TOWN OF HERNDON, VIRGINIA
TOWN COUNCIL

ORDINANCE

AUGUST 11, 2026

Ordinance- to amend Chapter 54 (PERSONNEL) of the Code of the Town of Herndon to add a new Article VIII, entitled Collective Bargaining

BE IT ORDAINED by the Town Council of the Town of Herndon, Virginia that:

1. The following sections or provisions of the Herndon Town Code (2000), as amended, are amended as follows:

CHAPTER 54 (PERSONNEL)

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Article VIII. Collective Bargaining

Sec. 54-163. - Statement of Policy.

It is the public policy of The Town of Herndon to promote orderly and constructive relationships between the Town and its employees subject, however, to the supreme right of the citizens of the Town that their government honor guarantees for their health, safety, welfare, and the uninterrupted operations and functions of government. Because unresolved disputes between the Town and its employees are detrimental to the public and to Town employees, adequate means must be established for their speedy and effective resolution. To that end, it is in the public interest that certain Town employees, expressly identified herein, have the opportunity to bargain collectively and in good faith, without interference of the orderly processes of government and subject to the limitations of the Town's annual budget and appropriations.

Sec. 54-164. - Definitions.

As used in *this* chapter, the following terms shall have the meanings ascribed to them in this section:

Administrative employee means an employee whose primary duty is the performance of office or non-manual work directly related to or in furtherance of the management or general business operations and services of the Town.

Arbitration means the procedure by which the Town and an exclusive bargaining representative when involved in a labor-management dispute, as defined in this article, submit their differences to the LRA for a final and binding decision subject to the provisions of this article.

Benefits means all forms of non-wage compensation.

Town means The Town of Herndon acting through its Town Manager or the Town Manager's designee.

Collective bargaining means the performance of the mutual obligation of representatives of the Town and the bargaining agent to meet at reasonable times and places and negotiate in good faith with the intent of reaching an agreement regarding the authorized subjects of collective bargaining as identified herein.

Collective bargaining agreement means the written legal contract between the Town and an exclusive bargaining agent representing the employees in a bargaining unit authorized by this article and resulting from collective bargaining as defined in this section.

Confidential employee means any employee who works in or for:

(1) the office of the Town Council;

(2) the office of the Town Manager;

(3) the office of the Town Attorney;

(4) the Department of Human Resources or other department or position in which the employee has authorized access to confidential Town personnel files; or

(5) is a secretary, administrative assistant, management analyst, or any other position, wherever assigned and however those titles may be changed from time to time, with authorized access to confidential information pertaining to Town budgetary and fiscal data relevant to subjects within the scope of collective bargaining as set forth in this article.

Employee means any employee of the Town, except it does not include anyone who is:

(1) an employee of the courts or of any local constitutional officer, i.e., officers elected pursuant to Article VII, Section 4 of the Constitution of Virginia;

(2) a confidential employee, as defined in this section;

(3) a managerial employee, as defined in this section;

(4) a supervisor, as defined in this section;

(5) an intermittent, temporary, or seasonal employee, as defined in this section;

(6) an intern or volunteer;

(7) a member of a board or commission, or other appointee of any public body as defined by state law; or

(8) an attorney whose responsibilities include providing legal advice to the Town or performing legal research for the Town as a client.

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.

Exclusive bargaining representative and *exclusive bargaining agent* mean the employee organization recognized by the Town as the only organization to bargain collectively for all employees in a bargaining unit (as defined in Section 54-166).

Impasse means the failure of the Town and an exclusive bargaining representative to reach agreement in the course of collective bargaining negotiations.

Intermittent employee means irregular or variably recurring, hourly employment that is less than full time in any calendar year.

Labor-management dispute means a difference of position as between the Town and an exclusive bargaining agent concerning administration or interpretation of the collective bargaining agreement between them; negotiability disputes; action challenged as a prohibited practice under Section 54-178; and questions of eligibility of disputes for resolution by Arbitration, as defined in this article. It shall not include an individual grievance as defined by Virginia Code Section l5.2-1507(A)(l).

Lockout means any action taken by the Town 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 article or influencing their exclusive bargaining agents' positions in collective bargaining contract negotiations.

Managerial employee means any individual who:

(1) has responsibility for a unit or sub-unit of a division of an agency or department;

(2) participates in the formulation of policy;

(3) is significantly engaged in executive or management functions;

(4) is charged with the responsibility of directing the implementation of management policies, procedures, or practices; or

(5) is involved in administration of collective bargaining agreements or human resources or personnel decisions, including, but not limited to, staffing, reductions-in force/layoffs, reorganizations, hiring, discipline, evaluations, pay, assignments, transfers, promotions, or demotions.

Mediation means an effort by a neutral, third-party factfinder chosen under the terms of this article to assist confidentially in resolving an impasse, as defined in this section, arising in the course of collective bargaining between the Town and the exclusive bargaining agent of a bargaining unit.

Professional employee means an employee exempt from the Fair Labor Standards Act and whose primary duty is the performance of work:

(1) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or

(2) Requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

Seasonal employee means an employee who is hired into a position for which the customary annual employment is four (4) months or less and for which the period of employment begins each calendar year in approximately the same part of the year, such as summer or winter, for reasons related to work demands that arise during those parts of the year.

Supervisor means any individual who customarily and regularly devotes a majority of work time to supervision of two or more employees and has authority to hire, transfer, suspend, layoff, recall, promote, demote, discharge, reward, or discipline other employees, or adjust grievances, or effectively to recommend any such actions. With respect to the Police Department, "supervisor" includes all personnel at the rank of Lieutenant and above.

Strike means, in concerted action with two or more Town employees, an employee's refusal to report to duty or willful absence from their position, or stoppage of work, for the purpose of obstructing, impeding, or suspending any activity or operation of the Town (*see* Va. Code § 40.1-55) or inducing, influencing, or coercing a change in the conditions, compensation, rights, privileges, or obligations of Town employment.

Technical employee means an individual whose work requires a combination of basic scientific or technical knowledge and manual skill that can be obtained through specialized postsecondary school education or through equivalent on-the-job training.

Temporary employee means an individual who is employed for not more than 180 days in a 24-month period.

Sec. 54-165. - Authorized Subjects of Collective Bargaining.

The Town will bargain with an exclusive bargaining agent on behalf of the eligible bargaining unit on wages only, and on no other terms and conditions of employment. Nothing in this ordinance requires either party to make any concessions or agree to the other party's proposals in collective bargaining.

The following matters are authorized subjects of collective bargaining:

(1) Hourly wages and annual base salaries; and
(2) The advance pay program.

The following matters shall not be subject to negotiation:

(1) Leave;
(2) Scheduling of overtime or overtime premiums;
(3) Bonuses;
(4) Retirement benefits including the provider of the Town's existing retirement plan or any decision to replace any or all such plans with the retirement plan of the Virginia Retirement System;
(5) Any benefits established and administered in accordance with the Code of Virginia over which the Town does not have discretion or control;
(6) Health and dental insurance benefits including premiums, options, insurance plan providers, and employer subsidies for insurance provided to individuals who are neither active employees nor their covered dependents, including retirees and/or survivors; or
(7) Matters reserved as Town management rights as set forth herein.

Meet and Confer Obligation

The Town Manager or Town Manager's designee shall meet and confer with employees of the police department who are ineligible to bargain collectively (i.e., police supervisors and all civilian employees of the communications and dispatch center) regarding matters within the scope of collective bargaining as specified in this article with the specific intent to address salary compression, as commonly defined or understood. This obligation shall be continuing.

Sec. 54-166. - Bargaining Unit.

The Town shall recognize only the following bargaining unit for the purposes of collective bargaining:

Police: The police employees' bargaining unit shall consist of only sworn employees of the police department, except those excluded by definition in Section 54-164.

Sec. 54-167. - Employee Rights.

(a) Employees in the bargaining unit specified herein shall have the right to organize, form, join, assist, and pay dues or contributions to employee organizations, to bargain collectively through an exclusive bargaining representative 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 article or prohibited by any other applicable law. Employees shall also have the right to refrain from any or all such activities.

(b) A collectively bargained agreement provision that violates the rights of employees set forth in this section shall be void. A collectively bargained agreement provision that establishes a time period for the exercise of an employee right set forth in this section shall not violate this section. The Town and each employee organization will refrain from any intimidation, coercion, or harassment of employees who choose to exercise their rights under this article.

Sec. 54-168. - Town's Rights and Authority.

(a) This article shall not be deemed in any way to limit or diminish the authority of the Town to manage and direct the operations and activities of the Town to the extent authorized and permitted by law. Thus, to the extent not inconsistent with a collective bargaining agreement, the Town retains exclusive rights including, but not limited to, the rights:

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

(2) to determine the organization of Town 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 Town determines to be necessary and appropriate;

(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, classify, and schedule all employees and to suspend, demote, discharge, or take other disciplinary action against employees in accordance with applicable law and regulations;

(5) to relieve employees from duties by layoff or other reduction-in-force due to lack of work, changed working conditions/requirements, budget limitations or

for other reasons in the Town's reasonable business judgment and not prohibited by law;

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

(7) to contract for, procure, expand, reduce, sell, transfer, convey, eliminate, or change in any way the operations of 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 make and implement systems for awarding outstanding service increments, extraordinary performance awards, other merit awards, and recognizing employee recognition and service (including hiring and referral bonuses);

(10) to determine the kind, type, location and use of Town-owned equipment or facilities, provided that the Town does not require use or operation of unsafe equipment or the unsafe operation of equipment;

(11) to maintain the efficiency and integrity of the operations entrusted to the Town;

(12) to take whatever actions may be necessary to carry out the Town's mission during a state of emergency affecting the town or a declaration of a local emergency, as those terms are defined in Va. Code § 44-146.16, or during such other emergency operations as may be deemed necessary by the Town Manager or designee;

(13) to do all things reasonable and necessary to carry out the mission of the Town; and

(14) to retain the ability and authority to continue to implement the current administrative regulation in the management of probationary employees.

(b) In accordance with Virginia Code § 40.1-57.2 and other applicable law, nothing in this section, any provision of this article or the terms of any collective bargaining agreement shall impair or restrict the authority of the Town Council to establish its budget and appropriate funds in its discretion.

(c) No provision of this ordinance shall act to interfere with or impair the free speech and association rights of the Mayor, members of Town Council, Town Manager, and supervisors as defined in Section 54-164. No prohibited practice charge may be brought against the Mayor, Members of Town Council, Town Manager, or supervisor, because of the individual or collective exercise of the right to free

speech and association so long as such expression or speech contains no threat of reprisal or promise of benefit.

(d) This section does not limit the discretion of the Town to voluntarily discuss with an exclusive bargaining representative any matter concerning the Town's exercise of any right specified in this section. If any such matter is discussed, it does not become a subject of collective bargaining unless reduced to writing and signed by both parties.

Sec. 54-169. - Labor Relations Administrator.

(a) A labor relations administrator ("LRA" or the "administrator") shall be appointed by the Town Manager to effectively administer this article as it governs exclusive bargaining representative selection, certification and decertification procedures, labor-management disputes as defined in Section 54-164, and choice of mediator(s) and/or fact-finder(s) as needs arise under this article or under any collective bargaining agreement.

(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 interest of the Town or any employee organization, including an exclusive bargaining agent for a bargaining unit permitted under this article.

(c) Subject to confirmation by the Town Council, the Town Manager shall appoint the labor relations administrator who shall be selected for a 4-year term.

(d) The administrator's services shall be subject to termination with approval of the Town Council.

(e) If the administrator dies, resigns, becomes disabled, or otherwise becomes unable or ineligible to continue to serve within six (6) months of initial appointment,the Town Manager shall appoint a new administrator, subject to confirmation by the Town Council, to serve the remainder of the previous administrator's term.

(f) An administrator appointed under this section may be reappointed as provided in subsection (c).

(g) The terms of payment for the services of the administrator shall be paid as specified by contract with the Town.

(h) The administrator shall:

(1) hold and conduct elections for certification or decertification pursuant to the provisions of this article and issue the certification or decertification or cause these actions to occur;

(2) request from the Town or an employee organization, and the Town or such organization shall provide any relevant assistance, service, and data that will enable the administrator to properly carry out duties under this article;

(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 article;

(4) investigate and attempt to resolve or settle labor-management disputes, as defined in this article;

(5) determine unresolved issues of employee inclusion in or exclusion from the bargaining units permitted under this article;

(6) obtain any necessary support services and make necessary expenditures in the performance of duties, subject to appropriation;

(7) determine any issue regarding the negotiability of any collective bargaining proposal; and

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

Sec. 54-170. - Recognition of Exclusive Bargaining Agent.

A bargaining agent shall be the exclusive representative of all employees in an appropriate bargaining unit described in Section 54-166 if the employee organization is selected by a majority of the employees voting in an appropriate bargaining unit in an election conducted pursuant to this article and rules and procedures adopted by the LRA.

(a) In the event that more than one (1) employee organization files a request for recognition or for election within ten (10) calendar days after a first request for recognition or for election has been filed, an election to select an exclusive bargaining agent shall be held under the rules and procedures adopted by the LRA. If an employee organization receives a majority of the votes cast by the employees voting in an appropriate bargaining unit, it shall be recognized by the Town as the exclusive bargaining agent, provided , however, that the Town Manager or Town Manager's designee or an employee organization may file exceptions to the election with the LRA alleging that there has been misconduct which has affected the outcome of the election, and the Town need not recognize

the employee organization pending the resolution of any process to review those exceptions. Any cost of such election shall be shared equally by the parties involved.

(b) "Administratively acceptable evidence" to support a petition for certification within the meaning of Va. Code § 40.l -57.2(C), for certification by representation election (*see* Section 54-171) or for decertification (*see* Section 54-172) may consist of a combination of membership cards or a membership roster, evidence of dues payment, or other evidence of bargaining unit employees' desire to be represented by an employee organization for collective bargaining purposes. An authorization that satisfies the Uniform Electronic Transactions Act (Va. Code § 59.1-479 *et seq*.) including, without limitation, electronic authorizations and voice authorizations, shall be valid for employees' authorization for representation for purposes of a petition filed by a labor organization for exclusive representation. The determination by the LRA (or of the Town Manager or Town Manager's designee in the absence of the LRA) of the sufficiency of a showing of majority support or for a representation election shall not be subject to challenge by any person or employee organization or by the Town.

Sec. 54-171. - Request for Election.

(a) Once the LRA has been appointed, an employee organization may request an election be held by submitting a petition for an election to the LRA who shall notify the Town Manager pursuant to their rules and procedures. The petition must represent a showing of interest by at least thirty (30) percent of the employees in a bargaining unit permitted by this article.

(b) Any additional interested employee organization must submit a petition of intervention to the LRA, which must be accompanied by a showing of interest by thirty (30) percent of the employees in the appropriate bargaining unit within ten (10) days of notice of the pending election.

(c) An election under this article shall be held within forty-five (45) calendar days after written notice to all parties of the determination by the LRA of a valid petition for election in accordance with guidelines established by the LRA. If an employee organization receives a majority of the valid ballots cast by the employees in a permitted bargaining unit, it shall be recognized by the Town as the exclusive bargaining agent, provided unless and until the LRA certifies a different organization or otherwise decertifies the agent in accordance with rules set forth in this section. In an election in which none of the choices on the ballot receives a majority, a runoff election shall be conducted in which the ballot shall provide for a selection between the two choices or parties receiving the highest and second highest number of ballots cast in the election. However, the Town or the employee organization may file exceptions with the LRA in accordance with their rules, and the Town need not recognize the employee organization pending the resolution of any process to review those exceptions.

(d) Nothing in this article shall require or permit an election in any bargaining unit within twelve (12) months after a previous election has resulted in the recognition of an exclusive bargaining representative or a determination that the employees choose no representation in such bargaining unit.

(e) No party shall have an advantage over the other in gaining access to employees during organizational or representation campaign activity. Unless there is a recognized bargaining representative, interested employee organizations will receive the same access to bargaining unit employees as is currently provided to outside organizations under Town policies and practices for facility use and attendance at any meeting of such organizations under these circumstances is voluntary and open to all prospective bargaining unit employees.

Sec. 54-172. - Decertification/Withdrawal of Recognition.

(a) Recognition of an employee organization as the exclusive bargaining agent for a bargaining unit permitted by this chapter shall continue only so long as such organization satisfies the criteria of this chapter.

(b) If a petition for decertification of a recognized exclusive bargaining agent is presented to the LRA showing that at least thirty (30) percent of the employees in the bargaining unit no longer want the employee organization to be their bargaining agent, then the LRA shall hold an election pursuant to Section 54-171 of this chapter.

(c) A petition for decertification of a recognized exclusive collective bargaining agent in an appropriate unit may be filed in a thirty-day (30) period between the l80th and one 150th day prior to expiration of any existing collective bargaining agreement for that bargaining unit or any time after that collective bargaining agreement has expired.

(d) For a period of one (1) year following recognition or certification of an exclusive bargaining agent, no decertification petitions may be filed.

(e) The employee organization no longer shall be recognized as the exclusive bargaining agent of the employees in the bargaining unit if a majority of the employees in the appropriate bargaining unit vote in the decertification election to no longer be represented by the employee organization and a final outcome of that election has been certified by the LRA.

Sec. 54-173. - Rights Accompanying Exclusive Representation.

Any employee organization recognized as the bargaining agent for employees in an appropriate bargaining unit shall have the following rights:

(a) To speak on behalf of all members of the unit and shall be responsible for representing the interests of all members of the bargaining unit without discrimination and without regard to employee organization membership.

(b) To meet at reasonable times and places to engage in good faith collective bargaining on matters that, under this chapter, may be the subject of collective bargaining, in an effort to reach an agreement, subject to the tentative approval of the Town Manager or Town Manager's designee.

(c) To receive, upon request, quarterly a list of all bargaining unit employees unless any bargaining unit employees have affirmatively opted out of such disclosure in writing.

Sec. 54-174. - Good Faith Bargaining.

(a) A written request for bargaining must be submitted by the exclusive bargaining agent to the Town Manager or Town Manager's designee no later than June 1, and negotiations must conclude by October 15 of any year where an agreement is sought to be effective at the beginning of the next fiscal year, in order to accommodate the Town budget process. Failure of the parties to reach agreement by September 1 or such earlier time as the parties may agree in writing shall constitute impasse and trigger impasse resolution procedures under this chapter.

(b) Nothing in this chapter requires either party to make any concessions or agree to the other party's proposals.

(c) Good faith bargaining shall not include submission of or a response to a proposal that:

(1) Violates the rights of employees as set forth in this chapter; or

(2) Impairs, restricts, or delegates the authority of the Town as set forth in Section 54-168.

(d) The Town Manager shall designate or appoint the Town's representative(s) in collective bargaining negotiations in the Town Manager's sole discretion.

(e) If an employee organization serves as the exclusive representative of more than one bargaining unit, it shall consolidate its bargaining with the Town and negotiate a common master agreement on all matters not unique to particular bargaining unit.

Sec. 54-175. - Approval of Tentative Agreement.

(a) When an exclusive bargaining agent and the Town reach a tentative agreement, they shall reduce it to writing and execute it, signifying the approval of the

bargaining agent and the Town bargaining representative. No agreement shall be effective or enforceable:

(1) unless a fiscal impact statement of the tentative agreement provisions, conducted as bargaining proceeds, has been prepared by the Town Manager;

(2) the Town Council indicates its intention to fund the tentative agreement; and

(3) the tentative agreement is approved by:

a. The Town Manager or Town Manager's designee, as evidenced by signature, which may be an electronic signature made in accordance with applicable state law; and

b. The exclusive representative by ratification of the tentative agreement in accordance with the bargaining representative's governing procedures, and evidenced by the signature of an authorized agent which may be an electronic signature made in accordance with applicable state law.

(b) If the Town Council indicates its intention to reject any part of the tentative agreement, it shall designate a representative to meet with the parties and present the Town Council's views for the parties' further negotiations.

(c) A written agreement shall be contrary to public policy and therefore shall not bind the parties or be enforceable by either party to the extent that it is not the result of good faith bargaining as defined in Section 54-174.

Sec. 54-176. - Impasse.

(a) Mediation.

(1) In the event that the Town and the bargaining agent are unable to reach a collective bargaining agreement within 120 days after their first meeting or September 1, whichever is earlier, an impasse may be called by either party and resolution may be sought by submission of any unresolved issues for mediation by the LRA or a mediator selected through procedures established by the LRA. The parties shall jointly request mediation within five (5) days of a declared impasse. The LRA or other mediator shall set reasonable deadlines for all steps of the mediation process. Negotiations on all matters should continue throughout impasse procedures.

(2) The mediation process is advisory only, and the LRA or other mediator shall have no authority to bind either party.

(3) The mediation process and any comments, statements, or suggestions from the LRA or other 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. Communications between an exclusive bargaining representative and the employees that it represents regarding the mediation process shall not constitute public disclosure under this Section.

(4) The parties shall share the costs of mediation equally, except that neither party shall be responsible for costs of legal representation or expert witnesses engaged by the other.

(b) Fact-Finding: If the Town and exclusive bargaining agent are unable to reach agreement resolving impasse submitted to mediation as provided for in this article by any deadline set forth in procedures provided in this chapter or adopted by the LRA, the unresolved issues shall be submitted to fact-finding by a neutral fact-finder selected pursuant to procedures established by the LRA. The parties shall jointly provide to the fact-finder a memorandum of agreed issues that states all the terms and conditions on which they agree. On a date determined by the fact-finder, the parties shall simultaneously exchange final offers regarding all the proposed terms and conditions required for a final collective bargaining agreement. The fact-finder shall hold a hearing in order to define the areas in dispute and determine facts necessary to render a decision on any and all unresolved areas. Thereafter the fact-finder shall make written findings of fact and recommendations for resolution of all matters raised. The fact-finder will provide such findings and recommendations to the parties no later than twenty days before the deadline. The parties shall share the costs of fact-finding equally, except that neither party shall be responsible for costs of legal representation or expert witnesses engaged by the other. In making the findings under this subsection, the fact-finder shall consider the following factors:

(1) The lawful authority of the Town;

(2) The stipulations of the parties;

(3) The interests and welfare of the public;

(4) The financial ability of the Town to meet the financial obligations in the proposed collective bargaining agreement;

(5) The condition of the Town's general operating fund;

(6) The overall compensation presently received by the employees involved in the fact-finding;

(7) The average consumer prices for goods and services for the relevant geographical area;

(8) Comparison of wages, benefits, and working conditions of the employees involved in the fact-finding proceedings with the wages, benefits, and working conditions of other persons performing similar services in the public and private sectors, if applicable;

(9) Past collective bargaining agreements between the parties, including the past bargaining history that led to the agreements, or the pre-collective bargaining history of employee wages, benefits, and working conditions;

(10) Comparison of working conditions of other Town personnel;

(11) Changes in any of the foregoing circumstances during the pendency of the proceedings; and

(12) Such other factors that are normally or traditionally taken into consideration in the determination of wages through voluntary collective bargaining, mediation, arbitration, or otherwise between the parties, in the public sector.

The parties will discuss the fact-finder's recommendations, and each recommendation of the fact-finder shall be deemed approved by both parties unless specifically rejected by a party. A party may reject one or more findings of the fact-finder by providing written notice to the Town Council and the other party within ten (10) calendar days of the date the party received the factfinder's recommendation. The written notice must include a copy of the fact-finder's written findings of fact and recommendations, identification of the specific rejected issue(s), and statement of the party's cause for rejection. The Town Council shall convene a public hearing at which the parties shall both be required to explain their respective positions regarding any rejected recommendations of the fact-finder. In any such proceeding, the Town Council shall give deference to the fact-finder's factual findings, but is not bound by the fact-finder's recommendations. The Town Council shall then take the action it deems to be in the public interest in order to resolve all disputed issues from the fact-finder's recommendation. The action of the Town Council shall be final and shall be adopted by the parties as a part of the collective bargaining agreement.

The Town Council shall retain its legislative discretion with respect to action on any proposals submitted under this section.

Sec. 54-177. - Strikes and other Job Actions.

Pursuant to Virginia Code § 40.1-55, any employee of the Town or of any agency or authority of the Town 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 twelve (12) months by the Commonwealth of Virginia

or any county, city, town or political subdivision of the Commonwealth or any department of any such public entities. The Town agrees that no lockout shall take place.

Sec. 54-178. - Prohibited Practices.

Neither the Town nor any exclusive bargaining agent shall refuse to negotiate in good faith with respect to matters within the scope of collective bargaining as defined in Section 54-165.

(a) The Town and its agents shall not:

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

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

(3) Discriminate in hiring, tenure, or other terms and conditions of employment against any employee to encourage or discourage membership in any employee organization, committee, or association, or because an employee has formed, joined, supported, or chosen to be represented by any exclusive bargaining agent or exercised their right to refrain from any or all such activities;

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

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

(6) Refuse to participate in good faith in any agreed-upon impasse resolution procedures or those set forth in this article; 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 article, have been met.

(b) No employee organization or its agents shall:

(1) Interfere with, restrain, or coerce any employee with respect to rights granted in this article; including but not limited to their rights with respect to selecting or refraining from selecting an exclusive representative;

(2) 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;

(3) Refuse to bargain collectively with the Town as provided in this article; or

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

(c) Prohibited practice charge procedures:

(1) Proceedings against a party alleging a violation of this Section shall be commenced by filing a charge with the LRA within 120 days of the alleged violation, or acquiring knowledge thereof, and causing a copy of the charge to be served upon the accused party in the manner of an original notice as provided in Section 54-180. The accused party shall have ten (10) days within which to file a written answer to the charge. The LRA may conduct a preliminary investigation of the alleged violation, and if the LRA determines that the charge has no legal or factual basis, they may dismiss the charge. If the charge is not dismissed, the LRA shall promptly thereafter set a time and place for a hearing. The parties shall be permitted to be represented by counsel or other designated representative, summon witnesses, and request the LRA 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.

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

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

(4) The LRA shall file their findings of fact and conclusions. If the LRA finds that the party accused has violated any provision of this section, the LRA 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. Under the provisions for court review of arbitration awards set forth in the Uniform Arbitration Act (Va. Code § 8.01-581.01 *et seq*.), the LRA may petition the circuit court for enforcement of an order made under this section.

(5) Any party aggrieved by any decision or order of the LRA may within 21 days from the date such decision or order is filed, appeal to the circuit court to obtain judicial review pursuant to the provisions for judicial review set forth in the Uniform Arbitration Act, Va. Code § 8.01-581.01 *et seq.*

Sec. 54-179. - Time Limits.

Any time limits in this article may be extended by written agreement of the Town, the employee organization, and any other appropriate parties.

Sec. 54-180. - Notices.

Any notice required under the provisions of this chapter shall be in writing, but service of any such notice shall be sufficient if mailed by certified mail, return receipt requested, addressed to the last known address of the parties, unless otherwise provided in this article or by the rules of the LRA, which rules shall provide for the electronic service of documents. Refusal of certified mail by any party shall be considered service. Prescribed time periods shall commence from the date of the receipt of the notice.

Sec. 54-181. - Ground Rules.

Prior to the start of negotiations, the parties will establish ground rules that include terms related to the following:

(a) Scheduling of negotiations;
(b) Use of leave for employee bargaining team to participate in bargaining sessions; and
(c) Confidentiality of negotiations and proposals.

Sec. 54-182. - Sunset Provision.

Unless earlier amended, rescinded, or preempted, this chapter shall expire on August 12, 2031.

2. This ordinance shall be effective on and after the date of its adoption.

A Copy – Teste:

Margie C. Tacci
Deputy Town Clerk

TOWN OF HERNDON, VIRGINIA 1879

MOTION: **del Aguila**
SECOND: **Garcia**
RE: **Ordinance 26-O-20**
ACTION: **Adopted**

Votes
Ayes: del Aguila, Garcia, Hedrick, Lloyd, Reyes, Mayor LeBlanc
Nays: None
Absent from Vote: Alam
Absent from Meeting: Alam