

## CHAPTER 439

## BOARD OF FIRE AND POLICE COMMISSIONERS

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**439.01 BOARD CREATED.** In each city of the second class in the state there hereby is created and established a board of fire and police commissioners which shall have the control and management of the fire and police departments of the city with the powers and duties hereinafter designated.

For the purposes of this chapter the population of each city of this state shall be ascertained and determined according to the last census taken under and pursuant to the laws and authority of the state.

[1915 c. 125 s. 1]

**439.02 APPOINTMENT.** All authority under this chapter in each city of the second class shall be exercised by a board of five commissioners, to be known and designated as the Board of Fire and Police Commissioners, who shall be appointed by the mayor of the city, and whose terms of office shall be as hereinafter designated.

[1915 c. 125 s. 2]

**439.03 TERMS.** It is hereby made the duty of the mayor to appoint, within 15 days after the approval of this chapter; five persons, residents and taxpayers of the city, as commissioners, one of whom shall be appointed to serve a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. The five persons so appointed shall constitute the first board of fire and police commissioners for the city and each shall hold office until his successor has been appointed and has qualified.

The terms of office of these commissioners shall commence on the first Monday in May, 1915, and on that day they shall enter upon the performance of their duties and assume the control and management of the fire and police departments of the city in which they have been so appointed.

The mayor shall annually thereafter on the last Monday in March appoint one person, resident and taxpayer of the city, as a member of the board and as the successor of the commissioner whose term of office expires in that year, to serve for a term of five years from the first Monday in May of the year in which he is appointed and until his successor is appointed and qualified.

[1915 c. 125 ss. 3, 4]

**439.04 APPROVAL OF APPOINTMENTS; VACANCIES.** All such appointments shall be subject to the approval of the council before the same become effective. All appointments made under the provisions of this chapter, including the filling of vacancies, shall be so made that not more than one of these commissioners shall be appointed from the same ward in cities having five or more wards, and in cities having less than five wards at least one of the commissioners shall be appointed from each ward.

All vacancies by resignation or otherwise shall be filled by appointment by the mayor, subject to the approval of the council.

The mayor may remove any of the commissioners for misconduct, incompetency, or neglect of duty, after a reasonable opportunity shall be given him to be heard upon written charges.

Each member of the board, before entering upon the discharge of his duties, shall take and subscribe the usual oath of office and file the same with the city

recorder, together with a written acceptance of his appointment. All appointments made by the mayor shall be in writing and filed with the city recorder.

[1915 c. 125 s. 5]

**439.05 MEETINGS; EXPENSES.** The annual meeting of this board shall be held on the first Tuesday in May. At this meeting the board shall elect one of their number to president of the board and another to be vice-president. The board may make rules for its government not inconsistent herewith. A majority of the board shall constitute a quorum.

All contracts, engagements, acts, and doings of the board within the scope of its authority shall be obligatory and binding upon the city.

The members of the board shall receive no compensation for their services, but shall be allowed their reasonable official expenses, except that traveling expenses outside the city shall not be allowed any such members unless authority to incur such expenses be granted by the board and approved in writing by the mayor before these expenses are incurred.

[1915 c. 125 s. 6]

**439.06 OFFICERS.** The city recorder or clerk shall act as secretary of the board and execute and file with the board a bond in such penal sum and containing such conditions and with such sureties as the board may prescribe and approve.

The city treasurer is hereby declared to be ex officio treasurer of the board. The city attorney shall be the legal adviser of the board.

[1915 c. 125 s. 7]

**439.07 DUTIES OF SECRETARY; REPORTS OF BOARD.** It shall be the duty of the secretary under the direction of the board to collect, receive, and pay into the city treasury all moneys due the board on account of the operation of these departments. He shall keep a set of books which at all times shall contain a full and complete statement of the condition, operation, and expenditures of each department and of all moneys received and paid out by order of the board in each of these departments, together with an accurate account of all the expenses and liabilities of the board in each department. The books of the board shall be open at all times to the examination of any taxpayer of the city, and to any member or committee of the council.

On the first day of each month the board shall make a full report in detail to the council of all moneys received and expended and liabilities incurred by the board. When requested by the council so to do the board shall transmit to it a concise statement of the financial condition of these departments.

[1915 c. 125 s. 8]

**439.08 DUTIES OF TREASURER.** The city treasurer shall receive all moneys paid into the city treasury on account of the board or appropriated for the use of the board from all sources and place the same in a separate fund therefor to be designated as the fire and police fund, which fund is hereby created. The treasurer shall keep a detailed and exact account thereof in such manner as to show the exact financial condition of the board at all times.

[1915 c. 125 s. 9]

**439.09 BOARD TO SUE AND BE SUED.** The board may sue or be sued, appear and prosecute to final judgment and defend in any court in the name of the board, any action at law or suit in equity. The board may prosecute an action in the name of the board against any person for the breach of any contract with the board and for injury done or caused to any of the property, real or personal, belonging to the city and used in the fire or police departments, or under the control of the board.

[1915 c. 125 s. 10]

**439.10 EXPENSES OF OPERATION OF POLICE AND FIRE DEPARTMENT.** The board shall keep an accurate and detailed record and account of the current expense of operating, maintaining, and improving the fire and police departments and such other accounts as may be necessary to show the true financial condition of each of these departments and all property belonging thereto.

[1915 c. 125 s. 11]

**439.11 ESTIMATE OF MAINTENANCE; REVIEW BY BOARD.** On or before the second Monday in August each year the secretary of the board shall present to it an estimate of the several amounts required during the next ensuing fiscal year for the operation, maintenance, and improvement of each of the departments under its control. The board shall consider the same and make such corrections or changes therein as may be deemed necessary and approve and establish the same on or

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before the last Monday in August. A duplicate of this estimate, when so approved and established, shall be certified by the president and secretary of the board and transmitted to and filed with the city recorder on or before the last Monday in August of each year. The city recorder shall include the amounts so established by the board in his estimate to the council of the several sums which will be required to meet the expenses of the city during the next ensuing fiscal year. The council may change or correct such estimates and shall then establish the same in the tax levy for such year.

[1915 c. 125 s. 12]

**439.12 TRANSFER OF FUNDS.** It shall be the duty of the city treasurer immediately after this chapter takes effect and the board is organized, to transfer to the fire and police fund created by this chapter all moneys then in the treasury for the use of the fire and police departments; and to place in the fund all moneys thereafter paid into the city treasury for the use of these departments.

The council may, at any time it may deem it advisable, transfer from the general fund to the fire and police fund any money then in the general fund not otherwise required for the specific purpose for which it was levied.

[1915 c. 125 s. 13]

**439.13 PAYMENTS, HOW MADE.** No money shall be paid out of the fire and police fund in the city treasury belonging to the board, unless the payment is authorized by the affirmative vote of a majority of all the members of the board, and then only by order drawn by the secretary of the board, signed by the president, or in his absence the vice-president, and countersigned by the secretary, specifying the purpose, the department for which the account upon which it is drawn, and made payable to the order of the person in whose favor it is issued. Orders in the form above prescribed may be issued at the proper times without specific action by the board for the payment of salaries or wages previously fixed and determined by the board and made payable at certain definite times and in certain definite instalments.

[1915 c. 125 s. 14]

**439.14 EXPENSES LIMITED TO FISCAL APPROPRIATIONS.** In all appropriations or purchases made and liabilities incurred, the board shall not exceed in any fiscal year the amount of the estimate made therefor as established by the council, in addition to such sums as the council may transfer to the fire and police fund, as provided in section 439.12, and no loans shall be made by the board for any purpose, except when extraordinary expenditure shall be rendered unavoidable by some unforeseen cause and such expenditure has been approved by the majority vote of the council.

[1915 c. 125 s. 15]

**439.15 CONTRACTS FOR PURCHASE OF PROPERTY.** Every contract for the purchase of property to be used in these departments, which shall involve the expenditure of \$200.00 or more, shall be in writing and filed with the secretary of the board. In making purchases for either of these departments involving an expenditure of more than \$500.00, bids shall be solicited and the purchase made from the lowest responsible bidder, after notice soliciting bids shall have been published in the official newspaper of the city in at least two separate issues thereof, but the board shall have the right to reject any and all bids. In case there shall be any sudden or extraordinary injury to any of the property of the city used in either of these departments, and damage or loss may ensue by reason of delay in replacing or repairing such property, the board may cause such damage to be repaired or such property to be replaced without a contract and without letting the same to the lowest bidder, in such manner as the board may deem best for the interest of the city, provided, that its action shall be approved by a majority vote of the council.

[1915 c. 125 s. 16]

**439.16 RULES ADOPTED.** The board shall adopt rules for the government of each of these departments and appoint, promote, suspend, disrate, or discharge any member of the police or fire department, including all superior officers in each, in the manner provided by these rules. By these rules it shall define the duties and powers and fix the compensation of all persons serving in these departments, and may amend such rules and prescribe penalties for their violation. Such rules shall provide for the examination of all applicants for permanent positions, which shall be practical in their nature, public, and free to all persons desiring to take them. The selection, promotion, and term of employment of all persons regularly

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serving or to serve in these departments shall be governed by the merit system, subject to reasonable limitations as to age, health, habits, and character of such persons, but wholly without reference to their political affiliations. The board shall have power to appoint and remove special police officers to serve without pay from the city and to be subject to such rules as the board may prescribe.

All rules established by the board shall be changed only by an affirmative vote of four-fifths of all the members of the board.

The rules and regulations of any city of the second class governing the management and control of these departments shall remain in force until superseded by rules adopted by the board.

[1915 c. 125 s. 17]

**439.17 INVESTIGATIONS; POWERS.** The board shall have power to summon and compel the attendance of witnesses, to examine them under oath and to require the production of documentary evidence for use at any investigation or hearing had by the board in relation to the management of these departments or the control of the persons serving therein. Each member of the board shall have power to administer oaths to witnesses at such hearings.

[1915 c. 125 s. 18]

**439.18 PROPERTY TO BE OBTAINED FOR CONDUCT OF DEPARTMENTS.** The board shall have power to buy, lease, sell, maintain, and manage real and personal property for the use of these departments, but no purchase or sale of real property shall be made, unless authorized by a majority vote of the council. It may establish, maintain, and equip fire and police stations and substations and police precincts, electrical alarm and signal systems, and shall license and revoke licenses for junk dealers and pawnbrokers in accordance with such ordinances as the council may adopt on the subject of such licenses.

All receipts from the sale of property and from licenses shall be deposited with the city treasurer to the credit of the general fund of the city.

[1915 c. 125 s. 19]