

## **ORDINANCE NO. 1802**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, AMENDING SECTION 1.20.010 AND 1.20.020 OF THE GARDENA MUNICIPAL CODE RELATING TO ADMINISTRATIVE FINES FOR VIOLATIONS RELATING TO ILLEGAL CULTIVATION OF CANNABIS**

**WHEREAS**, the California State Legislature has adopted AB 2164 which allows cities to provide for the immediate imposition of administrative fines or penalties for violations relating to the illegal cultivation of cannabis; and

**WHEREAS**, the City of Gardena ("City") has completely banned the cultivation of cannabis except for personal cultivation, as set forth in Gardena Municipal Code, Section 18.66.040; and

**WHEREAS**, despite this ban, persons have illegally cultivated cannabis within the City; and

**WHEREAS**, the City Council of Gardena would like to implement this new tool provided by the State Legislature to discourage illegal cannabis cultivation in the City;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA, DOES HEREBY ORDAIN, AS FOLLOWS:**

**Section 1.** Section 1.20.010 of the Gardena Municipal Code is hereby amended to read, as follows:

#### **1.20.010 Applicability.**

A. This chapter provides for the imposition of administrative fines to address any violation of this code as well as any failure to comply with any condition or requirement imposed by a franchise, land use approval, license, permit, or any other approval or decision of the city. Administrative citations are in addition to all other legal remedies, whether criminal, civil, or administrative, which may be pursued by the City. Each day that a violation continues or there is noncompliance with any condition or requirement constitutes a separate violation which shall be subject to a separate administrative fine.

B. Except as provided in subsection C, below, in the case of continuing violations which do not create an immediate danger to health and safety, an administrative citation shall not be issued until there has been a failure to comply with at least one (1) notice of violation to the responsible party which sets forth the offense, the necessary remedy, and provides for a reasonable time period in which to correct or otherwise remedy the violation. Except for violations described in subsection D of this section, no notice of

violation shall be required for a repeat violation of the same offense within a twelve (12)-month period.

C. An administrative citation may be immediately issued and a fine immediately imposed for the violation of a building, plumbing, electrical, or other similar structural, health and safety, or zoning requirement if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis. However, a reasonable period of time for correction or remedy of the violation prior to imposition of an administrative fine shall be allowed if all the following are true:

1. A tenant is in possession of the property that is the subject of the administrative action; and

2. The rental property owner or agent can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis; and

3. The rental property owner or agent did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the rental property owner or agent to have actual notice of the illegal cannabis cultivation.

D. In the case of a continuing violation pertaining to building, plumbing, electrical or other similar structural or zoning issues which do not create an immediate danger to health or safety, an administrative citation shall not be issued until there has been a failure to comply with at least one notice of violation to the responsible party which sets forth the offense, the necessary remedy and provides for a reasonable time period in which to correct or otherwise remedy the violation.

E. Use of this administrative citation procedure shall be at the sole discretion of the City.

**Section 2.** Section 1.20.020 of the Gardena Municipal Code is hereby amended to read, as follows:

**1.20.020 Definitions.**

For the purposes of this chapter, the following definitions shall apply unless otherwise stated:

“City manager” means the city manager of the City or his or her designee.

“Enforcement officer” means any city employee or agent of the City with the authority to enforce any provision of the Gardena Municipal Code and to issue administrative citations for a violation.

“Finance director” or “director” means the finance director of the City or his or her designee.

"Notice of violation" means a notice which sets forth the violation and a description thereof, the remedy required, and the time period in which to remedy the violation.

"Responsible party" means a person who is the owner or occupant of real property, or authorized agent of the owner or occupant of real property, or the parent or legal guardian of any person under the age of eighteen (18) years, who permits, maintains, causes, or contributes to the cause of a violation of this code or a failure to comply with any condition or requirement imposed by a franchise, land-use approval, license, permit, or any other approval or decision of the City. For purposes of this chapter, there may be more than one responsible party.

A. Except as provided in Section 1.20.010C, above, in the case of a continuing violation, when an owner of property is not the occupant of the property, such owner shall not be considered a responsible party unless the City has mailed at least one (1) notice of violation to the owner at the address shown on the last equalized assessment roll of the Los Angeles County assessor, pursuant to the procedure set forth in Section 1.20.035.

B. In the case of a noncontinuing violation, when an owner of property is not the occupant of the property, such owner shall not be considered a responsible party unless the City has previously made the owner aware of the same violation within the last twelve (12) months. The owner shall be made aware of such violation in writing, mailed to the address shown on the last equalized assessment roll of the Los Angeles County assessor pursuant to the procedure set forth in Section 1.20.035.

"Violation" means any violation of any provision of the Gardena Municipal Code, any code adopted by reference by the Gardena Municipal Code, or any failure to comply with any condition or requirement imposed on any franchise, land-use approval, license, permit or any other approval or decision of the City.

**Section 3.** CEQA Compliance. This Ordinance is exempt from CEQA under the CEQA Guidelines Section 15061(c)(3) which provides that a project is exempt from CEQA when it is covered by the general rule that CEQA only applies to projects which have the potential for causing a significant effect on the environment and does not apply where it can be seen with certainty that there is no possibility of a significant effect. The changes in this Ordinance are to better protect the public health, safety, and welfare by discouraging the illegal cultivation of cannabis. These changes do not have the ability to have any significant impacts. Staff is directed to file a notice of exemption.

**Section 4.** Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council of the City of Gardena hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section,

subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

**Section 5.** Certification. The City Clerk shall certify the passage of this ordinance and shall cause the same to be entered in the book of original ordinances of said City; shall make a minute passage and adoption thereof in the records of the meeting at which time the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published as required by law, in a publication of general circulation.

**Section 6.** Effective Date. This ordinance shall become effective on the thirty-first (31<sup>st</sup>) day after passage.


Passed, approved, and adopted this 12<sup>th</sup> day of February, 2019.

  
TASHA CERDA, Mayor

ATTEST:

  
MINA SEMENZA, City Clerk

APPROVED AS TO FORM:

  
PETER L. WALLIN, City Attorney

STATE OF CALIFORNIA                    )  
COUNTY OF LOS ANGELES            ) ss:  
CITY OF GARDENA                        )

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance being **Ordinance No. 1802** was duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a meeting of said City Council held on the **12<sup>th</sup>** day of **February, 2019**, and that the same was so passed and adopted by the following roll call vote:

AYES:     MAYOR PRO TEM TANAKA, COUNCIL MEMBERS MEDINA, HENDERSON  
          AND KASKANIAN AND MAYOR CERDA

NOES:     NONE

ABSENT: NONE

*Becky Romero*  
*for* \_\_\_\_\_  
City Clerk of the City of Gardena, California

(SEAL)