

IN RE: CITY OF THE FOURTH CLASS CANNOT PROVIDE BY ORDINANCE
FOR APPOINTMENT OF CITY POLICE JUDGE.

194-1447 RS No 1933

Anderson

August 7, 1933.

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Hon. Joseph Babka
Assistant Prosecuting Attorney
St. Louis County
Clayton, Missouri

Dear Sir:

Your letter of August 1 requesting an opinion from this office reads as follows:

"Sometime ago, the City of Valley Park passed an ordinance making the office of Police Judge an appointive office. The City of Valley Park is a 4th class city and the question is whether said office of Police Judge can be made appointive.

"I would appreciate an early reply as to the legality of such appointment."

Section 6972 R. S. Mo. 1929 provides as follows:

"The Mayor and Board of Aldermen of cities of the 4th class, may, by ordinance, provide for the election of police judges in such cities who shall be elected at the regular city elections * * * ."

Section 6960 R. S. Mo. 1929 provides as follows:

"The Mayor with the consent and approval of the majority of the members of the Board of Aldermen shall have power to appoint a Treasurer, City Attorney, City Assessor, Street Commissioner and night watchmen and such other officers as he may be authorized to appoint. ?
* * * "

Aug. 7, 1933.

A city of the 4th class can exercise only such powers as are granted in express words to it by the statutes or those necessarily incident to or implied in by the powers expressly granted.

City of Richmond v. Null, 194 M. A. 176.

The section 6973, above quoted, is the authority given cities of the fourth class to have a Police Judge and the method of naming same is pointed out in said section; and it is provided that the Police Judge shall be elected.

The method provided by law for either appointment or election to a city office must be followed. An appointment to a city office is not an election.

McQuillin "Municipal Corporations" (3d) Vol.
II, Sec. 471, p. 107;
State v. Bowman, 184 Mo. App. 549 - 180 S. W.
700.

It is the opinion of this department that a fourth class city cannot by city ordinance make the office of Police Judge an appointive office. The provisions of Section 6960 R. S. No. 1929 do not apply to the office of Police Judge.

Respectfully submitted,

APPROVED:

EDWARD G. CROW
Assistant Attorney General.

ROY McKITTRICK
Attorney General.

EOG/AJ