



**Item Number: 9**

**City Council / Board of Directors**

**Consent Calendar**

**Meeting of: May 2, 2023**

**Submitted By:**

Andre de Bortnowsky, City Attorney

**Subject:**

Settlement Agreement between the City of Victorville and Bayou Title Holding Trust/Trustee Van Nguyen

**Recommendation:**

That the Honorable City Council approve the Citation Settlement Agreement by and between Bayou Title Holding Trust/Trustee Van Nguyen and the City of Victorville in regard to Citation No. 27258 and authorize the City Manager to sign the Citation Settlement Agreement.

**Fiscal Impact:**

The City recovered its abatement costs of \$4,451.01 in January 2023. 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 \$14,420.00 in fines on the Citation.

<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
1004030-47140	Code Compliance – Admin Citation Fees	\$14,420.00

**Strategic Action Plan**

This item aligns with Goal B in the Strategic Plan, Public Safety, implement public safety strategies to support a thriving and growing community. Enforcement of the City's excess cannabis cultivation ordinance protects the health, welfare and safety of the City's residents from the public nuisance conditions associated with these properties and helps ensure properties are repaired.

**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:**

Bayou Title Holding Trust owns a residential property in Victorville. An excess cannabis cultivation operation was found inside its residential property in December 2022. The City issued a citation 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 the property. Pursuant to the Closed Session discussion on April 4, 2023, Ms. Ngyuen, as Trustee of the Bayou Title Holding Trust, has accepted the terms of the settlement offer from the City Council. The settlement terms, which are memorialized in the attached settlement agreement, waive the fine and any penalties, interest or other fees that have accrued since the issuance of the citation. Ms. Nguyen has previously paid the City's

abatement costs in January 2023. Ms. Nguyen has agreed to pay a fine amount of \$14,420.00.

Staff and the City Attorney's office recommend that the City Council approve and authorize the City Manager to sign the attached Citation Settlement Agreement as it is consistent with the City Council direction given during the Closed Session portion of its April 5, 2023 meeting.

**Attachments:** A. Citation Settlement Agreement