

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 62 and §§ 63, 64, and 114, as severally amended, of Chapter 34 of the Acts of*  
 3 *Assembly of 1918, which provided a charter for the City of Norfolk, relating to division of fire; classified*  
 4 *service.*

5 [H 1696]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That § 62 and §§ 63, 64, and 114, as severally amended, of Chapter 34 of the Acts of Assembly of**  
 9 **1918 are amended and reenacted as follows:**

## 10 § 62. Division of fire.

11 The fire force shall be composed of a chief, *deputy chief*, and of such other officers, firemen and  
 12 employees as the city manager may determine. The fire chief shall have immediate direction and control of  
 13 the said force, subject, however, to the supervision of the director of public safety, and to such rules and  
 14 regulations and orders as the said director may prescribe, and through the fire chief the director of public  
 15 safety shall promulgate all orders, rules and regulations for the government of the whole force.

16 The members of the fire force other than the chief *and deputy chief* shall be appointed from the list of  
 17 eligibles prepared by the civil service commission and in accordance with such rules and regulations as may  
 18 be prescribed by the said commission; provided, however, that in case of riot, conflagration or emergency,  
 19 the director of public safety may appoint additional firemen and officers for temporary service who need not  
 20 be in the classified service.

21 The chief of the fire department and his assistants are authorized to exercise the powers of police officers  
 22 while going to, attending or returning from any fire or alarm of fire. The fire chief and each of his assistants  
 23 shall have issued to him a warrant of appointment signed by the director of public safety, in which the date of  
 24 his appointment shall be stated, and such warrant shall be his commission. The director of public safety shall  
 25 prescribe the uniform and badges for the members of the fire force.

26 Whenever any building in said city shall be on fire it shall be lawful for the chief of the fire department to  
 27 order and direct such building or any other building which he may deem hazardous and likely to  
 28 communicate fire to other buildings, or any part of such buildings, to be pulled down or destroyed; and no  
 29 action shall be maintained against said chief or any person acting under his authority or against the city  
 30 therefor. But any person interested in the property so destroyed may within one year thereafter apply in  
 31 writing to the council to assess and pay the damages he has sustained. The council may thereupon pay to the  
 32 claimant such sum as may be agreed upon between him and the council. If no agreement be effected, such  
 33 claimant may give to the city attorney of said city ten days' written notice of his intention to apply to the  
 34 corporation court of said city for the appointment of commissioners to ascertain and assess his said damage.  
 35 Upon its appearing that such notice has been given, the corporation court of said city shall appoint five  
 36 disinterested freeholders, residents of said city, any three or more of whom may act, for the purpose of  
 37 ascertaining and assessing the amount of such damages. Thereupon the said commissioners shall proceed to  
 38 ascertain and assess the amount of such damages in the same manner as is now or may hereafter be provided  
 39 by law in the case of taking private property for public use, and the procedure upon the filing of the report of  
 40 said commissioners shall conform as nearly as may be to the procedure under the statutes of Virginia relating  
 41 to eminent domain.

## 42 § 63. Supervision in divisions of fire and police.

43 The chief of police and the fire chief, with the approval of the director of public safety, except as  
 44 hereinafter provided, shall have the right and power to reprimand, or to suspend, for a given number of days  
 45 or indefinitely, any of the sworn officers and sworn employees in their respective divisions who may be  
 46 under their management and control, for incompetence, neglect of duty, immorality, drunkenness, failure to  
 47 obey orders given by proper authority, or for any other just and reasonable cause. This section does not apply  
 48 to the deputy chief of police *or the deputy fire chief*, who, like the chief of police and the fire chief, *is are*  
 49 appointed by and ~~serves~~ *serve* at the will of the city manager. If any such officer or employee be suspended  
 50 for more than ten days or be suspended indefinitely, the chief of the division concerned shall forthwith certify  
 51 in writing the fact, together with the cause for such suspension, to the trial board hereinafter provided for, and  
 52 a copy of such certificate of suspension, and the cause therefor, shall be promptly served on such officer or  
 53 employee, which service may be by an officer of his division or in the manner prescribed by law for the  
 54 service of civil process.

55 Any such officer or employee so suspended may, within ten days after he shall have been so served with  
 56 such certificate of suspension and the cause therefor, file with said trial board a written request for a hearing

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57 upon the accusations so made against him, whereupon said trial board shall, after not less than five days'  
 58 written notice to such officer or employee, and to the chief of the division by whom he has been suspended,  
 59 hold and conduct a hearing, which shall be open to the public, upon such accusations, at a time and place to  
 60 be specified in such notice, and may render judgment thereon. Such judgment, in the event said accusations  
 61 or any of them are, in the opinion of said trial board, sustained, may be a reprimand, extra duty without extra  
 62 compensation, suspension for a fixed time, reduction in rank, or dismissal, as to said trial board may seem  
 63 proper, which judgment shall be final.

64 Whenever the judgment of the said trial board is that the accusations were not sustained, it may order the  
 65 reinstatement of such officer or employee in the office or position from which he was suspended. Such order  
 66 of reinstatement may, in the discretion of said trial board, be retroactive and provide that such officer or  
 67 employee shall be entitled to compensation for all or part of the time he was so suspended.

68 In the event any such officer or employee who is suspended for more than ten days or suspended  
 69 indefinitely shall not file with said trial board a written demand for a hearing as hereinabove provided, the  
 70 suspension of such officer or employee shall become final, and if the suspension be for an indefinite period,  
 71 such officer or employee may be discharged by the city manager without a hearing.

72 The trial board above referred to shall be known as the Norfolk Police-Fire Trial Board, and the members  
 73 thereof shall be appointed by the council. It shall consist of not less than three nor more than five members, in  
 74 the discretion of the council, who shall be qualified voters residing in the city, none of whom shall be in any  
 75 way connected with any other city office. The first appointment of the members of the said trial board shall  
 76 be for a term of one year commencing July 1, 1950, and all subsequent appointments shall be for consecutive  
 77 terms of one year. Any member may be appointed for a consecutive term or terms, and any vacancy shall be  
 78 filled by appointment by the council for the remainder of the unexpired term. The judgment of a majority of  
 79 the members appointed on said trial board shall control. The members shall receive such compensation as  
 80 may be provided by council. Each member shall, before entering upon the duties of his office, take and  
 81 subscribe the oaths provided by § 133 of this Charter for city officers.

82 The council shall designate one member of said trial board as chairman thereof. The chairman shall have  
 83 the power to subpoena witnesses, administer oaths and compel the production of any books and papers in  
 84 connection with any hearing held hereunder by said trial board. Any person refusing or failing to appear and  
 85 testify or to produce such books and papers, or who shall testify falsely under oath at any hearing held by said  
 86 trial board, may be proceeded against in the same manner and shall be subject to the same penalties as  
 87 provided by § 51 of this Charter relating to investigations as to city affairs.

88 The council shall also designate one member of said trial board as vice-chairman thereof to act in the  
 89 absence, disability or inability to act of the chairman, and when so acting, the said vice-chairman shall have  
 90 all the powers herein conferred upon the chairman.

91 Any such officer or employee against whom accusations are so filed shall have the right to be represented  
 92 by counsel at any hearing before said trial board. All notices required to be given the trial board may be given  
 93 to the chairman thereof, or in his absence, to the vice-chairman.

94 § 64. Suspension and dismissal of the chief of police, deputy chief of police, ~~and~~ fire chief, *and deputy*  
 95 *fire chief*.

96 The city manager shall have the power to suspend or dismiss the chief of police, the deputy chief of  
 97 police, ~~and~~ the fire chief, *and the deputy fire chief* at any time, and his action in every such case shall be final;  
 98 provided that in the event the chief of police, the deputy chief of police, ~~or~~ the fire chief, *or the deputy fire*  
 99 *chief* was appointed to such position from the membership of his respective division, he shall, at the time of  
 100 any such suspension or dismissal, or at any time prior thereto, at his request, be restored to the rank he held in  
 101 the classified service in such division at the time of his appointment as such chief or deputy chief, without  
 102 being required to take any examination, subject, however, to the provisions of § 63 of this Charter.

103 § 114. Officers exempted from classified service.

104 Officers who are elected by the people or who are elected or confirmed by the council, pursuant to this  
 105 charter, members of the school board, the teachers in the public schools and all other persons employed by  
 106 said school board, heads of the administrative departments of the city, the deputy chief of police, *the deputy*  
 107 *fire chief*, assistant city managers, employees who report directly to and whose positions require the personal  
 108 trust and confidence of the city manager, employees, regardless of their positions, hired and permanently  
 109 assigned to work for and under the supervision of the constitutional officers of the city or of the circuit court  
 110 judges of the city, assistant heads of administrative departments, and heads or chiefs of bureaus and divisions  
 111 within said departments, but not including such positions within the departments of fire and police other than  
 112 ~~that~~ *those* of the deputy chief of police *and the deputy fire chief*, members of the law department and civil  
 113 service examiners, shall not be included in such classified service; provided, however, that the council may  
 114 by ordinance provide that the health officer of said city and such of his trained medical assistants as may be  
 115 required to give full time to the duties of their positions shall be included in the classified service.