

IMPACT STATEMENT

Legislation title: Authorize the City Attorney to appeal the Final Order in In the Matter of The City of Portland, Oregon Administrative Hearing Case No. 2017-ABC-00832, Building Codes Division Case No. C2015-0200.

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Presenter name: Naomi Sheffield

Purpose of proposed legislation and background information:

Resolution authorizes City Attorney to initiate the appeal of final order by the Oregon Building Codes Division ("BCD") holding that: BCD had jurisdiction over the matter; the City violated ORS 455.040(1) and ORS 455.020(1) by adopting and enforcing its nightclub fire sprinkler ordinance (Ordinance No. 186247); and that BCD has authority to assess a civil penalty against the City and to order the City to repeal the Ordinance. BCD's interpretation of its own jurisdiction and authority exceeds what the legislature granted. Further, the legal justifications for BCD's final order undermine the City's ability to pursue limited, but important, measures to protect public health and safety. An appeal of the final order is consistent the City's goal of enforcing important fire safety measures.

Financial and budgetary impacts:

Pursuing this appeal would have no immediate financial or budgetary impacts. The legal work will be performed by lawyers and support staff within the City Attorney's Office, using budgeted staff and resources.

Community impacts and community involvement:

This is a matter involving the City's legal authority. Significant public input was obtained in Council's consideration of the nightclub fire sprinkler ordinance. 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 judicial review. BCD provided its decision to the parties on July 20, 2018. Appeals of the decision in this contested case must be initiated by filing a petition in the Court of Appeals within 60 days following the date of the final order. ORS 183.482.

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