

2022

# Frequently Asked Questions Collective Bargaining



City of Richmond, Virginia

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# Frequently Asked Questions – Collective Bargaining

*Note: Collective Bargaining agent/representative are used interchangeably with union agent/representative.*

## I. The Basics

### 1. *What is collective bargaining?*

Collective bargaining is defined by Merriam-Webster as, “negotiation between an employer and a labor union usually on wages, hours, benefits, and working conditions.”

Proposed Ordinance No. 2021-345 (Trammell, et. al) defines it as, “performance of the mutual obligation of the city, by its agents, and the exclusive bargaining agent of employees in an appropriate bargaining unit to meet and negotiate in good faith at reasonable times and places regarding wages and benefits, as the term benefits is defined herein, hours, and other terms and conditions of employment, including procedures to resolve employee grievances with the good faith intention of reaching an agreement of no shorter duration than three years and remaining in effect until superseded by a new agreement.”

Proposed Ordinance No. 2021-346 (Stoney) defines it as, “the performance of the mutual obligation of the city and the bargaining agent to meet at reasonable times and places and negotiate in good faith with the intent of reaching agreement regarding the authorized subjects of collective bargaining [...]” Authorized subjects include wages, salaries, and other forms of monetary compensation as well as benefits such as paid/unpaid leave and health, dental, and similar benefit programs.

### 2. *What are the terms I need to be familiar with?*

See Attachment Definitions and Terms.

### 3. *Why would/do employees want collective bargaining?*

**Negotiating power.** Collective bargaining through labor unions gives workers the power to negotiate, as a legal right, for increased pay, enhanced benefits, more favorable working conditions, and other changes they desire in their terms of employment.

### 4. *Do we have to have collective bargaining?*

**No.** We are not required to have collective bargaining. The Commonwealth of Virginia provided permissive language for localities and school boards to authorize collective bargaining, but there is no requirement to have it.

### 5. *Can we achieve the same outcomes without collective bargaining?*

**Yes.** The city can obtain the same outcomes (i.e.: increase pay, provide more favorable working conditions, and enhance other benefits) without collective bargaining. This approach would also minimize overhead costs for the city and employees alike. City Council members can work with the Administration to consider/enact certain practices, policies, procedures, and pay increases. It is the joint responsibility of both the City Council, as the governing body, and the Administration to set employee pay, working conditions, and benefits.

## **6. What is a Labor Relations Administrator (LRA)?**

A labor relations administrator is an individual (LRA) or entity (such as labor relations board or “LRB” or third-party neutral agency) appointed by the city with the input of the collective bargaining representative (s) responsible for administering the various procedural provisions of the collective bargaining ordinance (i.e.: elections, dispute resolution processes, etc.) and developing related procedures.

## **7. What is binding arbitration?**

**Legal process to end disagreements.** Binding arbitration is a proceeding to settle disagreements between two parties. As the name implies, it means that the parties agree to use a third party as an “arbitrator” to hear their arguments and must accept the arbitrator's decision. The outcome of the arbitration hearing is "binding."

## **8. What components should be included in the authorizing ordinance?**

**The following can be included in the authorization:**

- a) A process for certification and decertification of exclusive bargaining representatives (typically by specified procedures by which employees in a bargaining unit vote for a representative in an election) or by demonstration based on "administratively acceptable" evidence of the wishes of a majority of the bargaining unit. In fact, the Virginia enabling statute requires that an authorizing ordinance include a process for certification and decertification of bargaining representatives.
- b) Scope of collective bargaining subjects: this can be broad – all that enabled under the state code – "any matter relating to [employees’] employment or service” (i.e.: wages, hours and other terms and conditions of employment). Alternatively, the subjects can be limited (i.e.: just wages and benefits) by the enabling ordinance. City Council sets the scope of collective bargaining.
- c) Mandatory, permissive, and prohibited subjects of bargaining.
- d) Language preserving certain management rights.
- e) Negotiation and bargaining impasse resolution procedures, and other dispute resolution procedures such as mediation, arbitration, (binding or non-binding) or fact-finding processes.
- f) What bargaining units will be permitted? Will they be limited to those identified in the ordinance? If not, how and by whom are appropriate bargaining units determined? Criteria?
- g) Specific bargaining agent duties/responsibilities.
- h) Specific management duties/responsibilities.
- i) Specified "prohibited conduct" for employers and bargaining agents.
- j) Procedures for resolution of prohibited practice charges.
- k) Administration Provision: dedicated labor-management relations officer/board/committee? Other third-party entity?
- l) Budget: Management’s commitments remain “subject to appropriation” by the City Council.
- m) Interplay between contract provisions/obligations and other laws (e.g.: state-law-required grievance procedures).

## **9. What are the experiences of other localities in Virginia which authorized collective bargaining?**

**Minimal.** While several Virginia localities including have adopted collective bargaining, as the enabling legislation is so recent, they are early in the process. As of this research, the City of Alexandria<sup>1</sup> is the farthest along, having appointed

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<sup>1</sup> City of Alexandria Virginia, [Collective Bargaining](#).

a Labor Relations Administrator (LRA) who recently (February 2022) conducted elections of bargaining unit agents for two of the city's five identified bargaining units. Fairfax County<sup>2</sup> is currently in the process of appointing a LRA and establishing a Labor Relations Office as a necessary precursor to the bargaining process.

### **10. Can the employees force City Council to vote on collective bargaining?**

**Yes.** If the majority of employees in a "unit" (as determined by them to be "appropriate") provides City Council with "certification" that a majority of the employees in that unit support the Council voting on an ordinance "providing for collective bargaining", the City Council would then be required to vote to adopt (or not adopt) an ordinance or resolution providing for collective bargaining within 120 days as set forth in Virginia Code §40.1-57.2(C).

City Council must then address the matter of collective bargaining representatives, scope of bargaining, and other terms *if* collective bargaining is enabled.

### **11. What are the next steps?**

**This is dependent on the will of Council.** There are two options (with generalized steps):

- **If City Council Adopts a Collective Bargaining Ordinance:** Implementation of the collective bargaining "infrastructure" would be next, i.e., appoint a LRA (or labor relations administration body, if the ordinance permits) to establish procedural rules/regulations; establish a city officer or office for labor relations management; prepare to engage in collective bargaining if and when triggered by the bargaining unit employees following the process(es) provided in the ordinance for certification of an exclusive bargaining agent (s) for those employees.
- **If City Council Does Not Adopt Collective Bargaining:** The administration will work with the nascent Employee Relations Committee and necessary departments to increase pay, review, and improve working conditions, and enhance other benefits. Other employee groups are also being developed which will serve to provide feedback and the employee "voice" in decision making. Additionally, the Administration has committed to conducting a comprehensive compensation and benefit review in FY 2023.

## **II. How Many Units? Who is Included? Who is Excluded?**

### **12. What is a bargaining unit?**

**A group of employees authorized to bargain as a group.** A group of employees considered "appropriate" for bargaining in that they share many common characteristics, such as performance of generally similar kinds of work, under similar working conditions and work hours, follow similar paths for training, promotions, work under similar levels of supervision, etc.

### **13. How many bargaining units can there be?**

**Unlimited.** There is no limitation to how many bargaining units there can be. City Council could identify and limit the number of bargaining units in an authorizing ordinance/resolution.

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<sup>2</sup> Fairfax County, [Collective Bargaining Timeline](#).

**14. Can police and fire be included with the general employee unit?**

**Yes.** Police and fire can be included in a bargaining unit of general employees, however often their working conditions, training, promotion processes, supervision and pay plans are different and may require separate negotiation and a separate collective bargaining agreement provision.

**15. Can police and fire become their own units separately and in units by themselves?**

**Yes.** Police and fire together or separately could be considered a unit or units appropriate for the purposes of collective bargaining.

**16. Are there any employees who are ineligible to bargain under the proposed ordinances?**

**Yes.** Elected officials (such as the City Council) managerial, supervisory, and so-called “confidential” employees are, typically, excluded from bargaining because they are the agents through whom the city makes and implements its collective bargaining and labor relations policies and, as such, they are "the city" for purposes of bargaining. They are usually policy makers whose inclusion in bargaining may be a conflict of interest with their responsibilities to manage operations or services in management's direct interest (and those who work in close, confidential support of such policy makers).

**17. Can state employees participate in collective bargaining?**

**No.** State employees (including those who perform local level services) and local elected constitutional officers and their employees are not authorized to exclusively recognize or collectively bargain with any union or association of their employees as an agent of those employees. Examples of these positions and their employees include, but are not limited to Sheriffs, Commonwealth's Attorneys, circuit court clerks, treasurers, commissioners of the revenue, etc.

### III. Advantages and Disadvantages

**18. What have the Council Members explained as their reasoning for supporting collective bargaining?**

Council members, broadly, have explained their support for collective bargaining to promote:

- Higher salaries for employees
- A chance for employees to be heard
- A better working environment
- Equitable treatment of employees
- Employee protection against unfair supervisors

**19. What are some of the upsides of collective bargaining?**

Proponents of unions highlight upsides which include:

- Public-sector collective bargaining tends to boost pay by five percent to eight percent.
- States that allow but do not require localities to collectively bargain have a pay gap of 16.6 percent while states where collective bargaining rights are required only have a pay gap of 10.5 percent.
- Unions are particularly important for raising pay for those who have historically been marginalized and underpaid compared to their levels of experience and education

**20. What are some of the issues with collective bargaining and the Virginia Law authorizing language?**

There are, potentially, many downsides to collective bargaining. Specific to Virginia’s enabling legislation, criticisms include:

- No state labor board or similar body to administer collective bargaining procedures and disputes or to impose oversight
- No statutory procedures for elections
- Does not clearly specify subjects which can be bargained

These perceived legislative shortcomings will require additional administrative work performed by and at the cost of localities. More broadly, there are collective bargaining downsides for both employees and management which are summarized in the Table 1:

**TABLE 1 – Areas of Collective Bargaining Disadvantage for the Administration and Employees Summarized**

ITEM	AREA OF DISADVANTAGE	ADMINISTRATION	EMPLOYEES
a)	<i>Financial cost</i>	It costs taxpayer money to administrate	It costs employees money to participate
b)	<i>Requires considerable time</i>	Negotiations and execution take away focus form core service delivery	Negotiations and execution require time outside of work hours and/or vacation time
c)	<i>Not always a process of fair representation</i>	Can remove the ability to implement targeted initiatives to address specific issues.	Non-unionized employees will reap benefits at the burden of due paying union members
d)	<i>Can change the workplace environment</i>	May create a larger ‘us vs. them’ mentality	May create a larger ‘us vs. them’ mentality
e)	<i>Doesn’t guarantee a ‘good’ deal</i>	May limit the ability to remove underperforming employees which would require other employees to compensate	May limit an employee’s abilities to receive better wages or benefits

**21. Will authorizing collective bargaining impact our fiscal status and our bond credit ratings?**

**It can.** The city’s financial advisor, Davenport & Co., has informed us of the following:

- Collective bargaining is not a credit positive and is considered a “constraining factor” in the determination of a jurisdiction’s bond rating. It remains that the bottom line with any of the credit rating agencies is that expenditure flexibility will be constrained and will take away one of the credit positives for the city.
- However, the mere presence of collective bargaining would be highly unlikely to result in a downgrade of a jurisdiction’s bond rating, as it is just one of many factors that are utilized to determine bond ratings.
- In the end, if there was a negative impact to the city’s bond ratings due to collective bargaining, it would likely have to be one of multiple negative factors occurring at the same time.

**IV. Administration of Collective Bargaining**

**22. How do the collective bargaining agents work with city administration?**

Elected (certified) bargaining agents will negotiate (collectively bargain) with the Administration through selected negotiators. The LRA or other neutral serves to resolve impasses in the bargaining process if they arise. Otherwise, the parties negotiate directly in bargaining meetings/sessions through whomever they select to handle their



negotiations. Bargaining teams for management usually include a combination of staff/outside lawyers and subject matter expert managers/department heads).

### ***23. What is the exclusive bargaining representative(s) certification process?***

**By Election.** The proposed ordinances provide for certification of a bargaining representative for employees by secret ballot election in which employees who are members of the bargaining unit to be represented vote for a particular union(s) who have demonstrated in advance they have a certain level of bargaining unit support as specified by ordinance. The bargaining representative must be certified to represent employees through an election process as outlined by the enabling ordinance and rules developed by the Labor Relations Administrator (LRA) or administrative body.

### ***24. How do the employees vote?***

**Process to be developed.** The employees would vote through a process administered by the Labor Relations Administrator which, under Virginia law, must provide for secret ballot voting.

### ***25. Can employees pay their union dues through their paycheck?***

**Yes.** Employees who are dues-paying members of the union can pay their union dues through their paycheck. Note that employees eligible through the defined collective bargaining agreement are not required to become members of a union, even the one elected to represent them.

Employees who are not members of a union do not pay union dues and cannot be required by a union to pay dues by paycheck or otherwise.

### ***26. Does the collection and distribution of dues cost the administration?***

**Yes.** There is an impact which includes both the workload to set up the initial collection and transfer of funds to the appropriate union account as well as ongoing payroll dues administration. It is anticipated, at minimum, that an additional payroll FTE position will be required in addition to other necessary staffing outlined in the following section.

### ***27. What drives human resources decisions in a union-represented workplace?***

**Primarily seniority.**<sup>3</sup> Most union contracts require promotions based on next-in-line rather than competencies. This isn't very encouraging to people who excel in their jobs and deserve a promotion. While seniority for upward movement is not the only driving factor, it is a primary one. Watching someone less competent (in some cases) get the higher-level position only because of seniority can create a dissatisfied workplace culture. Additionally, the impact to high-performing employees must be weighed if a system of promotion based on seniority is included in the collective bargaining negotiations.

## **V. Administrative Costs**

### ***28. Does authorizing collective bargaining cost the city?***

**Yes.** The authorization of collective bargaining is associated with additional personnel and operating expenses. Examples of these expenses include the Labor Relations Administrator (LRA) or other administration services, legal

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<sup>3</sup> Susan Heathfield, The Balance Careers, [What Seniority Means at Work](#)

personnel, payroll personnel, analysts, and other associated costs. Based on the experience of other Virginia localities the continuing administrative cost is anticipated to be more than \$1.0 million annually.

**TABLE 2 – FY 2023 Estimated Start-Up City Costs to Implement Collective Bargaining**

(Assumes FY 2023 Q2 start dates with midpoint of salary range and associated employment benefits)

ITEM	AMOUNT
Personnel: 1x Labor Relations Manager, 1x Labor Relations Analyst, 1x Assistant City Attorney, 1x Labor Payroll Accountant;	\$190,000
Labor Relations Administrator/Board and other operating costs (external legal support, etc.);	\$150,000
<b>Estimated FY 2023 Total</b>	<b>\$340,000</b>

**TABLE 3 – FY 2024 Estimated Continuing Costs to Actively Collectively Bargain**

(Assumes FY 2024 Q1 start dates with midpoint of salary range, associated employment benefits, and general employee pay increase assumption)

ITEM	AMOUNT
Personnel: All personnel listed in Table 2 above, <u>plus</u> 2x Labor Relations Analysts, 1x Budget Management Analyst, 1x Assistant City Attorney	\$800,000
Labor Relations Administrator/Board and other operating costs (external legal support, etc.);	\$400,000
<b>Estimated FY 2024 Total</b>	<b>\$1,200,000</b>

There are also costs which are not readily quantifiable at this point which will require the expertise of the Labor Relations Manager and team:

- **Collective Bargaining Input and Outcomes:** Administration time spent meeting with the collective bargaining agents to negotiate personnel issues, workplace environment, and salary or benefit changes associated with the collective bargaining agreement and additionally, should an impasse be reached the shared cost of a factfinder.
- **Labor Relations Training:** Education to help managers and supervisors understand the terms of collective bargaining agreements and operate effectively in a unionized environment.

## VI. Employee Costs

### 29. Do unions charge employees dues to join?

**Yes.** Unions can charge initiation fees and dues. Unions may establish a multi-tiered or sliding scale dues structure or require a flat monthly amount. Regardless of the dues structure, union dues typically hover around 1.3-2.7 percent of employee wages. Any increase to a union employee’s wages directly increases the amount of dues paid to the union.

**TABLE 4 – Example of Employee Cost for Union Dues**

Salary	Example	
	% Range	
\$36,000	1.30%	2.70%
<b>Dues</b>	<b>\$468</b>	<b>\$972</b>

**30. Can a Union impose dues on all the employees of the Authorized Bargaining Unit?**

**No.** Virginia law does not allow collective bargaining representatives to impose dues on those employees who are not members. Because Virginia is a “right-to-work” state, neither unions nor employers can require that bargaining unit employees be members of any union and require them to pay dues.

**31. Do employees who do not join a union or pay dues benefit from the work of the union?**

**Yes.** All employee classifications authorized by the ordinance to collectively bargain will benefit from negotiations by any of the agent(s) elected to represent them. This means that even if an employee in the authorized classification (bargaining unit) is not a member of the union and does not pay dues, they will still benefit from the work of the elected bargaining unit representative.

## VII. Collective Bargaining Outcomes

**32. What will the relationship be like with the Administration and the collective bargaining organization?**

**Depends.** Adversarial relationships can develop at any time. The union can quickly change the culture of cooperation by promoting an adversarial attitude among employees over an issue. The relationship can be tense, unproductive, which can impact employer-employee engagement. The Administration-union relationship is not completely trusting and for this reason it can become difficult to develop positive employee relations.

The city must have a culture that embraces agility and flexibility, and that means having the ability to make changes and adapt as necessary to meet service needs quickly. Collective bargaining organizations can resist change to protect union member interests. This difference in perspective means success is only possible through successful Administration-collective bargaining organization negotiations, which is very difficult when one side resists change, and its goals are different.

**33. How often does the Administration meet with the exclusive bargaining agent?**

At a minimum, the administration will need to meet with the collective bargaining representative(s) to attempt to reach a collective bargaining agreement for as many sessions as necessary to constitute “good faith bargaining” and as negotiated agreements expire. This can be a time intensive process and a portion of the bargaining and resulting agreement may include the length of time for which any agreement is effective. There are also meetings that may be necessary to address labor disputes and other issues that may arise under a negotiated collective bargaining agreement.

Additionally, the Administration will need to meet with bargaining agents prior to making any changes in the authorized bargaining areas. For example, if wages are included in the bargaining agreement, the Administration will need to meet with the bargaining agents prior to proposing changes in the next fiscal year’s budget.

**34. What happens if the Administration and the union representative(s) do not achieve agreement?**

Under the currently proposed ordinances, the Administration and/or bargaining agent (union) would declare an impasse and follow the resolution process as outlined in the enabling ordinance. This broadly includes mediation, independent fact finding, recommendations from the factfinder, and, possibly, a vote by City Council on the disputed

issues based on the fact-finding outcome. The expense of the factfinder, under the currently proposed ordinances would be split equally by the two parties.

**35. Can the employees strike if their requests are not granted?**

**No.** 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 (or by any other Virginia public employer). Additionally, both proposed ordinances include language barring the administration from a lockout of employees.

**36. Can an elected union agent(s) stop the Administration from implementing changes?**

**Yes.** If the Administration wants to make changes that fall within the subjects of mandatory bargaining as specified under the provisions of the collective bargaining authorizing ordinance, negotiations must be held to implement the desired changes.

**37. Once in place, can City Council make changes when needed without consulting the union agent(s)?**

**No.** Once collective bargaining agreement is in place, the City Council and Administration must consult with any elected bargaining agents to enact changes on provisions that are subjects of mandatory bargaining under the authorizing provisions.

There is responsibility on both sides to "negotiate in good faith", i.e.: to meet at reasonable times, with due regard for the timetable for locality budget development and approval, with the intent to reach a contract governing certain terms and conditions of the employment of members of the bargaining unit. As such, City Council cannot unilaterally make changes to terms governed by the collective bargaining agreement.

**38. Is there a chance for more lawsuits and arbitration against the city?**

**Yes.** While individual employees might not have the financial resources or will to contest such things as a termination, a demotion, a lack of promotion, or alleged harassment or discrimination, a union worker may be encouraged to file a suit or appeal management actions and may be offered union support to do so.

**39. Can the city still discipline, terminate, promote, or reward employees when a collective bargaining agreement is in place?**

**Yes and No.** If employees are promoted based on factors such as merit, productivity or other objective criteria, the city may lose this opportunity with a union represented workforce. Many collective bargaining agents negotiate workplace rules that promote and protect workers based on seniority, rather than merit<sup>4</sup>. This means that if the city needs to terminate workers based on reorganizations, the city may have to terminate employees who were hired most recently, not those employees who are the least productive. The city's discipline of employees may also decrease as collective bargaining rules and reactions to instances of employee discipline may limit the city's options to deal with those who are poor performers.

Collective bargaining agents tend to advocate for jobs with seniority instead of education and experience. This means someone who has been in a specific position the longest will automatically have the first option to receive a promotion

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<sup>4</sup> Susan Heathfield, The Balance Careers, [What Seniority Means at Work](#)

or a job transfer. This also works in reverse. If there are agreed upon layoffs, the least senior person is the first one to go, even if they are more qualified than employees who have been with the city a long time.

***40. Can bargaining unit employees negotiate with the administration if there is a union representative?***

**No.** Employees in non-union workplaces can approach a manager or business owner directly and negotiate an individual wage increase, benefits package, or contract. The option to negotiate directly can yield significant advantages for highly productive employees. Collective bargaining agreements can tie the hands of both employers and employees in terms of wage, benefits, and contract negotiation. An elected collective bargaining agent (s) serves as the sole agent for the employees in the authorized unit, and all negotiations regarding mandatory subjects of bargaining must move through the agent for the entire membership. As the collective bargaining agent (s) negotiates for the entire bargaining unit, individual members can lose out on opportunities.

***41. Can collective bargaining increase the cost of salaries?***

**Yes.** Collective bargaining agreements can result in across-the-board salary increase for the employees in the designated unit. At times these negotiations can lead to salary increases without the consideration of job performance. Collective bargaining agreements can create significant benefits for employees who may not be interested in increasing productivity because they will earn a higher wage regardless of performance.

***42. Can collective bargaining result in increased costs for retirement and other benefits?***

**Yes.** Collective bargaining agreements may be used to create heavily favorable employee pension plans and other benefits. These pension and benefit plans increase the cost per employee that the city pays and add higher-than-average compensation rates. Collective bargaining organizations may also seek increases to pension and benefit plans when negotiating new collective bargaining agreements, continually increasing the city's expenses and accounting liability.

***43. Are there reasons employees do not want to join a collective bargaining unit?***

**Yes.** Treating employees with respect and dignity in the workplace and providing employees a meaningful voice in decisions regarding their pay, benefits and working conditions, can increase the trust of the employees. As such, the motivation to seek third party help will be reduced.

***44. Can collective bargaining impact workplace culture?***

**Yes, and not always beneficially:**

- a) A truly collaborative work environment requires employees to work across functions and departments and to work with management to solve problems and innovate.
- b) Many jobs that are offered in a unionized environment come through seniority instead of education and experience. This means someone who has been at a specific job or company the longest will automatically have the first option to receive a promotion or a job transfer. This also works in reverse. If there are layoffs that have been agreed upon, the least senior person is the first one to go, even if they are the most qualified.
- c) Collective bargaining organizations can impose restrictive work rules when negotiating collective bargaining agreements. Management is restricted from organizing work activities. Employees are disincentivized from being more productive, working across functions (cross-department, location, etc.), and taking on responsibilities not explicitly included in their job descriptions. The second productivity disadvantage is that union members are expected to be supportive of the collective bargaining agents.

- d) A we-they attitude can develop in unionized companies – Collective bargaining can promote a we-they workplace attitude in which employees (we) assume management (they) will always try to take advantage of employees. This negative attitude leads to a culture of suspicion, which increases the number of conflicts and grievances. Some unions have a history of adversarial relations with employers. As a result, unionized workers often experience a less cooperative environment with employers than non-union workers.<sup>5</sup>
- e) Employee units represented by a bargaining agent may lose their autonomy to negotiate pay or benefits for themselves, pursue their career goals as they see fit, work with whomever they want to work with, collaboratively solve problems with management, and agree to changes they approve of without union intervention.

***45. Can a bargaining representative, once certified (elected), be decertified?***

**Yes.** An exclusive bargaining agent must maintain the support of a majority of the bargaining unit it represents. When that majority support is in question, bargaining unit employees may seek decertification of an elected agent in a decertification election as provided for in the ordinance.

***46. Once City Council authorizes collective bargaining by ordinance, can the ordinance be repealed later?***

**Technically, yes.** Council may do so with due regard for the application and continued force of any then-existing collective bargaining agreements. There is a recent example from Wisconsin<sup>6</sup> which required a great deal of litigation for rolling back collective bargaining, however, and did not result in a complete repeal or elimination.

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<sup>5</sup> Source: Farnen, Career Trend, [The Disadvantages of Being a Union Member](#)

<sup>6</sup> Wisconsin State Legislature, [2011 Wisconsin Act 10](#)

## VIII. Attachment: Definitions and Terms

**Arbitration:** means the procedure by which the city and an exclusive bargaining representative when involved in a labor-management dispute submits differences to a third party for a final and binding decision.

**Arbitrator:** an independent neutral person or body officially appointed to resolve a dispute. The decision of an arbitrator is typically binding, and the parties are typically legally obligated to accept the outcome.

**Bargaining Unit:** a group of two or more employees who share common interests in their terms and conditions of employment and who either are represented by a union for the purpose of bargaining over terms and conditions of employment or seek to be represented by a union or other employee organization for collective bargaining.

**Binding Arbitration:** is a form of dispute resolution where the involved parties submit their arguments and evidence to a neutral arbitrator. The decision of the arbitrator is final and both parties must adhere to the ruling.

**Certification:** To be certified as the bargaining representative, an individual or a labor organization must receive a majority of the valid votes cast. Additionally, the process by which a majority of public employees in a unit considered by such employees to be appropriate for the purposes of collective bargaining notifies the governing body of their wish to engage in collective bargaining.

**Collective Bargaining (CB):** is the process of negotiating terms of employment between an employer and a group of workers or the representative/agent of a union.

**Collective Bargaining Agreement (CBA):** a written legal contract between an employer and a union representing the employees of a particular bargaining unit. The CBA is the result of an extensive negotiation process between the parties regarding topics such as wages, hours, and terms and conditions of employment.

**Confidential employee:** The term "confidential employee" means an employee whose work involves regular, direct assistance in a confidential capacity to persons who formulate, determine, and effectuate management policies in the field of labor relations.

**Employee Organization or Association:** An organization formed to ensure fair wages, benefits and better working conditions for their members.

**Exclusive Representative/Bargaining Agent:** the employee organization/association or union certified and recognized by an employer (typically because of election by bargaining unit employees) to be the exclusive representative of bargaining unit employees for collective bargaining negotiations.

**Factfinder:** According to the American Arbitration Association, "is a process by which both parties present the arguments and evidence to a neutral person who then issues a nonbinding report on the findings, usually recommending a basis for settlement." Thus, factfinders are not concerned with involving the parties in the solution, as a mediator is, or with not judging the substance of the case. They are, on the contrary, extremely concerned with the substance of the case. Their job is to sort out objective reality from each party's interpretation or version of it, and then to apply that reality to recommend next steps, or actual solutions.

**Impasse:** means the failure of the City and a bargaining agent to reach agreement during collective bargaining negotiations.

**Labor Relations Administrator (LRA):** The labor relations administrator is a neutral who establishes and develops policies and practices necessary to effectuate collective bargaining procedures including, for example, procedures for the election and certification of the bargaining agent, and dispute resolution.

**Labor Union:** an organized association of workers, often in a trade or profession, formed to protect and further their rights and interests.

**Labor-Management Dispute:** means a disagreement between the city and a bargaining agent concerning (i) the administration or interpretation of a collective bargaining agreement, (ii) the administration or interpretation of this division, and (iii) whether an act is an unfair or prohibited labor practice. The term “labor-management dispute” includes questions of whether a particular dispute is eligible for resolution by arbitration.

**Mediator:** An impartial facilitator with no link to either party in a negotiation. They have no interest in the substance of an agreement itself, but are, rather, concerned with the process of helping the parties reach a satisfactory agreement on their own. Although most mediators undoubtedly would prefer agreements that are as fair as possible, ensuring fairness is not specifically the mediator's job.

**Neutral agency:** means a neutral, third-party provider of the services for which the administrator is responsible who is recognized as such by the Chief Administrative Officer and the applicable employee organization for purposes of when no LRA has been appointed.

**Working Conditions:** The conditions under which employees must work. This includes matters such as permitted breaks, the state of heating, lighting, and ventilation of workplaces, the safety and comfort of machinery, vehicles, and other equipment, normal manning levels, and disciplinary procedures. These conditions are affected by legislation, for example under the Health and Safety at Work Act.