

**THE CITY OF FREDERICK  
CITY COUNCIL**

**ORDINANCE NO. G-25-08**

**AN ORDINANCE** concerning collective bargaining

**FOR** the purpose of establishing certain definitions; providing for certain employee rights; providing for certain rights of the City as an employer; creating a process by which an employee organization may be recognized as an exclusive bargaining agent for employees; establishing a bargaining process; enumerating certain prohibited labor practices; establishing a certain board to hear grievances; providing a process for handling grievances; prohibiting certain actions including strikes; and otherwise generally relating to collective bargaining and employment-related practices of the City of Frederick and its employees.

**BY** adding

Chapter 2

Article XX

The Code of the City of Frederick, 1966 (as amended)

**ARTICLE XX. PERSONNEL**

**Sec. 2-60. COLLECTIVE BARGAINING.**

- (a) **Authority.** This section is adopted in accordance with Article VIII, § 7 of the City's Charter, which allows the City Council, by ordinance, to provide for collective bargaining for City employees, in appropriate units, of wages, hours and other terms and conditions of employment.
- (b) **Purpose.** It is the public policy of the City and the purpose of this section to promote a harmonious, peaceful and cooperative relationship between the management of the City and its employees and to protect the public by assuring the responsive, orderly and efficient operation of the government.
- (c) **Definitions.** For purposes of this section, the following terms have the meanings indicated.

  - (1) "Certified representative" means an employee organization selected in accordance with the procedures of this section to represent employees.
  - (2) "Employee organization" means an association, organization, federation, council or group of employees which has been recognized in accordance with the provisions of this section for the purpose of the representation of employees concerning wages, hours and terms and conditions of employment.
  - (3) "Employee" means any regular full-time employee who is not:

    - (A) A sworn police officer; or

(B) Appointed by the Mayor.

(4) Grievance means:

(A) A dispute concerning the application or interpretation of the terms of a written agreement between the employee organization and the City; or

(B) A dispute concerning the application or interpretation of the rules or regulations of the City.

**(c) Employee rights. subject to any applicable law relating to the right of self-grievance.**

employees may form, join, assist, or participate in an employee organization; negotiate collectively through representatives of their own choosing on terms and conditions of employment.

**(d) Employer rights.** Notwithstanding any other provision contained in this article, it is the exclusive right of the employer to determine the mission of city departments, set standards of service to be offered to the public and exercise control and direction over the departments' organization and operations. The provisions of this section shall be deemed to be part of every agreement executed between the employer and employee organization. The City retains the rights to:

(1) Determine the budget of City departments, including all financial obligations for expenditures;

(2) Direct and supervise employees;

(3) Adopt rules and regulations pertaining to the purpose, operation, efficiency and management of City departments;

(4) Hire, promote, transfer, assign, reinstate, retain, or lay off employees; and

(5) Suspend, demote, discharge, or take disciplinary action against employees

**(e) Recognition.**

(1) An employee organization seeking recognition as an exclusive bargaining agent for a collective bargaining unit of employees may file with the City Clerk a petition seeking recognition. A petition must be filed and may be accepted initially at any time on or before [date], and then in October each year.

(2) There shall be no more than two units of general employees and one unit of supervisory employees, with a community of interest. For purposes of this paragraph, "supervisory employee" means an employee with the responsibility and authority to hire, transfer, suspend, promote, discharge, discipline, or direct other employees - or effectively recommend such action.

(3) If a petition is supported by at least 51% of the employees in the bargaining unit, the City shall immediately recognize the employee organization as the exclusive

bargaining representative and afford the exclusive bargaining representative and its members all rights due under this section.

- (3) If a petition is supported by at least 30% but less than 51% of the employees in the bargaining unit, the City shall conduct a secret ballot election. If a majority of the employees vote to be represented by that employee organization, the City shall immediately recognize the employee organization as the exclusive bargaining representative for that collective bargaining unit and afford the exclusive bargaining representative and its members all rights due under this section.
- (3) When an employee organization has been recognized, it shall have the exclusive right to represent all employees in that collective bargaining unit for the purpose of collective bargaining of the terms and conditions of employment subject to bargaining.

**(f) Bargaining process.**

- (1) Upon recognition of an employee organization as the exclusive representative of the employees, the City and the employee organization shall, through appropriate officials or their representatives, negotiate collectively and in good faith with respect to the terms and conditions of employment of the employees.
- (2) The Mayor shall appoint the employer's representative or representatives for the purpose of conducting any bargaining or other relationships between any recognized employee organization and the City.
- (3) The employee organization and the City, through their representatives, may bargain collectively over wages, hours, and other terms and conditions of employment.
- (4) When parties reach agreement, they shall prepare a written agreement and submit it to the City Council for approval or rejection. An agreement governing the relationship between the City and any recognized employee organization must be consistent with the provisions of this section and all other applicable laws. In the event of any conflict or inconsistency between a collective bargaining agreement entered into between the City and a recognized employee organization and any federal, state or city law, the provisions of the federal, state or city law shall prevail.

**(g) Prohibited practices.**

- (1) The City may not engage in any of the following unfair labor practices:
  - (A) Interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization;
  - (B) Encouraging or discouraging membership in an employee organization by discrimination regarding hire, tenure promotion or other conditions of employment;
  - (C) Controlling or dominating an employee organization or contributing financial or other support to it;

- (D) Refusing to negotiate in good faith with a recognized employee organization;
  - (E) Refusing to process or arbitrate a grievance if required under a grievance procedure contained in a collective bargaining agreement.
- (2) Employee organizations are prohibited from:
  - (A) Interfering with, restraining, or coercing employees in the exercise of their rights of self-organization or non-organization;
  - (B) Inducing the City or its representatives to commit any unfair labor practice;
  - (C) Refusing to negotiate in good faith with the City; or
  - (D) Hindering or preventing, by threats of violence, intimidation, force or coercion of any kind, the lawful work or employment by any person or obstructing or otherwise unlawfully interfering with the entrance to or egress from any place of employment or obstructing or unlawfully interfering with the free and uninterrupted use of public roads, streets, highways, railways, airports or other travel or conveyance by any person.

**(h) Grievance Review Board.**

- (1) There is hereby established a Grievance Review Board consisting of three members, each appointed to serve a two-year term.
- (2) One member will be a City resident appointed by the Mayor, with the advice and consent of the City Council.
- (3) One member will be a City resident appointed by the employee organization. If there is more than one recognized employee organization, the organizations will jointly appoint the member.
- (4) One member will be appointed jointly by the City and the employee organization and shall serve as the chairperson of the Grievance Review Board. The chairperson must have a primary place of employment in Maryland and must be an attorney or an arbitrator, with any additional qualifications as set forth in an agreement between the employee organization and the City

**(i) Grievance procedures.**

- (1) Agreements reached between an employee organization and the City may contain provisions concerning procedures for consideration and resolution of grievances, including a right of appeal to the Grievance Review Board.
- (1) If a claim is made that prohibited practice has been committed by either the City or the employee organization, the complaining party shall file with the Grievance Review Board a written complaint, setting forth a detailed statement of the alleged prohibited practice. The party complained of may file an answer to the complaint

within 5 days after service. The Grievance Review Board may, after investigation, issue an order dismissing the complaint or may conduct a hearing to consider the complaint.

- (2) The Grievance Review Board shall issue written findings of fact and an order based on the terms and provisions of the City of Frederick Charter, Code, Policies and Procedures Handbook, any other applicable law, and the contract between the parties.
- (3) If the Grievance Review Board determines that a prohibited practice has been committed, it shall issue written findings of fact and an order requiring the party to cease and desist from the practice within a specified period.
- (4) If the Grievance Review Board determines that a prohibited practice has not been committed, it shall issue a written findings of fact and an order dismissing the complaint.
- (5) Decisions of the Grievance Review Board shall be a final decision binding on the City and the employee organization but may be appealed to the Circuit Court for Frederick County in accordance with Section 7-200 et seq. of the Maryland Rules.

**(j) Strikes; lockouts.**

- (1) The services performed by City employees are essential to the public health, safety, and welfare. City employees shall not directly or indirectly cause, instigate, encourage, condone, or engage in any strike, work stoppages, or slowdowns. An employee who engages in this conduct will be subject to immediate disciplinary action.
- (2) Employee organizations may not engage in, initiate, sponsor, support, or direct a strike, work stoppage or slowdown. If any employee organization violates this provision, its recognition as exclusive representative, if any, will be deemed revoked and it will be ineligible to participate in elections or be recognized as exclusive representative for two years after the violation.
- (3) The employer may not directly or indirectly cause, instigate, encourage, condone or engage in any lockout. For purposes of this section, "lockout" means any action that interrupts or prevents the continuity of work properly and usually performed by employees for the purpose and with the intent of either coercing the employees into relinquishing rights guaranteed by this section or of bringing economic pressure on employees for the purpose of securing the agreement of the employee organization to certain collective bargaining terms.
- (4) Nothing in this subsection should be construed to prohibit employees from engaging in informational picketing on public property in accordance with all applicable laws and regulations.

**SECTION II. AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICK,** That in the event any provision, section, sentence, clause, or part of

this ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause, or part of this ordinance, it being the intent of the City that such remainder shall be and shall remain in full force and effect.

**SECTION III. AND BE IT FURTHER ENACTED AND ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREDERICK,** That this ordinance shall take effect on the date it is signed by the Mayor and all other ordinances or parts of ordinances inconsistent with the provisions of this ordinance will as of that date be repealed to the extent of such inconsistency.

**PASSED:**

**DATE:**

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**Katie J. Nash, President,  
City Council**

**APPROVED:**

**DATE:**

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**Michael C. O'Connor, Mayor**

**Approved for Legal Sufficiency:**

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**City Attorney**