

## ORDINANCE NO. 2400

Victorville Municipal Code Title 13, Chapter 150, titled COMMERCIAL CANNABIS ACTIVITY, and adopted in 2017 by Ordinance No. 2376, § 2, is hereby amended to modify sections 13.150.060 and 13.150.070 and add sections 13.150.080 through 13.150.110 and renumber former section 13.150.070 as 13.150.120.

WHEREAS the City has determined that excess cannabis cultivation is occurring at an increased rate within the City, primarily in residential areas, but also in commercial areas;

WHEREAS the excess cannabis cultivators are illegally modifying residential homes and commercial buildings to accommodate excess cannabis cultivations;

WHEREAS excess cannabis cultivations jeopardize the safety of residential neighborhoods, irreparably damage residential property and cause the City to incur substantial costs in connection with restoring health and safety to affected neighborhoods; and

WHEREAS the City requires an amendment to Chapter 13.150 to effectively combat excess cannabis cultivation within the City, recoup the high costs associated with excess cannabis cultivation and maintain or restore the health and safety of affected neighborhoods.

### Chapter 13.150 - COMMERCIAL CANNABIS ACTIVITY

#### 13.150.060 – Excess Cannabis Cultivation Prohibited.

It shall be unlawful for any person or entity to cultivate cannabis in the City of Victorville that is not in conformity with the requirements stated in Victorville Municipal Code Section 13.150.050.

- (a) A violation of this Section may be prosecuted by the City Attorney as set forth in Section 1.04.010 of Victorville Municipal Code.
- (b) Any violation of this Section is declared to be a public nuisance and the City may commence an action or actions or proceedings, for the abatement, removal and injunction thereof, in any manner provided by the law.
- (c) A peace officer or code enforcement officer may issue an administrative citation and fine for the violation of this Section as provided in section 1.05 of the Victorville Municipal Code, without prior issuance of a Notice of Violation and in accordance with Government Code Section 53069.4(a)(2)(C), and the administrative fine amount for a violation of these sections shall be One Hundred Dollars (\$100) per plant.

- (d) After the issuance of an Administrative Citation for excess cannabis cultivation, if excess cultivation continues to occur on or at the property where administrative citation was previously issued, then a new Administrative Citation shall be issued and the administrative fine amount shall be One Thousand Dollars (\$1,000) per plant for any excess cultivation occurring at the same location of a previously cited violation.
- (e) Each and every day a violation of this Section exists constitutes a separate and distinct violation.
- (f) In addition to any administrative fine or penalty assessed for violation of this Section, any person found in violation of this Section will be charged actual abatement, administrative, and enforcement costs as defined in Sections 1.04.015 and 1.04.070, calculated to recover the total costs incurred by the City in enforcing this Section.

#### 13.15.070 – Excess Cannabis Cultivation in Commercial/Residential/Industrial Buildings

- (a) Any Notice of Violation, Notice to Correct or Administrative Citation issued to a property owner or its agent in conjunction with excess cannabis cultivation, including but not limited to violations of health, safety and building codes, shall be assessed an additional civil penalty of One Thousand Dollars (\$1,000) per day for violations that are not corrected within the time period specified in the Notice or Citation.
- (b) Any property upon which a violation of this Section is found and an administrative citation issued shall cause the recording of a Notice of Pendancy for the nuisance conditions with the San Bernardino County Assessors and Records Office.

#### 13.150.080 - Remedies cumulative.

The remedies provided in this chapter are not to be construed as exclusive remedies and, in the event of violation, the city may pursue any proceedings or remedies otherwise provided by law.

#### 13.150.090 - Assessment against property for unpaid costs.

If the administrative fine or penalty, actual abatement, administrative, and enforcement costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 13.150.060 and 13.150.070 are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs may be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and may be transmitted to the tax collector for collection. Said assessment shall have the same priority as other city taxes.

### 13.150.100 - Cost Assessment

City officials investigating the excess cannabis cultivation abatement matter shall keep an account of the cost of abatement on each separate lot or parcel of land where the work is done. After confirmation of an account report, a copy of the same shall be filed with the county auditor on or before August 10th. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map book for the current year. The county auditor shall enter each assessment on the county tax roll opposite the parcel of land. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedures of foreclosure and sale provided for ordinary municipal taxes. As an alternative method, the county tax collector, in his discretion, may collect the assessments without reference to the general taxes by issuing separate bills and receipts for the assessments. Laws relating to the levy, collection and enforcement of county taxes shall apply to such special assessments.

### 13.150.110 - Penalties.

- (a) General penalty. In addition to any other penalties that may exist under state, federal, and local laws, a violation of any provision of this chapter or a failure to comply with any mandatory requirements of this chapter is subject to the enforcement mechanisms and penalties set forth in Chapters 1.04 and 1.05 of this Code. Notwithstanding the penalties set forth in Chapter 1.04 of this Code, this Chapter 13.150 does not authorize a criminal prosecution, arrest or penalty inconsistent with or prohibited by California Health and Safety Code Section 11362.71 et seq. or Section 11362.1 et seq., as the same maybe amended from time to time. In addition to any other remedy specified in this chapter, or otherwise provided at law or in equity, any mandatory provision of this chapter may be enforced by injunction issued by the courts upon a civil suit brought by the city.
- (b) Public nuisance. The conduct of any activity or business in violation of this chapter is declared to be a public nuisance and the city may, in addition to all other remedies set forth hereunder, commence an action or actions or proceedings, for the abatement, removal and enjoinder thereof, in any manner provided by the law.
- (c) Cost recovery. Administering departments are authorized to charge cost recovery fees for services provided under this chapter. Cost recovery fees may also be recovered for equipment and personnel expenses incurred. Said fees may be established from time to time by resolution of the city council.
- (d) Other laws. Nothing in this chapter shall limit or preclude the enforcement of other applicable laws.

(Ord. No. 2376, § 2, 11-7-17)

13.150.120 - Use or activity prohibited by state or federal law.

Nothing contained in this chapter shall be deemed to permit or authorize any use or activity which is otherwise prohibited by any state or federal law.

(Ord. No. 2376 , § 2, 11-7-17)


ORDINANCE NO. 2400

THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT ON JANUARY 16, 2020.

PASSED, APPROVED AND ADOPTED THIS 17<sup>th</sup> DAY OF DECEMBER, 2019.

  
MAYOR OF THE CITY OF VICTORVILLE

ATTEST:

  
CITY CLERK

  
DATE

APPROVED AS TO FORM:

  
CITY ATTORNEY

I, CHARLENE ROBINSON, City Clerk of the City of Victorville and ex-officio Clerk to the City Council of said City, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 2400 which was duly adopted at a meeting held on the 17<sup>th</sup> day of December, 2019 by the following roll call vote, to wit:

AYES: Mayor Garcia, Mayor Pro Tem Ramirez, Councilmembers Cox and Jones

NOES: Councilmember Gomez

ABSENT: None

ABSTAIN: None

  
CITY CLERK OF THE CITY OF VICTORVILLE