

## IMPACT STATEMENT

**Legislation title:** 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)

**Contact name:** Jason Loos and Nate Takara  
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**Presenter name:** Jason Loos

### **Purpose of proposed legislation and background information:**

In 2013 the City passed Ordinance 186247 which required night clubs in the City to have working sprinkler systems. This was in response to several high profile deadly fires in nightclubs across the world. The State Fire Marshal signed off on the change and approved it in the adoption of the City Fire Code. Subsequently the State Building Code Division informed the City that it believed Ordinance 186247 conflicted with the State Building Code and the City was preempted from passing the Ordinance. This dispute came to a head on July 24, 2017, when the State Building Codes Division issued their formal opinion which calls for a \$20,000 penalty and demands the City repeal Ordinance 186247 within six months. Without pursuing an appeal, the decision becomes final on August 14, 2017. Upon repealing the Ordinance, existing night clubs and potentially some future night clubs would not need to have working sprinkler systems.

### **Financial and budgetary impacts:**

There is no immediate financial or budgetary impacts. The legal work will be performed by the City Attorney's Office with assistance from the Fire Marshal's Office. By not appealing, the City would need to pay a \$20,000 penalty. It should be noted that there has been tort claim notices filed over this Ordinance. The final decision on the legality of the Ordinance could impact future tort claims.

### **Community impacts and community involvement:**

Public input was presented when the City passed Ordinance 186247. Pursuing an appeal is not a subject of public involvement, but is a matter for the Council's consideration under Portland City Code 3.10.030.G. Time is of the essence in the Council's consideration of whether to pursue an administrative appeal and potentially, judicial review. Appeals from the Building Codes Decision need to be filed 20 days after they were mailed. The Building Codes Division emailed the decision on July 24, 2017.

**Budgetary Impact Worksheet**

**Does this action change appropriations?**

**YES:** Please complete the information below.

**NO:** Skip this section

| Fund | Fund Center | Commitment Item | Functional Area | Funded Program | Grant | Sponsored Program | Amount |
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