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2 **Ordinance #09-010**

3 **AN ORDINANCE OF THE ALBANY CITY COUNCIL ADOPTING SECTION 1-12**  
4 **RECOVERY OF ATTORNEY’S FEES OF THE ALBANY MUNICIPAL CODE**

5 **WHEREAS**, staff has recommended the City Council adopt a provision that permits the  
6 recovery of attorney’s fees; and

7 **WHEREAS**, the City Council has reviewed the staff recommendation.

8 **NOW, THEREFORE, THE ALBANY CITY COUNCIL ORDAINS THAT**  
9 **SECTION 1-12 IS HEREBY ADOPTED AND SHALL READ AS FOLLOWS:**

10 **Section 1: Section 1-12, entitled Recovery of Attorney’s Fees is hereby enacted and shall**  
11 **read as follows:**

12 a. In any action, administrative proceeding, or special proceeding to abate a nuisance, the  
13 prevailing party may recover its reasonable Attorney's fees pursuant to Government Code §  
14 38773.5. Recovery of Attorney's fees shall be limited to those individual actions or proceedings  
15 in which the City elects, at the initiation of that individual action or proceeding, to seek recovery  
16 of its own Attorney's fees. An award of Attorney's fees to a prevailing party shall not exceed the  
amount of reasonable Attorney's fees incurred by the City in any legal action, administrative  
proceeding or special proceeding.

17 b. If any person causes, suffers, maintains or permits a public nuisance to continue after  
18 written notice is given to such person by the City, directing such person to abate the nuisance,  
19 and such continuation goes beyond the time set for such abatement in the written notice, then  
20 such person shall be liable to the City for the expenses incurred in detecting, investigating and  
21 abating the violation, including Attorney's fees and the costs of monitoring compliance. The City  
may recover such costs by civil action or by billing said person. The City may also recover such  
costs by special assessment lien if the violation relates to real property.

22 **Section 2: Publication**

23 This ordinance shall be published in a newspaper of general circulation in the City of  
24 Albany, which said newspaper is designated for that purpose, or it shall be posted in three  
25 locations.

26 **Section 3: Severability**

27 If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason  
28 held to be invalid, such decision shall not affect the validity of the remaining portions of the  
ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the  
fact that any one or more sections, subsections, sentences, clause or phrases be declared invalid.

1 **Section 4: Effective Date**

2 This ordinance shall become effective 30 days on or after its final passage and adoption.

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4 Date:

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Mayor Marge Atkinson

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