children under the age  
42 of 18, as a class, or disabled children;
  - 43 3. If no spouse, no children under the age of 18, or no disabled children  
44 survive the member, then dependent parents, as a class; or

2 4. If no spouse, no children under the age of 18, no disabled children, and  
3 no dependent parents survive the member, then dependent siblings  
under the age of 18, as a class.

4 B. If a member chooses to designate beneficiaries, such designation shall be made  
5 only in accordance with this subsection, as follows:

6 1. Regardless of any beneficiary designation by a member, the member's  
7 surviving spouse shall be entitled to receive 50 percent of the retirement  
8 benefits to which that member was entitled at death. The member may  
9 also designate the surviving spouse to receive all or a portion of the  
10 remaining death benefits or the member may designate any surviving  
11 children then under the age of 18, whether as a class or individuals, or  
12 disabled children.

13 [2. IF A SURVIVING SPOUSE REMARRIES, THE BENEFITS  
14 THEREAFTER PAID TO THAT SPOUSE SHALL NOT EXCEED THE  
15 BENEFIT GUARANTEED BY SUBSECTION A.1 OF THIS SECTION.]

16 2.[3.] When a surviving child reaches the age of 18, or a disabled child ceases  
17 to be considered disabled by the social security administration, the  
18 benefits that the child was previously receiving shall be transferred to the  
19 surviving spouse who is alive [AND HAS NOT REMARRIED] or, in the  
20 absence of such a surviving spouse, to the surviving children under the  
21 age of 18 as a class, or disabled children.

22 3.[4.] A surviving spouse may waive payment of any or all benefits under this  
23 section by executing a notarized statement in a form prescribed by the  
24 board.

25 C. The benefit described in subsection A.1 of this section shall be increased by the  
26 children's benefit if the member is survived by dependent children. If the  
27 surviving spouse of the member is not also the legal guardian of the member's  
28 children, the board shall pay the children's benefit directly to the children's legal  
29 guardian.

30 D. Notwithstanding subsection C of this section, if a member has designated a  
31 beneficiary and has a surviving spouse and children, the benefit described in  
32 subsection A of this section shall be increased by the children's benefit. The  
33 board shall pay the children's benefit directly to each child's legal guardian in the  
34 amounts designated by the member or in equal amounts if there is no such  
35 designation.

36 E. The retirement board shall determine whether or not the death of a member is  
37 occupational or nonoccupational based on medical records and other evidence  
38 satisfactory to the retirement board.

39 F. No additional insurance, annuity or other compensation shall have any bearing  
40 on the payment of death benefits as outlined in this section.

**Section 4.** Anchorage Municipal Code Section 3.85.270 is amended to read as follows:

**3.85.270 Post-retirement death benefits.**

A. When a retired member of Plan III dies, the beneficiaries who he has designated in the manner prescribed by the board and in accordance with subsection B of this section shall be entitled to 75 percent of the retirement benefits to which the retired member was entitled at the time of death. In the absence of a proper beneficiary designation at the time of the retired member's death, the following beneficiaries shall be entitled to that benefit as provided in this section:

1. The surviving spouse until his or her death, at which time benefits shall transfer only to surviving children under the age of 18, [OR UNTIL THE TIME OF REMARRIAGE, AT WHICH TIME BENEFITS SHALL BE REDUCED TO 50 PERCENT OF THE RETIREMENT BENEFIT THAT THE MEMBER WAS ENTITLED TO RECEIVE AT THE TIME OF DEATH AND THE REMAINDER SHALL BE TRANSFERRED ONLY TO THE MEMBER'S SURVIVING CHILDREN,] as a class;
2. If no spouse survives the member, then surviving children under the age of 18, as a class;
3. If no spouse and no children under the age of 18 survive the member, then dependent parents, as a class; or
4. If no spouse, no children under the age of 18 and no dependent parents survive the member, then dependent siblings under the age of 18, as a class.

B. If a member chooses to designate beneficiaries, such designation shall be made only in accordance with this subsection, as follows:

1. Regardless of any beneficiary designation by a member, his surviving spouse shall be entitled to receive 50 percent of the retirement benefits to which that member was entitled at death. The member may also designate his surviving spouse to receive all or a portion of the remaining death benefits or he may designate any of his surviving children then under the age of 18, whether as a class or individuals.
- [2. IF A SURVIVING SPOUSE REMARRIES, THE BENEFITS THEREAFTER PAID TO THAT SPOUSE SHALL NOT EXCEED THE BENEFIT GUARANTEED BY SUBSECTION A.1 OF THIS SECTION.]
- ~~2.~~[3. When a surviving child reaches the age of 18, the benefits that he was previously receiving shall be transferred to the surviving spouse who is ALIVE [AND HAS NOT REMARRIED] or, in the absence of such a surviving spouse, to the surviving children under the age of 18 as a class.
- ~~3.~~[4.] A surviving spouse may waive payment of any or all benefits under this section by executing a notarized statement in a form prescribed by the board.

- 1 C. Notwithstanding subsection D of this section, if a member has designated a  
2 beneficiary and has both a surviving spouse and surviving children, the benefit  
3 described in subsection A of this section shall be increased by the children's  
4 benefit. The board shall pay the children's benefit directly to each child's legal  
5 guardian in the amount designated by the member or in equal amounts if there is  
6 no designation.
- 7 D. The benefit described in subsection A.1 of this section shall be increased by the  
8 children's benefit if the member is survived by dependent children. If the  
9 surviving spouse of the member is not the legal guardian of the member's  
10 dependent children, the board shall pay the children's benefit directly to the  
11 children's legal guardian.
- 12 E. No additional insurance or other compensation shall have any bearing on the  
13 payment of death benefits outlined in subsection A of this section.  
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16 **Section 5.** This ordinance shall take effect upon passage and approval. This ordinance shall  
17 apply only to surviving spouses who remarry after the effective date of this  
18 ordinance.  
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21 PASSED AND APPROVED by the Anchorage Assembly this 13<sup>th</sup> day of July  
22 1999.  
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25  
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27 \_\_\_\_\_  
28 Chair of the Assembly  
29

30 ATTEST:

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32 \_\_\_\_\_  
33 Municipal Clerk