Ordinance #09-010

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

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

WHEREAS, the City Council has reviewed the staff recommendation.

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

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

a. In any action, administrative proceeding, or special proceeding to abate a nuisance, the prevailing party may recover its reasonable Attorney’s fees pursuant to Government Code § 38773.5. Recovery of Attorney’s fees shall be limited to those individual actions or proceedings 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.

b. If any person causes, suffers, maintains or permits a public nuisance to continue after written notice is given to such person by the City, directing such person to abate the nuisance, and such continuation goes beyond the time set for such abatement in the written notice, then 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.

Section 2: Publication

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

Section 3: Severability

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason 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, clauses or phrases be declared invalid.
Section 4: Effective Date

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

Date:

[Signature]
Mayor Marge Atkinson
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.