

RESOLUTION No. 37312

Authorize appeal of State Building Code Division determination that City sprinkler ordinance violates Building Code preemption In the Matter of the City of Portland, Oregon, Building Codes Division No. C2015-0200 (Resolution)

WHEREAS, In September, 2013 the Council amended City Code Section 31.10.050 to require sprinkler systems in certain businesses (Ordinance No. 186247); and

WHEREAS, On July 24, 2017 the Oregon Department of Consumer and Business Services Building Codes Division (BCD) issued a determination to the City, finding that the Building Code preempted any requirements that buildings must install sprinklers based upon certain usage classifications, and assessing civil penalties of \$20,000 and ordering the Council to repeal Ordinance 186247 within six months; and,

WHEREAS, The City has 20 days from the July 24, 2017 to appeal the BCD's determination or the Order will become final; and,

WHEREAS, BCD alleges the City was preempted from enacting Ordinance No. 186247 because it conflicts with the State Building Code; and,

WHEREAS, If the City repeals Ordinance No. 186247, high occupancy nightclubs in the City could operate with inadequate fire suppression; and,

WHEREAS, Before passing Ordinance No. 186247, the State Fire Marshal was notified and did not object; and,

WHEREAS, The Portland Fire Code was reviewed and approved by the State Fire Marshal in 2016, including the language from Ordinance No. 186247.

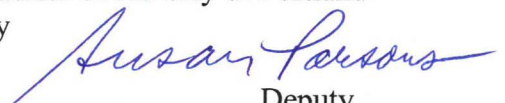
NOW, THEREFORE, BE IT RESOLVED, the City Attorney is authorized to take the steps necessary to appeal the State Building Codes Division's Notice of Proposed Assessment of Civil Penalties, Notice of Proposed Order of Corrective Action and Notice of Final Order on Default *In the Matter of the City of Portland, Oregon*, Building Codes Division No. C2015-0200 mailed July 24, 2017, to pursue that appeal, and to make any stipulation, agreement, or admission as in the judgment of the City Attorney may be in the interest of the City.

Adopted by the Council: **AUG 09 2017**

Commissioner: Dan Saltzman
Prepared by: Jason Loos
Date Prepared: July 28, 2017

Mary Hull Caballero
Auditor of the City of Portland

By


Deputy

891

Agenda No.

37312


RESOLUTION NO.

Title

State

140

Authorize appeal of Building Code Division's determination that City's sprinkler ordinance violates Building Code preemption *In the Matter of the City of Portland, Oregon*, Building Codes Division No. C2015-0200 (Resolution) (NO Italics)

INTRODUCED BY Commissioner/Auditor: Saltzman	CLERK USE: DATE FILED <u>AUG 01 2017</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Wheeler 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: Office of the City Attorney Bureau Head: Tracy Reeve	ACTION TAKEN:
Prepared by: Jason Loos Date Prepared: July 28, 2017	
Financial Impact Statement & Public Involvement 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 Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan	
Council Meeting Date August 9, 2017	

AGENDA
TIME CERTAIN <input 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: 15 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	<input type="checkbox"/>	
3. Saltzman	<input checked="" type="checkbox"/>	
4. Eudaly	<input checked="" type="checkbox"/>	
Wheeler	<input checked="" type="checkbox"/>	