

ORDINANCE No. 189292

*Amend Police Review Board Code to implement a tentative agreement negotiated with the Portland Police Association to modify the stipulated discipline provisions. (Ordinance; amend Code Section 3.20.140)

The City of Portland ordains:

Section 1. The Council finds:

1. On August 24, 2017, by Ordinance No. 188570, City Council approved amendments to the Settlement Agreement (Settlement Agreement) between the United States and the City of Portland in United States District Court Case No. 3:12-cv-02265-SI.
2. On April 19, 2018, pursuant to stipulation and joint motion of the parties and enhanced amicus, the Albina Ministerial Alliance Coalition for Justice and Police Reform (AMAC), the District Court, at a status conference and fairness hearing held before United States District Court Judge Michael Simon, approved certain amendments to the Settlement Agreement, including an amendment to authorize a stipulated discipline process for Portland Police Bureau members under certain limited conditions and subject to approval in each case by the Police Chief and the Commissioner in Charge of the Police Bureau.
3. The Amended Settlement Agreement, at paragraph 131(d), authorized a process by which a PPB member may elect, in certain types of cases, to accept the investigative findings and recommended discipline following a full investigation of the alleged misconduct, issuance of the investigative findings, and concurrence with the findings by the Independent Police Review, the Professional Standards Division and the member's Branch Chief.
4. The process approved by Council and the Court excludes certain types of cases from consideration for stipulated discipline. The following categories of cases are not eligible for stipulated discipline: Cases involving alleged use of excessive force; cases involving alleged discrimination, disparate treatment or retaliation; reviews of officer involved shootings and in-custody deaths; and cases in which either the Police Chief or the Commissioner in Charge does not agree to accept the member's proposed stipulation to findings and recommended discipline.
5. The stipulated discipline process approved by Council and the Court provided that the scope of cases eligible for discipline "shall be identified in the authorizing code...."
6. On September 5, 2018, by Ordinance No. 189159, as amended, City Council approved changes, with amendments, to Portland City Code Section 3.20.140 to authorize the stipulated discipline process for Police Bureau members.
7. The Portland Police Association objected to the approved amendments to Ordinance No. 189159, and threatened to file an unfair labor practice complaint, on the ground that the

City allegedly violated a duty to bargain with the Association before approving the amendments.

8. The City negotiated with the Association over the amendments and reached a tentative agreement with the Association, subject to approval by Council, to accept the amendments to Ordinance No. 189159 with the exception of the amendments to subsection J.2.e. which currently provides:

“e. With the exception of the categories of cases listed in Subsection 3.20.140 J.1., the categories or types of cases from the Police Bureau Discipline Guide eligible for stipulated discipline may be expanded upon mutual agreement of the Chief, bargaining unit representatives, and City Council.”

9. Pursuant to the tentative agreement reached with the Association, subsection J.2.e. would be removed in its entirety, but all other provisions of subsection J.2., as adopted by Council pursuant to Ordinance 189159, as amended, would remain in effect.
10. To implement the terms of the tentative agreement and to resolve a potential unfair labor practice complaint by the Association, a change to Portland City Code Section 3.20.140 to delete Portland City Code Section 3.20.140 J.2.e is required.


NOW, THEREFORE, the Council directs:

- a. Portland City Code Section 3.20.140 is amended as set forth in Exhibit A.

Section 2. The Council declares an emergency exists because it is in the public benefit to implement the approved stipulated discipline process as soon as possible; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

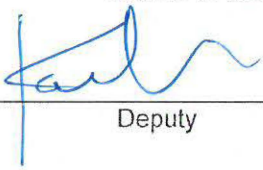
Passed by the Council: DEC 12 2018

Mayor Wheeler
Prepared by: Mark Amberg
Date Prepared: December 4, 2018

Mary Hull Caballero
Auditor of the City of Portland
By 

Deputy

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INTRODUCED BY Commissioner/Auditor: Mayor Ted Wheeler	CLERK USE: DATE FILED DEC 04 2018
COMMISSIONER APPROVAL Mayor—Finance & Administration – Wheeler MP Position 1/Utilities – Fritz Position 2/Works – Fish Position 3/Affairs – Saltzman Position 4/Safety – Eudaly	Mary Hull Caballero Auditor of the City of Portland By:  Deputy
BUREAU APPROVAL Bureau: Mayor's Office Bureau Head: Ted Wheeler Prepared by: Mark Amberg Date Prepared: December 4, 2018 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> City Auditor Office Approval: required for Code Ordinances TAAP City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan MA Council Meeting Date 12/12/18	ACTION TAKEN:

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion) CONSENT <input type="checkbox"/> REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 20 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Eudaly	4. Eudaly	✓	
Wheeler	Wheeler	✓	