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

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

13 a. In any action, administrative proceeding, or special proceeding to abate a nuisance, the
14 prevailing party may recover its reasonable Attorney's fees pursuant to Government Code §
15 38773.5. Recovery of Attorney's fees shall be limited to those individual actions or proceedings
16 in which the City elects, at the initiation of that individual action or proceeding, to seek recovery
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
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.

21 **Section 2: Publication**

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

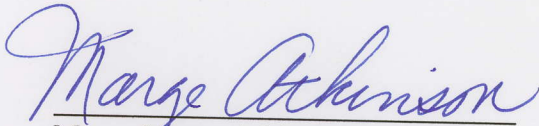
24 **Section 3: Severability**

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

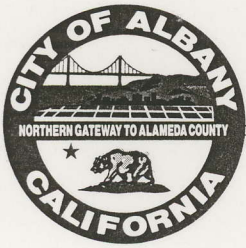
1 **Section 4: Effective Date**

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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8 Mayor Marge Atkinson
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City of Albany

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CITY ATTORNEY
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FAX (510) 526-9190

CITY CLERK
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FAX (510) 528-5797

CITY COUNCIL
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FAX (510) 524-8940
- Teen Center
PH. (510) 525-0576

STATE OF CALIFORNIA)
COUNTY OF ALAMEDA) ss
CITY OF ALBANY)

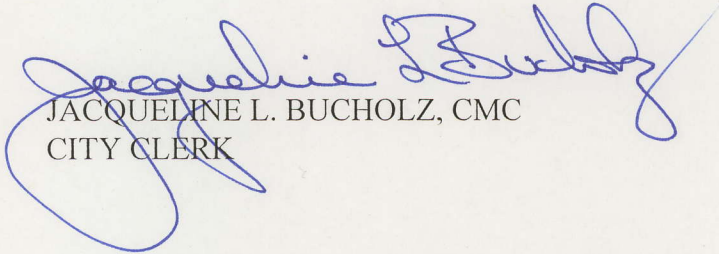
I, **JACQUELINE L. BUCHOLZ**, City Clerk of the City of Albany, California, do hereby certify that the whole number of members of the City Council of said City of Albany is five and that the foregoing is a true and correct copy of Ordinance No. 09-010 which was passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council on the 20th day of July 20 09 A.D., and that the same was so passed and adopted by the following votes and duly published or posted according to State law.

AYES: Council Members Javandel, Lieber, Wile, Thomsen & Mayor Atkinson

NOES: None

ABSENT: None

In witness whereof, I have hereunto set my hand and affixed the official seal of the City of Albany, this 21st day of July, 2009.


JACQUELINE L. BUCHOLZ, CMC
CITY CLERK

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of the community, and providing a safe, healthy environment now and in the future.



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