



Item No. {{item.number}} Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MONA EBRAHIMI, CITY ATTORNEY

DATE: JUNE 21, 2023

SUBJECT: INTRODUCTION BY TITLE ONLY AND WAIVE FIRST READING OF ORDINANCE NO. _____, AMENDING SECTION 8.20.140 OF THE ATHERTON MUNICIPAL CODE TO PROVIDE FOR RECOVERY OF REASONABLE ATTORNEYS' FEES TO PREVAILING PARTIES OF ACTIONS AND PROCEEDINGS BROUGHT BY THE TOWN OF ATHERTON TO ABATE PUBLIC NUISANCES

RECOMMENDATION

It is recommended that the Town Council introduce by title only and waive the first reading of Ordinance No. _____, amending Section 8.20.140 of the Atherton Municipal Code, to provide for recovery of reasonable attorneys' fees to the prevailing parties of actions and proceedings brought by the Town of Atherton to abate public nuisances.

BACKGROUND

Chapter 8.20 of the AMC provides for recovery of costs associated with nuisance abatement. However, in order to recover attorneys' fees, a City must adopt an ordinance compliant with Gov. Code, § 38773.5, that provides for the recovery of reasonable attorneys' fees to the prevailing party in an action or proceeding brought by the City.

ANALYSIS

This ordinance, "may limit recovery of attorney's fees by the prevailing party 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" [Gov. Code, § 38773.5(b)]. Under Gov. Code, § 38773.5, no party is entitled to recover attorneys' fees that exceed the reasonable attorneys' fees incurred by the City in the action or proceeding.

ENVIRONMENTAL CONSIDERATION

The proposed Ordinance is exempt from environmental review under the California Environmental Quality Act, Public Resource's Code section 21000 et seq. ("CEQA") pursuant to CEQA

Guidelines Section 15061(b)(3) as it can be seen with certainty that the project has no potential for causing a significant effect on the environment.

FISCAL IMPACT

The proposed Ordinance does not involve or authorize any expenditure by the Town, but would allow the Town to recover some of its attorneys' fees in code enforcement actions.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal Area A – Maintain Fiscal Responsibility
- Goal Area F – Be Forward-Thinking, Well-Managed, and Well-Planned

POLICY FOCUS

Through adoption of the ordinance, the Town would be able to recover some of its attorney's fees.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders –to include, but be not limited to, media outlets, school districts, Menlo Park Fire Protection District, service providers (water, power, and sewer), and regional elected officials.

COMMISSION/COMMITTEE FEEDBACK/REFERRAL

This item has not been before a Town Committee or Commission

ATTACHMENTS

1. Ordinance