CHAPTER 1A

COLLECTIVE BARGAINING

§1A-101. Purposes and goals
§1A-102. Definitions.
§1A-103. Employee rights
§1A-104. Employer rights
§1A-105. Recognition of employee organizations
§1A-106. Collective bargaining negotiations
§1A-107. Unfair labor practices
§1A-108. Right of check-off
§1A-109. Grievance procedure
§1A-110. Strikes prohibited

Section 1A-101. Purposes and goals.

The Mayor and City Council enact this chapter for the following purposes:

1. To foster a relationship of trust, confidence, respect and mutual understanding between the Mayor and City Council and the employees of the City of Mount Rainier Police Department.

2. To recognize the right of the employees of the City of Mount Rainier Police Department to organize for the purpose of collective bargaining.

3. To provide procedures for employees of the City of Mount Rainier Police Department to participate in the formulation and implementation of policies establishing or affecting their conditions of employment.

4. To select units appropriate for effective dealings between their representatives and the Mayor and City Council.

5. To ensure that such units operate democratically and without discrimination.

6. To establish a reasonable method of dispute resolution.

Section 1A-102. Definitions.

In this chapter, the following words and phrases shall have the meaning indicated:

"Commissioner." The Commissioner is the Maryland Department of Labor and Industry or it's Successor Organization.

"Confidential employees." An employee who has regular access to privileged information regarding personnel management or labor policies through the employee's duty to assist:

1. The Mayor or Council member;

2. The City Manager; or administrator or the Assistant City Manager; or

3. A department head or the Deputy or Assistant Department Head.

"Bargaining Units." Eligible full-time employees are divided into two bargaining units; police and public works.

The police bargaining unit includes all full-time parking enforcement officers and law enforcement officers who are ranked below the rank of sergeant, all clerical and administrative staff except for those employees reporting directly tot he Chief of Police or Deputy Chief of Police who have regular access to personnel (medical, training, personnel) files, misconduct complaints and investigative reports, civil litigation, and or assist in the development of policies and procedures of the department or as defined above as a confidential employee.

The public works union shall consist of all public works employees except the Director, Assistant or Deputy Director, Superintendent and except for those employees reporting directly to the Director, Assistant Director, or Superintendent who have regular access to personnel (medical, training, personnel) files, civil litigation and or assist in the development of policies and procedures of the department or as defined above as a confidential employee.

Part-time employees in the bargaining unit as of July 2, 2002 may elect by written notice to the employer to remain in the appropriate unit. Part-time employees hired after July 2, 2002 are not eligible for membership within the union. Contract employees are excluded from membership.

" Employee organization". Any lawful organization that has been certified by the Commissioner as representing the employees of the bargaining unit which admits employees to membership, the primary purpose of which is to represent employees concerning terms and conditions of employment. The term shall not include any organization which discriminates because of race, color, sex, religion, national origin, sexual orientation, or marital status with regard to the acquisition or retention of membership, or in accepting or advancing members in any training, apprenticeship or employment program.

" Employer." The City of Mount Rainier, Maryland.

" Grievance." A dispute concerning the application or interpretation of the terms of a collective bargaining agreement; or a claimed violation, misinterpretation or misapplication of the rules or regulations of the employer affecting the terms and conditions of employment.

" Strike." By concerted action, the failure to report for work or duty, the willful absence from positions, sick out, stoppage or slowdown of work or the abstinence in whole or in part from work or duty for the purpose of inducing, influencing, coercing or preventing a change in compensation or rights, privileges, obligations or other terms and conditions of employment.

Section 1A-103. Employee rights.

A Employees shall have, and shall be protected in the exercise of, the right to form, join, or assist any employee organization, or to refrain from forming, joining, assisting or participating in any employee organization, freely and without fear of penalty or reprisal, to negotiate collectively through representatives of their own choosing on terms and conditions of employment subject to the limitations stated in this chapter and the administration of grievances arising thereunder, subject to the applicable provisions relating to the right of self-organization, or to engage in other lawful concerted activities

B. Law enforcement officers at the rank of Sergeant have the right to form an employee organization which represents their interests and is recognized as their exclusive representative. The employer shall provide such organization an opportunity to participate in the formulation and implementation of policies and practices affecting t he conditions of the Sergeants' employment. None of the other provisions of this chapter apply to sergeants or an employee organization established pursuant to this subsection.. (Ord 2-2006, 02.07/2006)

Section 1A-104. Employer rights.

This section and any agreement made under it may not impair the right and responsibility of the employer to perform the following:

(I) Determine the overall budget and mission of the employer;

(II)Maintain and improve the efficiency and effectiveness of operations;

(III)Determine the services to be rendered and the operations to be performed;

(IV) Determine the location of facilities and the overall organizational structure, methods, processes, means, job classifications, and personnel by which operations are to be conducted;

(V) Direct and supervise employees;

(VI) Hire, select, and establish the standards governing promotion of employees, and classify positions;

(VII) Relieve employees from duties because of lack of work or funds or when the employer determines continued work would be inefficient or nonproductive;

(VIII) Take actions to carry our the missions of government in situations of emergency;

(IX) Transfer and schedule employees;

(X) Determine the size, grades and composition of the work force;

(XI) Set the standards of productivity and technology;

(XII) Establish employee performance standards and evaluate and assign employees, except that evaluation and assignment procedures shall be subject for bargaining;

(XIII) Make and implement systems for awarding outstanding service increments, extraordinary performance awards, and other merit awards;

(XIV) Introduce new or improved technology, research, development, and services;

(XV) Control and regulate the use of machinery, equipment, and other property and facilities of the employer;

(XVI) Maintain internal security standards;

(XVII) Create, alter, combine, contract out, or abolish any job classification, department, operation, unit, or other division or service, provided that no contracting of work which will displace employees may be undertaken by the employer unless the employer gives written notice to the certified representative at least 90 days before signing the contract or within a different period of time as agreed by the parties;

(XVIII) Suspend, discharge, or otherwise discipline employees for cause, except that any such action may be subject tot he grievance procedure set forth in the collective bargaining agreement; ;and

(XIX) Issue and enforce rules, policies, and regulations necessary to carry out the provisions of this subsection and all other managerial functions that are not inconsistent with this article, Federal or State law, or the terms of a collective bargaining agreement.

Section 1A-105. Recognition of employee organizations.

(a) Selection of exclusive representatives. If an employee organization files a petition with the employer and the petition is supported by evidence that at least thirty percent (30%) of the employees in an appropriate unit wish to be represented by that employee organization for purposes of collective bargaining, then the employer shall cause a secret ballot election to be held under the supervision of the Maryland State Department of Labor and Industry or its successor agency. The employer must notify all employees immediately after receiving a petition under this section. Any other employee organization may intervene in the election if the organization files a petition supported by evidence of at least ten percent (10%) representation in the unit. Any petition to intervene must be filed at least ten (10) days prior to date of the scheduled election. No election shall be conducted within an appropriate unit for the purpose of determining recognition more than once every twelve months.

When an employee organization has been recognized, it shall have the exclusive right to represent all employees in the unit for the purpose of collective negotiation with respect to the wages, hours, and other terms and conditions of employment of employees in the unit.

(I) At least 30 days prior to an election under this subsection, the employer shall provide to

the employee organization a list of the names, addresses, and telephone numbers of every employee in the bargaining unit.

(II) The provision of a list under this paragraph by the employer, or any employer officials, employees, or other agents does not constitute a violation of § 10-617 (E) of the State Government Article or any State or local law, statute, regulation, or ordinance.

(III) Elections shall be conducted by secret ballot.

(IV) The ballot shall contain:

1. The name of each employee organization that submits a valid petition requiring an election;
2. The name of any other employee organization supported by a petition signed by at least 10 percent of the eligible employees in the bargaining unit; and
3. An option for no representation.

(V) If none of the choices on the ballot receives a majority of the votes cast, the parties shall hold a runoff election.

(VI) In the runoff election, the ballot shall contain the two choices that received the highest number of votes in the initial election.

(VII) After the election, the appropriate employee organization shall be certified as the exclusive representative.

(VIII) The employer and the employee organization shall share equally the costs of the election procedures.

(IX) Elections may not be conducted:

1. Within 1 year from the date of a valid election under this section; or
2. Except as provided in paragraph (3.) Of this subsection, during the term of a collective bargaining agreement.
3. During the term of a collective bargaining agreement, a petition for an election may be filed only during November of the fiscal year in which the agreement expires.

(b) Decertification. No incumbent certified employee organization shall be decertified unless evidence is presented to the employer that more than thirty percent (30%) of the employees in the appropriate unit have signed authorizations for another employee organization, or more than thirty percent (30%) of said employees have signed statements requesting that no employee organization represent them. If such evidence shall be presented, the employer shall request the Commissioner to conduct a secret ballot election, which shall include the incumbent employee organization as a ballot choice. If the nonincumbent employee organization receives more than thirty percent (30%) of the votes cast, then the nonincumbent organization shall be certified as exclusive representative for the appropriate unit. If more than thirty percent (30%) of the votes are cast for no employee organization, then there will be no exclusive representative. Otherwise the incumbent employee organization shall remain certified

The City shall extend to an employee organization certified as the exclusive representative the right to represent the employees in collective bargaining and in the settlement of grievances.

An employee organization certified as the exclusive representative shall serve as the bargaining agent for the bargaining unit. The organization shall represent fairly and without discrimination all public employees without regard to whether the employees are members of the employee organization.

Every employee organization which has or seeks certification as an exclusive representative shall file with the City and the Commissioner, a copy of the employee organization's constitution and bylaws and articles of incorporation. All changes and amendments to the constitution and bylaws or articles of incorporation shall be promptly reported to the City and Commissioner.

Every employee organization shall file an annual report wit the City and the Commissioner. The annual report shall include a financial report:

(I) Signed by its president and treasurer or corresponding principal officers; and

(II) Contain information in such detail as necessary to accurately disclose its financial condition and operations, The constitution or bylaws of every employee organization shall provide:

1. A pledge that the organization will accept members without regard to age, race, color, sex, religion, sexual orientation, marital status, or national origin;
2. Accurate accounts of all income and expenses and an annual financial report. The accounts shall be open for inspection by any member of the organization;
3. Periodic elections by secret ballot subject to recognized safeguards;
4. That individual members have the right to participate in the affairs of the organization; and
5. Fair and equitable procedures in disciplinary actions. An employee organization that has not filed an annual report or whose constitution and bylaws do not conform to the requirements of subsection 1A-105 b. (third paragraph)of this section may not be or remain certified for the purpose of negotiating with the City.

Section 1A-106. Collective bargaining negotiations.

A. Duty to bargain in good faith. If an employee organization is certified as the exclusive representative of the employees in an appropriate unit, the employer shall bargain in good faith with respect to the terms and conditions of employment of employees in the unit. The employee organization must negotiate through its officials or representatives. " To negotiate with each other in good faith" shall mean that each party shall have a continuing obligation to keep the other informed on all matters within the scope of the representation and give reasonable written notice of any action proposed to be taken

which would amend any ordinance governing the terms and conditions of employment.

B. Negotiation during working hours. Negotiation with an employee organization which has been accorded exclusive recognition may be conducted during the duty hours of the employee organization representatives involved in such negotiations if they are employees within the appropriate unit, provided that their attendance does not seriously interfere with the normal operations of the employer and upon advance notice to their supervisor.

C. Employer's representative. A duly appointed designee shall act as the employer's primary representative for the purpose of conducting any negotiations or other relationships between any recognized employee organization and the employer.

D. Schedule for negotiations. Because effective and orderly operations of government are essential to the public, it is declared to be in the public interest that in the course of collective bargaining the employer and the exclusive representative shall make every reasonable effort to conclude negotiations no later than February 1st of each year and shall include provisions for an effective date, a reopening date and an expiration date. With respect to matters requiring the appropriation of funds, the effective date of an agreement shall coincide with the employee's fiscal year

E. The employer and an employee organization certified as exclusive representative shall meet and engage in collective bargaining in good faith in regard to the following subjects of bargaining:

. (1) Salary and wages, including the percentage of the increase in the salary and wages budget that will be devoted to merit increments and cash awards, provided that salaries and wages shall be uniform for all employees in the same classification;
(2) Employee benefits such as insurance, leave, holidays, and vacations;
(3) Hours and working conditions;
(4) Provisions for the orderly processing and settlement of grievances concerning the interpretation and implementation of a collective bargaining agreement that may include:

a. Binding third party arbitration of grievances, provided that the arbitrator has no authority to amend, add to, or subtract from the provisions of the collective bargaining agreement; and
b. Provisions for the exclusivity of forum.

(5) Matters affecting the health and safety of employees and
(6) The effect of the exercise of the employer’s rights and responsibilities under subsection (1A-104) of this section on employees.

This subsection does not require the employer or the employee organization to agree to any proposal

or to make an concession.

F. Agreement in writing. Any agreement reached by the negotiations shall be reduced to writing and shall be submitted to the Mayor and City Council for ratification or rejection. If the submission is rejected, the entire agreement shall be returned to the parties for further bargaining, and either party may reopen all or part of the agreement. If the council rejects a request, it may give the parties a detailed statement of the reasons for rejecting the request, so that the parties may be properly guided when they resume bargaining.

G. Mediation. Should the employer and the certified employee organization be unable to reach agreement after a reasonable period of negotiations, then either party may declare an impasse and request that a mediator agreed upon between the parties be appointed or that the Department of Labor and Industry or its successor agency shall provide a qualified mediator to attempt to facilitate the parties' bargaining process.

H Ratification of the agreement by employees. If the provisions of the constitution or by-laws of the exclusive representative require ratification of a collective bargaining agreement by its membership, only those members who belong to the bargaining unit involved shall be entitled to vote on such ratification.

Section 1A-107. Unfair labor practices.

A. The following shall be deemed unfair labor practices which are prohibited:

1. The employer is prohibited from:

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 in regard to 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.

2. The employee organization is prohibited from:

a. Interfering with, restraining or coercing employees in the exercise of their rights of self-organization or nonorganization;

b. Inducing the employer or its representatives to commit any unfair labor practice;

c. Refusing to negotiate in good faith with the employer.

d. Refusing to represent all employees in its bargaining unit fairly, regardless of membership or nonmembership in the union, race, color, sex, national origin, religious creed, ancestry, age, marital status, handicap or sexual orientation; provided however, that nothing in this subsection shall be interpreted as conferring a right of enforcement of these provisions on the employer.

provided, however, that nothing in this subsection shall be interpreted as conferring a right of enforcement of these provisions on the employer.

B. 1. In the event that a claim is made that an unfair labor practice has been committed by either the employer or employee organization, the complaining party shall file with the mediation service of the Department of Labor and Industry, or its successor agency, a verified complaint, setting forth a detailed statement of the alleged unfair labor practice. The party complained of shall have the right to file an answer to the complaint within five (5) days after service thereof. After investigation, such agency may issue an order dismissing the complaint or may order a further investigation or a hearing thereon at a designated time and place.

2. If, upon all the testimony, the agency determines that an unfair labor practice has been committed, it shall state its finding of fact and shall issue and cause to be served upon the party committing the unfair labor practice an order requiring the party to cease and desist from such practice within a specified period and shall take such further affirmative action as it deems necessary to remedy the unfair labor practice. If, upon all the testimony, the agency determines that a prohibited practice has not been or is not being committed, it shall state its finding of fact and shall issue an order dismissing the complaint.

3. Choice of remedies. Issues which may involve an unfair labor practice, as well as a grievance under the negotiated agreement, may, at the discretion of the aggrieved party, be filed as an unfair labor practice or a grievance, but not both.

Section 1A-108. Right of check-off.

When an employee organization has been certified as the exclusive representative of the employee in a unit, it shall be the only employee organization eligible to obtain an agreement from the employer to deduct from the pay of those employees in the unit, who provide written authorization, any dues or fees designated or certified by the appropriate officer of the employee organization and to remit said fees to the employee organization. All authorizations shall be irrevocable for a period of one year and shall be automatically renewable from year to year unless

written notice of termination by the employee is given to the employer. If an employee's religious practices do not permit the employee to pay dues or service fees to an employee organization, the employee may donate a sum equivalent to dues or fees to a charitable organization.

Section 1A-109. Grievance procedure.

A. Grievances or disputes, other than the creation of a collective bargaining agreement pursuant to Section 1A-106, which may arise between the employer and employees shall be settled in the following manner:

Step 1. An employee organization representative shall discuss the grievance or dispute, which has been reduced to writing, with the department head within fifteen (15) working days of the grievance. The department head shall attempt to remedy the matter and shall respond to the employee organization representative within fifteen (15) working days.

Step 2. If after a thorough discussion with the department head, the grievance has not been satisfactorily resolved, the employee organization representative and the complaining employee shall discuss the grievance with the City Manager within fifteen (15) working days after the department head's response is due. The City Manager shall respond in writing within fifteen (15) working days.

Step 3. If the grievance is still unsettled, either party may, within fifteen (15) calendar days, by written notice to the other, request arbitration. The arbitration proceedings shall be conducted by an arbitrator as provided below:

1. The Maryland Department of Labor and Industry is hereby designated as the first choice of both parties to function as the arbitrator.

2. In the event said department is unable or unwilling to do so, both parties agree to seek any other no-cost source of arbitrator(s) agreeable to both parties.

3. .If the parties fail to select an arbitrator, the Federal Mediation and Conciliation Service shall be requested by either or both parties to provide a panel of five (5) arbitrators. Both the employer and the employee or the employee's organization shall have the right to strike two (2) names from the panel. The party requesting arbitration shall strike the first name; the other party shall then strike one (1) name. The process will be repeated and the remaining person shall be the arbitrator.

4. The decision of the arbitrator shall be final and binding on the parties. The arbitrator shall issue a decision within thirty (30) days after the conclusion of testimony and argument. The employer shall permit all persons pertinent to the grievance, including those requested by the employee, to be given time off from duty without loss of pay

in order that said person may testify at the hearing.

B. If any grievance is not answered by the employer within the time limit prescribed, the relief requested will be considered granted, unless the time limits are extended by a written request.

C. Nothing herein shall be construed to deny the right of individual employees to present matters to the employer on their own behalf.

D. The cost of such proceedings shall be shared equally by the employer and the union.

E. Once an employee has elected to pursue this grievance procedure, the employee is bound by the election and subsequently may not choose to follow a different procedure.

F. With respect to sworn police officers, in the event that an officer wishes to file a grievance regarding any management disciplinary action which is within the jurisdiction of the Law Enforcement Officer's Bill of Rights (LEOBR, Article 27, Section 727 et. seq., Maryland Annotated Code), such officer shall have previously waived his rights to a hearing board pursuant to Sections 730,731, and 732 of the LEOBR. However, the officer shall not be required to waive any other rights afforded to him pursuant to the LEOBR.

G. With respect to sworn police officers, in the event that an officer has elected to have a disciplinary matter determined by a hearing convened pursuant to the LEOBR, he or she shall not be able to take issue with the determination of guilt or the resulting imposition of punishment, through utilization of the grievance procedure set forth in this agreement.

Section 1A-110. Strikes prohibited.

A. The services performed by the employees are essential to the public health, safety and welfare. Therefore, strikes, work stoppages, sick outs or slow downs by employees shall be considered misconduct and disobedience, and any employee participating in such an action is subject to immediate dismissal without notice.

B. The employee organization shall not engage in, initiate, sponsor, support or direct a strike, work stoppage, sick out or slow down by employees. If any employee organization is found by the employer to have violated this provision, its recognition as exclusive representative shall be revoked, and it is ineligible to participate in elections or be recognized as exclusive representative for a period of two years thereafter.
(Ord. 6-2002, 8/20/2002)