

Ordinance No. 659

AN ORDINANCE to amend the Code of the City of Alexandria, Virginia enacted as a whole July 2, 1940 and made effective August 5, 1940, by adding a new chapter thereto Numbered Chapter XXX-A, which chapter provides for the creation of a trial board, sets out the functions, powers and duties of said board, and prescribes the manner and method of hearings before said board.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

1. That the Code of the City of Alexandria, Virginia enacted as a whole July 2, 1940 and made effective August 5, 1940, be and the same hereby is amended by adding a new Chapter XXX-A to read as follows:

CHAPTER XXX-A

TRIAL BOARD OF THE CITY OF ALEXANDRIA

A. Creation and Composition of Trial Board.

The City Council shall create a trial board to be known as TRIAL BOARD OF THE CITY OF ALEXANDRIA. The board shall be composed of five members, residents of the city, to be selected by the council. One of the members of such board shall be an attorney at law who is a member of the Alexandria Bar Association and actually engaged in the practice of law in the city; one of the members shall be a practicing physician; one of the members shall be a clergyman having a congregation within the city; the other two members shall be taxpayers but they shall hold no public position or be employed in any public capacity in the city. The members of the board shall serve without compensation. The members of the board shall be elected by the council for a term of one year and thereafter shall be annually elected by such council. Vacancies may be filled by the council for the unexpired term.

Whenever an employee is being tried by such board, the Head of the Department in which the employee works shall sit with the Trial Board in an advisory capacity when the evidence is heard and shall participate in the deliberations of said board, but he shall have no vote in its decisions. Should the Head of the Department be on trial then the City Manager shall sit with the board in an advisory capacity. Also in the event the Head of the Department is the Complainant in any case then the person next in charge of that department, who is not an accused or a witness, shall sit with the board in an advisory capacity.

B. Duty of Trial Board.

It shall be the duty of the board to investigate, hear and determine any and all charges presented from any source whatsoever against police, firemen, or other city employees.

C. Place of Hearings.

The hearing shall be held at a place, time, and date to be designated by the board and shall be open to the public.

D. Attorneys.

In all cases the City Attorney shall act as prosecuting officer before the board. The defendant shall have the right to employ counsel of his own choosing, if he so desires, or to represent himself.

E. Request for Hearing.

Any person desiring a hearing before the board shall be entitled to one provided that person files a request in writing to the board within ten (10) days after the person is presented with any charge.

F. Manner of Conducting Hearings.

The legal member of the board shall be its chairman to preside at all hearings and to conduct the same in an orderly, legal and impartial manner. The Board shall not be bound by the rules of evidence prevailing in the courts of the Commonwealth of Virginia but shall be guided as far as practicable by the generally accepted fundamental rules of order usually customary in the government and conduct of committees and boards, and a trial shall be conducted with freedom from unnecessary technical rules of evidence. The testimony given before the trial board and all proceedings pertaining to the trial shall be taken verbatim by a stenographer and transcribed and made a part of the records to be kept by the trial board. In the conduct of any hearing before the board members of the board may also examine and cross-examine the witnesses as far as necessary to permit the disclosure of all the facts pertaining to the case.

After the taking of testimony is concluded all persons will be excused from further attendance and the trial board will go into executive session for the purpose of deliberation and discussion upon all the evidence; and after a reasonable period of such deliberation, the chairman of the board shall order a vote taken by secret ballot indicating the conclusion of each member of the board as to the guilt or innocence of the accused. If the verdict in either case is not unanimous, further deliberation will be ordered followed by a second ballot, the result of which will be considered the finding or judgment of the trial board, and the conclusions indicated by a majority of the ballots cast will constitute the verdict. The verdict of the board, whether it be "guilty" or "not guilty" shall be made a part of the transcript and the result forwarded at once to the City Manager and the Department Head of the employee being tried. If any accused having been duly notified to appear for trial fails to appear and does not present a sufficient excuse, a plea of "not guilty" shall be entered on his behalf and the trial board shall proceed summarily to hear the evidence and render such verdict as the facts disclosed may warrant. No accused employee shall be tried at the same time with another accused employee, unless for concert of action in the same offense.

G. Findings of the Board.

The Trial Board shall in each case announce a finding of either "guilty" or "not guilty". The board shall not be concerned with the punishment or disciplinary action to be imposed upon any person found guilty and that action shall be left to the Department Head, City Manager, or City Council as the case may be according to law.

H. Appeal.

No appeal shall lie from the decision of the Trial Board.

2. That this ordinance shall be published in the Alexandria Gazette not later than two days following its introduction together with a notice containing the time and place for a public hearing. The clerk of the council shall note the date of introduction and first reading, the date of publication, the date of the public hearing, and the date of the second reading and final passage in the minutes of the meeting. This ordinance shall become effective the date of its final passage.

FRANKLIN P. BACKUS,
Mayor.

Published: Sept. 21, 1950.

Final Passage: Sept. 26, 1950.