

Collective Bargaining Ordinance

Presented by:

Cynthia E. Hudson. Esq.

Sands Anderson PC

chudson@sandsanderson.com

(804) 783-7254 www.sandsanderson.com

Va. Code § 40.1-57.2

Expressly permits local governing bodies (counties, cities, towns, school boards) for the first time in the state's history to legally recognize and bargain with a **labor union** or other **employee association** as the exclusive bargaining agent of their employees, and to **collectively bargain** and enter a **collective bargaining agreement** "with respect to any matter relating to them or their employment or service", by ordinance or resolution.

Optional

Importantly, the law does not *require* localities to recognize any bargaining agent or to permit bargaining at all.

Consideration represents a policy choice, and the ordinance provides a framework for exercise and implementation of that choice.

Collective Bargaining Framework

Sec. 2-1301.2 Definitions of fundamental terms, e.g.

- Collective Bargaining
- Bargaining Unit
- Bargaining Agent
- Employee (for collective bargaining eligibility/ineligibility)
- Employee organization
- Collective Bargaining Agreement

Definitions - Sec. 2-1301.2 – Employees Ineligible for Collective Bargaining

- Managerial employees
- Supervisory employees
- “Confidential” employees
- Temporary and Seasonal employees
- [Note: statutory exclusions]

Sec. 2-1301.4 - Bargaining Unit

Proposed single unit:

Labor and trades. Employees who (i) construct, maintain, or repair City-owned capital assets, equipment, real property, or transportation or utility infrastructure, (ii) collect and dispose of solid waste, or (iii) provide custodial services.

...Multiple Bargaining Unit Alternative

- Police
- Fire and Emergency Services
- Labor and Trades
- Professional
- Administrative and Technical

Administration of Collective Bargaining Procedures

Secs. 2-1301.10 – 2.1301-13: Labor Relations Administrator

- Functional Concept for Administrator
- Selection and Term
- Duties

Secs. 2-1301.7 – 2.1-1301.9: Certification and Decertification of Bargaining Agent For a Unit

- Certification by bargaining unit election (Sec. 2-1301.8)
- Decertification by bargaining unit election (Sec. 2-1301.9)

Secs. 2-1301.3 Authorized Subjects of Bargaining (and Unauthorized Subjects)

- Sets the scope of collective bargaining subjects, i.e., what matters are negotiable: “wages, salaries, other forms of money compensation; benefits such as ...leave, health, dental and similar benefit programs”
- Alternative scope: wages and benefits, ... hours, and other terms and conditions of employment...
- Note import of “mandatory”, “permissive” and “prohibited” subjects

Nature of Bargaining Obligation Established

Ordinance establishes as a matter of law the responsibility on both sides to **"negotiate in good faith"**.

What does that mean?

Bargaining – Impasse Resolution – Sec. 2.1-1301.16

- Impasse defined
- Mediation and Fact-Finding

Employee Rights – Sec. 2-1301.5

Details employees' individual, organizational and
“concerted activity” rights

Sec. 2-1301.6 – City's Rights

Reserves particular areas of decision making to the exclusive authority of management to determine.

Collective Bargaining Agreement

- Approval process – Sec. 2.1-1301.15
- Enforcement and Dispute Resolution –
Mediation

Sec. 2-1301.17 – 2-1301.18 Prohibited Practices and Charge (Enforcement) Procedures

- Prohibited practices/conduct applicable to both management and employee organizations, e.g.
 - Interference with exercise of employee rights under the ordinance
 - Refusal to negotiate in good faith
 - Discrimination against employees on the basis of exercise of rights (management)
 - Discrimination in the representation of bargaining unit employees (employee organizations)
- Charge procedures established to adjudicate alleged violations

Sec. 2-1301.19 – Strikes, Lockouts Prohibited

- Pursuant to Code of Virginia, § 40.1-55, any employee who, in concert with two or more other such employees, strikes or willfully refuses to perform the duties of their employment shall be deemed by that action to have terminated their employment and shall be ineligible for employment in any position or capacity during the next 12 months by the City.
- The City shall not engage in a lockout of employees from the workplace

Questions?

Cynthia E. Hudson

CHudson@sandsanderson.com

(804) 783-7254 www.sandsanderson.com