Legislation Details (With Text)

File #:	ORD. 2021-346	**Version:**	1	**Name:**	
Type:	Ordinance			**Status:**	Withdrawn
File created:	12/14/2021			**In control:**	City Council
On agenda:	7/25/2022			**Final action:**	7/20/2022
Title:	To amend ch. 2, art. VI of the City Code by adding therein a new div. 6, consisting of §§ 2-1301.1-2-1301.21, concerning collective bargaining, for the purpose of providing for collective bargaining with certain City employees.				
Sponsors:	Mayor Stoney				
Indexes:					
Code sections:					
Attachments:	1. Ord. No. 2021-346 Withdrawn 20220720				

Date	Ver.	Action By	Action	Result
6/27/2022	1	City Council	continued	
5/23/2022	1	City Council	continued	
5/9/2022	1	City Council	continued	
5/2/2022	1	Organizational Development Standing Committee	forwarded with no recommendation	
3/14/2022	1	City Council	continued and referred back	
3/7/2022	1	Organizational Development Standing Committee	recommended for continuance	
2/14/2022	1	City Council	continued and referred back	
2/7/2022	1	Organizational Development Standing Committee	recommended for continuance	
1/10/2022	1	City Council	continued and referred	
12/15/2021	1	Governmental Operations Standing Committee	forwarded with no recommendation	
12/13/2021	1	City Council	introduced and referred	

To amend ch. 2, art. VI of the City Code by adding therein a new div. 6, consisting of §§ 2-1301.1-2-1301.21, concerning collective bargaining, for the purpose of providing for collective bargaining with certain City employees.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Chapter 2, Article VI of the Code of the City of Richmond (2020) be and is hereby amended by

adding therein a new Division 6, consisting of sections numbered 2-1301.1 through 2-1301.21, as follows:

DIVISION 6

COLLECTIVE BARGAINING

Sec. 2-1301.1. Statement of policy.

It is the purpose of this division to promote collaborative relationships between the City and its employees, subject to the duty of the City to protect the health, safety, and welfare of its citizens and the duty to ensure the uninterrupted operations and functions of government. This division (i) grants City employees the right to representation by an employee organizations, (ii) authorizes the City to recognize, bargain with, and enter into a written collective bargaining agreement with an employee organization as the bargaining agent for a bargaining unit, and (iii) establishes procedures to resolve disputes and provide for the protection of the rights of the City, City employees, and the public at large.

Sec. 2-1301.2. Definitions.

The words, terms and phrases defined in this section, when used in this division, have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended.

:1. Acceptable evidence. The term "acceptable evidence" means, in relation to support for a petition for an election to certify or decertify a bargaining agent, a combination of membership cards, evidence of the payment of dues to an employee organization, or other evidence of the desire of the eligible employees in a bargaining unit for an employee organization to serve or not serve as the bargaining unit's bargaining agent for collective bargaining purposes.

:2. Administrator. The term "administrator" means the labor relations administrator appointed pursuant to section 2-1301.10.

:3. Bargaining agent. The term "bargaining agent" means an employee organization certified pursuant to section 2-1301.7 and not decertified pursuant to section 2-1301.9 as the exclusive or sole bargaining representative of a bargaining unit defined in section 2-1301.4.

:4. *Bargaining unit.* The term "bargaining unit" means any bargaining unit defined in section 2-1301.4.

:5. *Benefits.* The term "benefits" means all forms of compensation other than salary or wages except deferred compensation plans or programs authorized by Division 3 of this article and retirement plans or programs authorized by Chapter 22 of this Code.

:6. *Chief Administrative Officer.* The term "Chief Administrative Officer" means the Chief Administrative Officer or the designee thereof.

:7. *Collective bargaining.* The term "collective bargaining" means 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 identified in section 2-1301.3.

:8. *Collective bargaining agreement.* The term "collective bargaining agreement" means the binding written contract between the City and a bargaining agent for a bargaining unit and resulting from collective bargaining.

:9. *Dispute.* The term "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 "dispute" includes questions of whether a particular dispute is eligible for resolution by arbitration. The term "dispute" does not include any individual employee grievance as defined by Code of Virginia, § 15.2-1507(A)(1) or any personnel rules adopted pursuant to section 2-1265 of this Code.

:10. *Employee.* The term "employee" means a person considered to be a classified, executive, or unclassified employee under the personnel rules adopted pursuant to section 2-1265 of this Code or administrative regulations issued by the Mayor. For the avoidance of doubt, the term "employee" does not include (i) an employee of any officer elected pursuant to article VII, section 4 of the Constitution of Virginia, (ii) an intern or volunteer, or (iii) a member of a

board or commission, or other appointee of any elected official or public body.

:11. Employee, confidential. The term "confidential employee" means an employee whose work involves regular, authorized access to confidential or privileged personnel management, fiscal, or labor policy information material to the City in collective bargaining.

:12. Employee, eligible. The term "eligible employee" means an employee whose position, as defined in the personnel rules adopted pursuant to section 2-1265 of this Code, is within a bargaining unit authorized by section 2-1301.4 and who is not (i) a confidential employee, (ii) a managerial employee, (iii) a supervisory employee, or (iv) a temporary employee.

:13. Employee, managerial. The term "managerial employee" means an employee who (i) has responsibility for a unit of organization of a department or other agency, (ii) participates in the formulation of policy, (iii) is significantly engaged in executive functions, or (iv) is charged with the responsibility of directing the implementation of management policies, procedures or practices.

:14. Employee, supervisory. The term "supervisory employee" means an employee who customarily and regularly devotes a majority of that employee's work time to the supervision of two or more employees and has authority to hire, transfer, suspend, layoff, recall, promote, demote, discharge, assign, evaluate, reward, or discipline other employees or adjust grievances, or effectively to recommend any such actions.

:15. Employee, temporary. The term "temporary employee" means an employee who is employed for not more than 180 days in the past 24 months, whether on a seasonal basis or other temporary basis.

:16. Employee organization. The term "employee organization" means an organization in which employees participate and that exists for the purpose, in whole or in part, of representing employees in collective bargaining concerning labor disputes, wages, hours, and other terms and conditions of employment.

:17. Impasse. The term "impasse" means the failure of the City and a bargaining agent to reach agreement during collective bargaining negotiations.

:18. Lockout. The term "lockout" means any action taken by the City intended to interrupt or prevent the continuity of work properly and usually performed by employees for the purpose of coercing or intimidating employees in the exercise of their rights conferred by this division or influencing their bargaining agents' positions in collective bargaining negotiations.

:19. Neutral agency. The term "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 this division when no administrator has been appointed.

:20. Strike. The term "strike" means any strike or willful refusal to perform the duties of an employee's employment that would be deemed to terminate that employee's employment pursuant to Code of Virginia, § 40.1-55.

Sec. 2-1301.3. Authorized subjects of collective bargaining.

(a) The following matters are authorized subjects of collective bargaining:

(1) Wages, salaries, and other forms of monetary compensation.

(2) Benefits such as paid and unpaid leave and health, dental, and similar benefit programs.

(b) The following matters are not authorized subjects of collective bargaining:

(1) Matters concerning the provisions of the City's retirement system.

(2) Matters concerning the provisions of the City's deferred compensation program.

(3) Other matters governed by federal or state law or regulation, including the City Charter, such as:

a. Workers' compensation matters.

b. Wage and hour matters such as those subject to the Fair Labor Standards Act and the Virginia Overtime Wage Act.

c. Occupational safety and health matters.

d. Equal employment opportunity matters.

(4) Matters governed by this Code, any personnel rules adopted pursuant to section 2-1265 of this Code, and the City's pay plan not directly related to monetary compensation or benefits.

(5) Matters affecting management's right to hire, promote, transfer, assign, retain, classify, and schedule employees.

(6) Matters affecting management's right to take disciplinary actions up to and including termination.

(7) Matters governed by the City's grievance procedures.

(8) Matters affecting management's right to establish policies or practices to respond to emergency situations.

(9) Provisions, prohibited by state law, that restrict the City Council's authority to establish the budget or appropriate funds.

Sec. 2-1301.4. Authorized bargaining unit.

This division authorizes the City to engage in collective bargaining only with the following bargaining unit:

Labor and trades. The labor and trades bargaining unit consists only of 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.

Sec. 2-1301.5. Employee rights.

(a) Employees shall have the right to organize, form, join, assist, and pay dues or contributions to employee organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection insofar as such activity is not inconsistent with this division or prohibited by any other applicable law. Employees also shall have the right to refrain from any or all such activities.

(b) Employees shall have the right to hold informal employee conversations and interactions with one another to discuss workplace and employee organization issues with each other in their workplaces, provided that solicitation of support, membership, or dues or engagement in any other union activities is not permitted when any of the employees involved are on duty except as lawfully may be provided in a collective bargaining agreement. Employees may use the City's electronic mail systems to hold such conversations and interactions with one another; however, (i) records in the City's electronic mail systems are subject to the Virginia Freedom of Information Act, (ii) employee communications on the City's electronic mail systems are not considered private, and (iii) no employee may bring an unfair labor practice claim against the City related to the employee's use of the City's electronic mail system for such a purpose.

(c) Any provision of a collective bargaining agreement that violates the rights of employees set forth in this section shall be void. A provision of a collective bargaining provision that establishes a time period for the exercise of an employee right set forth in this section shall not be considered a violation of this section and shall not be void. Neither the City nor any employee organization shall intimidate, coerce, or harass any employee who chooses to exercise the rights of employees as set forth in this division.

Sec. 2-1301.6. City's rights.

(a) This division shall not be deemed to limit or diminish the authority of the City Council, the Mayor, and the Chief Administrative Officer to fully manage and direct the operations and activities of the City as authorized and

permitted by law. The City retains exclusive rights, including the rights:

(1) To determine the organization of City government and the purpose and mission of its constituent agencies and to add, delete, modify, or suspend programs, functions, and units of government as the City determines to be necessary and appropriate;

(2) To determine the type and scope of work to be performed by city employees, and the manner in which services are to be provided;

(3) To direct the work of employees and determine the number of employees to perform any work or service;

(4) To hire, promote, transfer, assign, retain, and classify all employees and to suspend, demote, discharge, or take other disciplinary action against employees;

(5) To relieve employees from duties by layoff or other reduction-in-force due to lack of work, budget changes, changed working conditions or requirements, or for other reasons not prohibited by law;

(6) To introduce new, or different services, methods, equipment, or facilities;

(7) To contract for, expand, reduce, transfer, eliminate or change in any way the operations of the general government, as well as any department, office, or part thereof;

(8) To establish and change standards of behavior or performance, staffing levels, job qualifications and job descriptions;

(9) To determine the kind, type, location and use of City-owned equipment or facilities; provided that the City shall not require use or operation of unsafe equipment or the unsafe operation of equipment;

(10) To determine its tax levies, revenue generation methods, budget, and appropriation;

(11) To require enhanced security measures to protect City facilities, infrastructure, personnel, and the public; and

(12) To take whatever actions may be necessary to carry out the City's mission during a state of emergency as defined in Code of Virginia, § 44-146.16 affecting the City or a declaration of local emergency as defined in Code of Virginia, § 44-146.16.

(b) No provision of this division shall act to interfere with or impair the free speech and association rights of the Mayor or the members of the City Council. This includes the right to advocate for or against employee organizations and to speak on issues related to the City's labor policy without limitation. No unfair labor practice charge may be brought against the City, the Mayor, or a member of the City Council member because of the exercise of the right of free speech and association.

Sec. 2-1301.7. Certification of bargaining agent.

A bargaining agent shall be the exclusive representative of all eligible employees in a bargaining unit if the bargaining agent is selected by a majority of the eligible employees voting in the bargaining unit in a secret ballot election conducted pursuant to this division and to rules and procedures either adopted by the administrator appointed pursuant to section 2-1301.10 and approved by the City Council or, if an election is sought prior to the appointment of the administrator, established by a neutral agency.

Sec. 2-1301.8. Election.

(a) An employee organization may request that an election be held by submitting a petition for certification to the administrator or, if an election is sought prior to the appointment of the administrator, to a neutral agency. If an election is sought prior to the appointment of the administrator, the neutral agency who receives the petition shall notify the Mayor pursuant to that neutral agency's rules and procedures, which rules and procedures must provide for public notice and notice to the bargaining unit's employees of the submission of the petition. The petition must be accompanied by acceptable evidence that at least 30 percent of the eligible employees in the bargaining unit support the certification of the employee organization as the bargaining unit's bargaining agent.

(b) The determination by the administrator or the neutral agency, as applicable, of the sufficiency of the

acceptable evidence showing support for an election to determine whether an employee organization will be certified as the bargaining agent for a bargaining unit shall not be subject to challenge.

(c) Any additional interested employee organization may intervene in the election by submitting a petition for intervention to the administrator or the neutral agency, as applicable, accompanied by acceptable evidence that at least ten percent of the eligible employees of the bargaining unit support the certification of such employee organization as the bargaining unit's bargaining agent.

(d) Within 45 calendar days following the date the administrator or the neutral agency, as applicable, issues written notice to the Chief Administrative Officer and all employee organizations that submitted petitions pursuant to this section, an election shall be conducted pursuant to this division in accordance with the rules and procedures of the administrator or the neutral agency, as applicable. Upon certification of the election results by the administrator or neutral agency, as applicable, and if an employee organization receives a majority of the votes cast by valid ballots of eligible employees in the bargaining unit, the City shall recognize that employee organization as the bargaining agent for the bargaining unit until the administrator or neutral agency, as applicable certifies a different employee organization as bargaining agent or decertifies the bargaining agent in accordance with this division.

(e) Either the City or an employee organization involved in the election may file with the administrator or neutral agency, as applicable, and in accordance with the rules and procedures thereof an exception alleging that specified misconduct or irregularities affected the outcome of the election. Until the exception is resolved in accordance with this division and the rules and procedures of the administrator or neutral agency, the City is not required to recognize the employee organization that is the apparent winner of the election as the bargaining agent for the bargaining unit.

(f) Nothing in this division shall require or permit an election for a particular bargaining unit within 365 calendar days after an election for that bargaining unit has been held pursuant to this division and the results thereof certified by the administrator or neutral agency, as applicable.

(g) Neither the City nor any employee organization will have an advantage over others in access to eligible employees during campaign activity leading to the election. Interested employee organizations will receive the same access to eligible employees within the bargaining unit as is provided to any other non-City organization under City policies and practices concerning the use of City-owned or City-controlled real property. Attendance at any meeting of eligible employees of a bargaining unit held on City-owned or City-controlled real property for campaign purposes held by an employee organization shall be voluntary for employees and open to all eligible employees in the bargaining unit.

Sec. 2-1301.9. Decertification of bargaining agent.

(a) Certification of an employee organization as a bargaining agent for a bargaining unit shall continue only so long as the employee organization satisfies the requirements of this division and any properly approved guidelines of the administrator or the existing guidelines of a neutral agency applicable to certification or recognition of bargaining agents.

(b) If a petition for decertification of a bargaining agent is presented to the administrator or, in the absence of an administrator, to a neutral agency showing that at least 30 percent of the employees in the bargaining unit no longer want the employee organization to be their bargaining agent, then the administrator or neutral agency shall hold an election conducted in the same manner as provided in section 2-1301.8.

(c) A petition for decertification of the bargaining agent for the bargaining unit may be filed in a 30-day period between the one hundred eightieth and one hundred fiftieth day prior to expiration of the collective bargaining agreement for the bargaining unit and any time after that collective bargaining agreement has expired.

(d) For a period of one year following certification of a bargaining agent, no decertification petitions may be filed.

(e) The employee organization no longer shall be recognized as the bargaining agent of the employees in the bargaining unit if a majority of the employees in the bargaining unit voting in the election vote to no longer be represented by the employee organization.

Sec. 2-1301.10. Labor relations administrator.

(a) An administrator shall be selected and appointed in the manner set forth in section 2-1301.11 to administer provisions of this division including the process for certification and decertification of bargaining agents, resolving disputes, and assisting with the selection of mediators or arbitrators as needs arise under this division or under any collective bargaining agreement. The administrator shall serve as a neutral agency.

(b) The administrator must be experienced as a neutral in the field of labor relations and must not be a person who, because of vocation, employment, or affiliation, can be categorized as a representative of the interests of the City or of any employee organization, including any bargaining agent.

Sec. 2-1301.11. Selection of administrator.

(a) The selection of the administrator will be conducted through competitive negotiation for nonprofessional services as provided in chapter 21 of this Code. Proposals will be evaluated by a panel that will consist of an equal number of City representatives and either (i) representatives of those employee organizations that have notified the Chief Administrative Officer of their interest in representing bargaining units permitted by this division, if no bargaining agents have been recognized at the time the selection process begins or (ii) representatives of the bargaining agent for the bargaining unit permitted by this division.

(b) The panel shall evaluate and rank all proposals and recommend up to the three highest-ranked offerors for presentation to the City Council for approval. The City Council shall approve one of the offerors presented to the City Council as the administrator.

Sec. 2-1301.12. Term of administrator.

The administrator shall serve for a term of four years. Prior to the conclusion of the four-year term, the administrator's services will be subject to termination by a majority of the Chief Administrative Officer and the bargaining agents authorized by this division. If no bargaining agents have been certified, then the administrator's services will be subject to termination by the Chief Administrative Officer with the consent of the Mayor and the City

Council. Any replacement for the administrator shall be selected in accordance with section 2-1301.11. An administrator appointed under section 2-1301.11 may be reappointed as provided in 2-1301.11.

Sec. 2-1301.13. Duties of administrator.

The administrator shall:

(1) Hold and conduct elections for certification or decertification pursuant to the provisions of this division and issue the certification or decertification, or cause these actions to occur.

(2) Request from the City or an employee organization, and the City or such employee organization shall provide, any relevant assistance, service, and data that will enable the administrator to properly carry out duties under this division.

(3) Hold hearings and make inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, and compel by issuance of subpoenas the attendance of witnesses and the production of relevant documents in proceedings within the responsibility of the administrator under this division.

(4) Investigate and attempt to resolve or settle charges of either the City or an employee organization engaging in prohibited practices as defined in this division. However, if the City and a certified representative have negotiated a dispute resolution procedure as a provision of a collective bargaining agreement, the administrator must defer to that procedure to resolve any dispute that properly may be submitted to the procedure, absent a showing that the deferral results in the application of principles contrary to this division. The administrator must defer to state law procedures in any matter where state law so requires.

(5) Determine unresolved issues of employee inclusion in or exclusion from the bargaining unit identified in this division.

(6) Obtain any necessary support services and make necessary expenditures in the performance of duties,

subject to appropriations.

(7) Determine any issue regarding the negotiability of any collective bargaining proposal.

(8) Exercise any other powers and perform any other duties and functions specified in this division of an administrative nature.

Sec. 2-1301.14. Good faith bargaining.

(a) Any employee organization recognized as the bargaining agent for a bargaining unit shall be:

(1) Permitted to speak on behalf of all members of the bargaining unit and responsible for representing the interests of all members of the bargaining unit without discrimination and without regard to employee organization membership; and

(2) Entitled to meet at reasonable times and places to engage in good faith collective bargaining on matters that, under this division, may be the subject of collective bargaining, in an effort to reach an agreement, subject to the approval of the Chief Administrative Officer.

(b) The bargaining agent must submit a written request to the Chief Administrative Officer for any collective bargaining intended to result in a collective bargaining agreement to become effective for a given fiscal year in time for collective bargaining to begin on or before July 1 of the preceding fiscal year and conclude, including any impasse resolution procedures, by December 1 of the preceding fiscal year to ensure adequate time for inclusion in the Mayor's proposed budget for the given fiscal year.

(c) Nothing in this division requires either party to make any concessions or agree to the other party's proposals in collective bargaining.

Sec. 2-1301.15. Collective bargaining agreement.

(a) No collective bargaining agreement shall be effective or enforceable until the City Council has adopted an ordinance to approve the text of the collective bargaining agreement after reviewing the fiscal impact statement

required by this section and holding the requisite public hearing.

(b) When the parties reach a tentative agreement, they shall reduce it to writing, and the Chief Administrative Officer and the duly authorized representative of the bargaining agent shall sign the tentative agreement to indicate their approvals. The bargaining agent's signature certifies that the bargaining unit has approved or ratified the tentative agreement in accordance with the procedures or governing rules of the bargaining agent.

(c) No later than 60 days after the parties have signed the tentative agreement, the Chief Administrative Officer shall (i) prepare a fiscal impact statement for the tentative agreement and (ii) submit the tentative agreement with the fiscal impact statement for approval by the City Council via ordinance in accordance with the City Council's standard procedures and schedules.

(d) Should the City Council reject the tentative agreement, it may cause the Council Chief of Staff to provide a detailed statement of the reasons for rejection to inform any further negotiations.

(e) A collective bargaining agreement reached by the parties shall be contrary to public policy and shall not bind the parties or be enforceable by either party to the extent that it is not the result of good faith bargaining in accordance with section 2-1301.14.

Sec. 2-1301.16. Impasse.

In the event that the city and the bargaining agent are unable to reach an agreement or contract within 120 days after their first meeting, an impasse may be called by either party and the following procedure shall be followed:

(1) Any unresolved issues shall be submitted within five days of impasse being declared or reached by operation of law to the administrator for mediation which, at the parties' election, may be conducted by the administrator or arranged by the administrator pursuant to approved procedures which, at a minimum, shall set reasonable deadlines for the conduct of mediation and provide for joint selection of the mediator.

(2) The mediation process and any comments, statements or suggestions from the mediator or the parties

and any documents evidencing the same made or created during the mediation process shall not be disclosed except as required by law.

(3) If mediation fails to resolve the parties' impasse as to any issue at least 30 days prior to the deadline for the submission of the Mayor's proposed annual budget, the unresolved issues shall be submitted to fact-finding by a neutral agency selected pursuant to procedures established by the administrator providing for the parties' mutual agreement on the fact-finder choice. The fact-finder shall meet with the parties and make written findings of fact and recommendations for resolution no later than ten days before the deadline for the submission of the Mayor's proposed annual budget. In making the findings, the fact-finder shall consider:

a. The lawful authority of the City;

b. Stipulations of the parties;

c. The interests and welfare of the public;

d. The financial ability of the city to meet the costs of any items to be included in the agreement;

e. Comparison of wages, hours, and terms and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours, and terms and conditions of employment of other persons performing similar services in the public sector, if applicable;

f. The average consumer prices for goods and services, commonly known as the cost of living;

g. The overall compensation presently received by the employees involved in the proceeding;

h. Changes in any of the foregoing circumstances during the pendency of the proceedings; and

i. Such other factors that are normally or traditionally taken into consideration in the determination of wages, hours, and terms and conditions of employment through voluntary collective bargaining, mediation, arbitration, or otherwise between the parties, in public service.

(4) The Mayor, after giving due consideration to the fact-finder's recommendations and the mediation

results, shall submit recommendations to the City Council by incorporation in the Mayor's proposed annual budget or in other proposed legislation as may be appropriate. The City Council shall retain its legislative discretion with respect to action on any proposals so submitted.

(5) The parties shall share the costs of mediation and fact-finding equally.

Sec. 2-1301.17. Prohibited practices.

(a) Neither the City nor the bargaining agent shall refuse to negotiate in good faith with respect to matters within the scope of collective bargaining as defined in section 2-1301.3.

(b) The city and its agents shall not:

(1) Interfere with, restrain or coerce employees in the exercise of rights granted by this division;

(2) Dominate or interfere in the administration of any employee organization;

(3) Encourage or discourage membership in any employee organization, committee, or association including by discrimination in hiring, tenure, or other terms and conditions of employment;

(4) Discharge or discriminate against any employee because the employee has filed an affidavit, petition, or complaint or given any information or testimony under this division or because the employee has formed, joined, or chosen to be represented by any bargaining agent;

(5) Deny the rights accompanying certification as the bargaining agent conferred by this division;

(6) Refuse to participate in good faith in any agreed-upon impasse resolution procedures or those set forth in this division; or

(7) Refuse to reduce a collective bargaining agreement to writing and sign such agreement provided all conditions for an enforceable agreement, as set forth in this division, have been met.

(c) No employee organization or its agents shall:

(1) Interfere with, restrain, or coerce any employee with respect to rights granted in this division or with respect to selecting an exclusive representative;

(2) Willfully fail to represent an employee who is in a bargaining unit exclusively represented by the employee organization fairly regarding matters within the scope of collective bargaining, and without discrimination.;

(3) Refuse to bargain collectively with the City as provided in this division; or

(4) Refuse to participate in good faith in or violate any agreed-upon impasse resolution procedures or those set forth in this division.

Sec. 2-1301.18. Prohibited practice charge procedures.

(a) Proceedings against a party alleging a violation of section 2-1301.17 shall be commenced by filing a charge with the administrator within 90 days of the alleged violation, or of acquiring knowledge thereof, and causing a copy of the charge to be served upon the accused party. The accused party shall have ten days within which to file a written answer to the charge. The administrator may conduct a preliminary investigation of the alleged violation, and if the administrator determines that the charge has no legal or factual basis, the administrator may dismiss the charge. If the charge is not dismissed, the administrator shall promptly thereafter set a time and place for a hearing. The parties shall be permitted to be represented by counsel or other designated representatives, summon witnesses, and request the administrator to subpoena witnesses and the production of records on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be required.

(b) The administrator may designate a hearing officer to conduct any hearing. The hearing officer shall have such powers as may be exercised by the administrator for conducting the hearing and shall follow procedures adopted by the administrator for conducting the hearing. The decision of the hearing officer may be appealed to the administrator, and the administrator may hear the case de novo or upon the record as submitted before the hearing officer.

(c) The administrator shall provide for an official written transcript to report the proceedings, the costs of which shall be borne equally by the parties.

(d) The administrator shall file the administrator's findings of fact and conclusions. If the administrator finds that the party accused has violated any provision of this section 2-1301.17, the administrator may issue an order directing the party to cease and desist engaging in the violation and may order such other reasonable affirmative relief as is necessary to remedy the violation. To the extent permitted under the provisions for court review of arbitration awards set forth in the Uniform Arbitration Act, Code of Virginia, §§ 8.01-581.01-8.01-581.016, the administrator may petition the circuit court for enforcement of an order made under this Section.

(e) Any party aggrieved by any decision or order of the administrator, within 21 days from the date such decision or order is filed, may appeal to the circuit court to obtain judicial review pursuant to the provisions for judicial review set forth in the Uniform Arbitration Act, Code of Virginia, §§ 8.01-581.01-8.01-581.016, as may be permitted by state law.

Sec. 2-1301.19. Certain prohibited activity.

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. Any employee organization determined to have violated this section shall be deemed decertified under this division, shall cease to receive any dues or fees collected by paycheck withholding, and shall not be certified as a bargaining agent, otherwise accorded recognition as a bargaining agent, or receive any dues or fees collected by paycheck withholding for a period of one year.

Sec. 2-1301.20. Time limits.

Any time limits in this division may be extended by written agreement of the Chief Administrative Officer, the employee organization, and any other appropriate parties.

Sec. 2-1301.21. Review of division.

The Mayor shall conduct a review of this division and its effectiveness for the purposes set forth in section 2-1301.1 and submit a report of the Mayor's findings and recommendations to the City Council within one year after the division has been in effect for two years.

§ 2. This ordinance shall be in force and effect upon adoption.