



Item Number: 14

**City Council / Board of Directors**

**Consent Calendar**

**Meeting of: August 16, 2022**

**Submitted By:**

Andre de Bortnowsky, City Attorney

**Subject:**

Settlement Agreement between the City of Victorville and Andrey Zargarian

**Recommendation:**

That the Honorable City Council approve the Citation Settlement Agreement by and between Andrey Zargarian and the City of Victorville in regard to Citation No. 25321 and Superior Court Case No. CIVSB2119056.

**Fiscal Impact:**

The City recovered its abatement costs of \$4,451.01 in September 2021. This amount was allocated to the account as reflected below:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
1004030-44350	Code Compliance - Cost Recovery	\$4,451.01

The City will recover the sum of \$56,000 in fines on the Citation, payable in two (2) \$28,000 payments; the first within 30 days of full execution of this agreement and the second within 30 days following the payment of the first payment. This amount will be allocated to the account as reflected below:

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
1004030-47140	Code Compliance – Admin Citations	\$56,000.00

**Background:**

On December 17, 2019, the City of Victorville ("City") adopted Ordinance No. 2400 amending the Victorville Municipal Code ("VMC") to include Section 13.150.060. VMC Section 13.150.060 became effective on January 1, 2020 and provides an administrative citation and fine structure for excess cannabis cultivation within the City limits. The State of California allows for the cultivation of up to six (6) cannabis plants at a residential property. VMC Section 13.150.060(c) prohibits cultivation of cannabis in excess of six (6)

plants at residential properties within the City limits. A violation of VMC Section 13.150.050(c) carries a \$100.00 fine per plant for plants found in excess of the six (6) allowable cannabis plants.

In recent history, the City's Police and Code Compliance Departments have encountered excess cannabis cultivation operations inside residential homes. A typical excess cannabis cultivation within the City has ranged from approximately 200 to 2,000 cannabis plants being cultivated inside a residential home. These excess cannabis cultivation operations result in substantial damage to the interior of the home. Although the prohibition of excess cannabis cultivation applies to commercial properties within City limits as well as homes, the majority of these types of illegal cannabis cultivation operations occur inside residential properties.

The City's Police and Code Compliance Departments investigate excess cannabis cultivation operations. These departments issue citations to the property owner or responsible party. The City's Building Department, along with the Police and Code Compliance Departments, work to secure the residence, record building and safety violations present at the property that are the result of the excess cannabis cultivation, stabilize the utilities, and remove the cannabis from the home. The City incurs abatement costs related to the work completed by City departments stemming from the cannabis removal and securing the residential or commercial structure.

The administrative citation and fine process defined in VMC Section 13.150.060 is one way the City combats excess cannabis cultivations within its City limits. Enforcement of the City's excess cannabis cultivation ordinance is intended to protect the health, welfare, and safety of the City's residents from the public nuisance conditions associated with these properties.

**Discussion:**

Andrey Zargarian owns a residential property in the City of Victorville at 12871 4<sup>th</sup> Avenue. An excess cannabis cultivation operation was found inside the residential property in April 2021. The City issued a Citation No. 25321 for a violation of VMC Section 13.150.060(c). The City's Code Compliance, Police and Building Departments abated the dangerous conditions present at Mr. Zargarian's property. Mr. Zargarian desires to settle the ongoing court case associated with the appeal of Citation No. 25321 issued by the City. Pursuant to the Closed Session discussion on June 7, 2022, Mr. Zagarian has accepted the terms of the settlement offer from the City Council. The settlement terms, which are memorialized in the attached settlement agreement, waive any penalties, interest or other fees that have accrued since the issuance of the citation. Mr. Zargarian previously paid the City's abatement costs in September 2021. Mr. Zargarian has agreed to pay a fine amount of \$56,000 in two (2) \$28,000 payments; the first within 30 days of full execution of this agreement and the second within 30 days following the payment of the first payment.

Staff and the City Attorney's office recommend approval of the attached Citation Settlement Agreement as it is consistent with the Council direction given at its June 7, 2022, Closed Session meeting.

**Attachments:**    A. Citation Settlement Agreement