

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

REDEMPTION COMMUNITY CHURCH,)
385 Main Street,)
Laurel, MD 20707)
Prince George’s County)

Plaintiff,)

v.)

Case No. _____

CITY OF LAUREL, MARYLAND,)
11785 Beltsville Drive, 10th Floor)
Calverton, MD 20705)
Prince George’s County)

Defendant.)

_____)

**VERIFIED COMPLAINT FOR DECLARATORY RELIEF,
INJUNCTIVE RELIEF, AND DAMAGES**

COMES NOW the Plaintiff, REDEMPTION COMMUNITY CHURCH, by counsel and for its causes of action against Defendant CITY OF LAUREL, MARYLAND, alleges and states the following:

INTRODUCTION

1. Redemption Community Church (“Redemption” or “Church”) is a small church with a calling to serve the Laurel, Maryland community, including the underprivileged.
2. The Church purchased property in downtown Laurel to use as a non-profit coffee shop and a house of worship. As part of its religious mission, the Church wanted to provide a welcoming environment for people to gather, pray, and learn about Jesus Christ.
3. Around the time the Church purchased the property, it applied to the City for a parking waiver for a non-profit coffee shop and house of worship.

4. However, about three weeks after the Church applied for the parking waiver, the City changed its zoning code to ban non-profit businesses and to require small churches (those located on less than one acre) to go through an onerous, costly, and uncertain special exception process before locating in the C-V Zone.

5. Churches that can afford more than an acre, and numerous secular assemblies or institutions can locate in the C-V Zone as of right.

6. Now the City is threatening the Church with daily fines for hosting small worship gatherings on its property.

7. The City has discriminated against Redemption Community Church, treated it less favorably than similarly-situated secular organizations, substantially burdened the Church's free exercise of religion, and infringed on the Church's right to free speech, peaceable assembly, and equal protection in violation of the Church's federal and constitutional rights.

8. Redemption Community Church therefore brings this action pursuant to 42 U.S.C. § 1983 for violation of its civil rights.

JURISDICTION AND VENUE

9. This action arises under the United States Constitution and federal law, particularly 42 U.S.C. §§ 1983 and 1988 and the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc, *et seq.*

10. This Court is vested with original jurisdiction over these claims by operation of 28 U.S.C. §§ 1331 and 1343.

11. This Court is vested with authority to grant the requested declaratory judgment by operation of 28 U.S.C. § 2201, *et seq.*

12. This Court is authorized to issue the requested injunctive relief pursuant to Rule 65 of the Federal Rules of Civil Procedure.

13. This Court is authorized to award attorneys' fees pursuant to 42 U.S.C. § 1988.

14. Venue is proper in United States District Court for the District of Maryland under 28 U.S.C. § 1391(b), because Defendant resides in the District of Maryland, the events giving rise to the claim occurred within the District of Maryland, and the subject property is located in the District of Maryland.

PARTIES

15. Plaintiff Redemption Community Church is a non-denominational Christian church, established and existing as a non-profit religious corporation under the laws of the State of Maryland.

16. The Church's principal place of business is located at 385 Main Street, Laurel, MD 20707.

17. Defendant City of Laurel, Maryland, is a public body corporate and politically established, organized, and authorized under and pursuant to the laws of the State of Maryland, with the authority to sue and be sued, and was at all times relevant herein, operating within the course and scope of its authority and under color of state law.

STATEMENT OF FACTS

Redemption Community Church and Its Religious Mission

18. Redemption Community Church is a small congregation of between 15-20 congregants.

19. The Church was incorporated in 1969 in Montgomery County, Maryland.

20. The Church was initially known as Covenant Orthodox Presbyterian Church and was later renamed Redemption Community Church.

21. The Church and its congregants have sincerely-held religious beliefs that they are to regularly assemble with others to pray, study the Bible, sing religious songs, and share biblical insight.

22. The Church is motivated by its religious beliefs to love and serve all people in Laurel, Maryland, but it has a particular calling to bring the Gospel to the homeless and underprivileged in its community.

23. In order to best fulfill this religious mission, the Church desires to open a non-profit coffee shop as a ministry of Redemption Community Church where it can create a warm and welcoming environment to foster relationships with its community, share biblical teaching, and meet for worship services.

The Church's Search and Purchase of Property

24. In the summer of 2014, the Church began its search for property in Laurel, Maryland.

25. The Church intended to purchase property where it could engage the local community through the operation of a non-profit coffee shop (Monday through Saturday) and as a house of worship (Sunday).

26. The Church planned to donate its proceeds from the non-profit coffee shop to other local reputable non-profit entities that serve its community such as Grassroots Crisis Intervention Center, Laurel Advocacy & Referral Services, Inc., and Laurel Pregnancy Center.

27. The Church finally found a property and building that met its intended uses located at 385 Main Street, Laurel, MD 20707 ("385 Main" or "Property").

28. The building is situated on 5,115 square feet, which is less than one acre.

29. The building contains three levels and is approximately 4,500 square feet.

30. The Property's size allows for use as a coffee shop and a gathering place for a church service.

31. The Property is uniquely situated to serve the Church's needs in that it is centrally located in the area in which the Church desires to minister.

32. On February 6, 2015, the Church's trustees walked through 385 Main with the City Fire Marshal and discussed its desire to use the Property as a non-profit coffee shop and house of worship.

33. The property was advertised as ideal for "Retail, Church/School, Office, Office Building" uses. *See* Exhibit 1, Bates no. 003.

34. Upon information and belief, 385 Main was located in the Commercial Village Zone ("C-V Zone") which, at that time, allowed non-profit businesses and houses of worship as permitted uses under the City's Unified Land Development Code ("Code").

35. On February 12, 2015, the Church applied for a parking waiver to operate a non-profit coffee shop (Monday through Saturday) and house of worship (Sunday) at 385 Main.

36. Upon information and belief, assembly uses in the C-V Zone generally require a parking waiver due to limited available parking on Main Street and the surrounding private properties.

37. Upon information and belief, secular assemblies and institutions on Main Street are granted parking waivers regularly.

38. The Church required a parking waiver because it had seven parking spaces on the Property and the Code required additional parking spaces.

39. After determining the property was uniquely situated to further the Church's religious mission, the Church signed a Purchase Agreement on February 17, 2015.

40. On March 10, 2015, the City Planning Commission granted the Church the parking waiver for a non-profit coffee shop and house of worship. *See* Exhibit 2, Bates no. 007-08.

41. On March 18, 2015, the Church closed on the purchase of 385 Main for approximately \$470,000.

City Amends Zoning Code Around the Time of Property Purchase

42. On February 9, 2015—three days after the Church toured 385 Main with the City Fire Marshal—the City Council proposed Text Amendment 237 to the Code to exclude non-profit businesses from the C-V Zone.

43. One month later, on March 9, 2015, City Council amended the Code to exclude non-profit businesses from the C-V Zone pursuant to Text Amendment 237.

44. The Church was unaware of the March 9, 2015, Text Amendment 237 when it closed on the purchase of 385 Main on March 18, 2015.

45. On March 23, 2015—less than one week after the Church closed on the purchase of 385 Main—the City Council proposed Text Amendment 238 to the Code requiring a special exception for a house of worship located on less than one acre in the C-V Zone.

46. The special exception process requires the submission of a detailed Special Exception Application, including: 1) a Statement of Justification; 2) an Existing Conditions Site Plan; 3) a Proposed Site Plan; and 4) a non-refundable \$2,000.00 filing fee. The Statement of Justification must include sufficient evidence to satisfy multiple criteria. Additionally, the Church must hire—and include specific contact information for—an engineer to draft the Existing Conditions Site Plan and the Proposed Site Plan. Once the application is submitted, the City Board

of Appeals must hold a public hearing and then has the authority to deny or approve the special exception.

47. Just over one month later, on April 27, 2015, the City Council amended the Code to require a special exception for a house of worship located on less than one acre in the C-V Zone pursuant to Text Amendment 238.

48. The Director of Economic and Community Development, Jack Brock, stated during the April 27, 2015, City Council meeting that the reason for Text Amendment 238 was “to provide an additional level of review by the Planning Commission.”¹

49. The Amended Code allows as permitted uses in the C-V Zone secular assemblies and institutions such as amateur performances, open microphone venues, professional comedic performances, theatre or hall for the performing arts or symphony, community theatre, cinema, health club or spa, library, museum, and schools for business, art, or music.

The Church’s Attempts to Amicably Comply with Amended Code

50. On April 14, 2015, City Planning Commission revoked the Church’s parking waiver for a non-profit coffee shop and house of worship that was issued on March 10, 2015. *See* Exhibit 3, Bates no. 010-13.

51. The same day, on April 14, 2015, the Church met informally with City Planning Commissioners, Bill Wellford and Mitzi Betman, who told the Church that a parking waiver and Use and Occupancy permit (“U&O”) was only required for the preponderance of use of a given property.

¹ See Laurel TV, *31st Mayor and City Council Meeting - April 27, 2015*, YOUTUBE 21:21-21:43 (April 30, 2015), <https://www.youtube.com/watch?v=NKggxIAjY-k> (last visited February 8, 2018).

52. On April 15, 2015, the Church applied for a U&O permit to operate a church business office and two apartments at 385 Main, since the Church's originally-intended uses were now prohibited under the new Amended Code.

53. On April 30, 2015, Fire Marshal and Building Inspector inspected the second-story apartments at 385 Main.

54. On June 15, 2015, City granted the Church a rental license for the second-story apartments at the recommendation of the Fire Marshal and Housing Inspector.

55. On July 15, 2015, City granted the Church a U&O permit to operate 385 Main as a business office and two apartments under the following restricting conditions:

- No assembly permitted.
- Two apartment floors on second floor must remain and the Church must obtain rental licenses from City.
- Only one entrance and exit.
- Basement can only be used for storage.
- Dumpster must be removed from parking area.

See Exhibit 4, Bates no. 015.

56. Because the Church's U&O permit dated July 15, 2015, restricted all assembly uses, the Church reorganized from a non-profit entity to a for-profit (taxpaying) entity in November 2015 in order to use the Property for its originally intended purposes—a house of worship fulfilling its religious mission through a coffee shop.

57. The Church relied on its April 14, 2015, conversations with City Planning Commissioners, Bill Wellford and Mitzi Betman, and other professionals regarding the preponderance of the use of a given property in its decision to reorganize as a for-profit entity.

58. The Church's intent was that the coffee shop, operating Monday through Saturday, would serve as the Property's preponderance of use for purposes of the parking waiver and U&O, and that its worship services could meet on Sundays while the coffee shop was closed.

59. On November 20, 2015, the Church applied for another parking waiver to operate a for-profit coffee shop.

60. On December 8, 2015, the Church received a parking waiver to operate a for-profit coffee shop at 385 Main pursuant to Resolution No. 15-26-PC. *See* Exhibit 5, Bates no. 017-19.

61. From December of 2015 to April of 2017, the Church spent approximately \$600,000.00 renovating 385 Main in order to create an inviting coffee shop atmosphere as well as a convertible meeting space for its worship services.

62. Towards the end of the renovation process, the Church applied for another U&O on October 18, 2016, to operate its for-profit coffee shop.

63. On April 3, 2017, the Church received a U&O permit to operate a for-profit coffee shop.

64. The U&O permit received on April 3, 2017, contained typographical errors at the fault of the City regarding whether food handling is involved; the square footage of the building; and the number of employees. *See* Exhibit 6, Bates no. 021.

65. On April 5, 2017, the Church opened its for-profit coffee shop for business.

66. On April 9, 2017, the Church began worship gatherings of twenty or fewer people in the basement of 385 Main for two hours on Sundays while the coffee shop was closed.

67. The street and parking lots where 385 Main is located are practically vacant on Sundays.

68. On July 11, 2017, a Church representative went to the Laurel Municipal Center and requested a revised U&O permit correcting the typographical errors from the U&O issued on April 3, 2017.

69. On July 27, 2017, a Church representative went to Laurel Municipal Center and picked up the revised U&O permit which contained no restrictions on assembly. *See* Exhibit 7, Bates no. 023.

70. While at Laurel Municipal Center on July 27, 2017, the Church representative was asked by City Planner, Monta Burrough, “Are you doing church at the Property?” and “Are you having worship at the Property?”

71. In response to questioning by Monta Burrough, the Church representative indicated, “It held some worship gatherings on Sundays.”

72. On July 27, 2017, the City sent a cease and desist letter via certified mail demanding the Church to cease worship services at 385 Main.

73. On August 1, 2017, the Church received the cease and desist letter sent by the City on July 27, 2017.

74. The cease and desist letter received by the Church on August 1, 2017, contained no citation to any Code violation. *See* Exhibit 8, Bates no. 025.

75. Since receiving the cease and desist letter on August 1, 2017, the Church stopped advertising its Sunday worship gatherings out of fear of City retribution, which has impeded the Church’s growth and mission.

76. On August 2, 2017, Church representatives met with City Planner Monta Burrough to discuss the cease and desist letter sent by the City on July 27, 2017.

77. During the meeting between the Church representatives and Monta Burrough on August 2, 2017, Mr. Burroughs asked the Church, “Do people raise hands for worship at the Property?” and “Can you meet somewhere else until this blows over?”

78. During the meeting between the Church representatives and Monta Burrough on August 2, 2017, Mr. Burrough told two Church representatives, “There are eyes everywhere and you are always being watched.”

79. During the meeting between the Church and Monta Burroughs on August 2, 2017, Mr. Burroughs could not cite to any Code violation when asked by the Church.

80. Believing that its worship gatherings did not violate the Code or its U&O, the Church continued to hold small worship gatherings at its Property on Sundays.

81. On or about January 26, 2018, the Church received a cease and desist letter from the City dated January 23, 2018, demanding the Church cease operating as a house of worship and cease live entertainment at 385 Main or else be subject to fines of \$250 per day. *See* Exhibit 9, Bates no. 027.

82. Since receiving this letter, the Church has stopped holding worship services at 385 Main for fear of significant monetary penalties.

83. Since receiving this letter on or about January 26, 2018, the Church has stopped informing its customers of its Sunday worship gatherings.

84. Since receiving this letter on or about January 26, 2018, Redemption has continued to operate its coffee shop as part of its Church ministry to the local community.

85. The Church desires to carry out its religious mission through the operation of its coffee shop while concurrently using its property for Sunday worship gatherings.

The City of Laurel's Amended Zoning Code

86. Land and development in the City of Laurel is regulated by the City of Laurel Unified Land Development Code.

87. 385 Main is located in the Commercial Village Zone or C-V Zone.

88. The Amended Code identifies the permitted uses in the C-V Zone in Section 20-7.6(a)(1) stating, "The uses allowed in the C-V Zone are as provided in the Table of Commercial Uses of this division." *See* Exhibit 10, Bates no. 029.

89. Section 20-7.8 contains the Table of Commercial Uses. *See* Exhibit 11, Bates no. 031.

90. Section 20-7.8(a)(1)-(4) provides that uses in the Table of Commercial Uses are either "Permitted," "Permitted by Special Exception," "Permitted as an Accessory Building or Use," or "Prohibited" in each of the commercial zones, including the C-V Zone. *See* Exhibit 11, Bates no. 031.

91. The Table of Commercial Uses permits the following secular assemblies or institutions as of right within the C-V Zone:

- cinema, legitimate theatre;
- entertainment uses including amateur performances, open microphone venues;
- disc jockeys;
- karaoke;
- poetry or dramatic readings;
- professional comedic performances;
- theatre or hall for the performing arts or symphony, community theatre;
- health club or spa;
- library, museum, and similar noncommercial institutions;
- restaurant; and
- school for business, art, music, and similar uses.

See Exhibit 11, Bates no. 033-040.

92. Within the C-V Zone, the Amended Code's Table of Commercial Uses requires a special exception for: houses of worship, convents, and monasteries located on a lot less than one acre in size and houses of worship, convents, and monasteries located in a building that was constructed on a lot less than one acre in size. *See* Exhibit 11, Bates no. 036-37.

93. In Section 20-7.8(hh), the Amended Code also imposes regulations on houses of worship located on lots that are one acre or more including:

- (1) The minimum setback for all buildings shall be twenty-five (25) feet from each lot line;
- (2) Ingress and egress shall be located so as to direct traffic away from streets that are internal to a residential subdivision;
- (3) The applicant shall satisfactorily demonstrate that parking and traffic will not adversely affect adjacent residential neighborhoods;
- (4) Parking spaces or loading areas shall not be located in the front yard; and
- (5) The maximum allowable lot coverage for the zone in which the use is proposed shall not exceed fifty (50) percent.

See Exhibit 11, Bates no. 047.

94. Other nonreligious assemblies or institutions are not subject to the minimum setback requirements, ingress and egress requirements, parking and traffic requirements, parking requirements, or maximum allowable lot coverage requirements that houses of worship are subjected to by the Amended Code.

95. The Amended Code defines "house of worship" in Section 20-1.7 as, "A church, temple, synagogue, mosque, or other building specifically used for organized worship. It shall be unlawful as an accessory, ancillary or secondary to other uses on the same premise." *See* Exhibit 12, Bates no. 062.

96. Redemption Community Church is a house of worship under the Amended Code.

97. Since April 27, 2015, the Amended Code no longer permits houses of worship located on less than one acre in the C-V Zone without special exception.

98. Upon information and belief, there are no churches located on one or more acres in the C-V Zone.

ALLEGATIONS OF LAW

99. Defendant's Amended Code constitutes a land use regulation or a system of land use regulations by law.

100. All acts of the Defendant, its officers, agents, servants, employees, or persons acting at their behest or direction, were done and are continuing to be done under the color and pretense of state law, including the ordinances, regulations, customs, policies and usages of the City of Laurel.

101. The Church has no adequate or speedy remedy at law to correct or redress the deprivations of its constitutional rights by Defendant.

102. Unless and until enforcement of the Amended Code is enjoined, the Church will continue to suffer irreparable injury to its constitutional rights.

103. Defendant's unequal treatment and discrimination against the Church, through its Amended Code and its officers, agents, servants, employees, or persons acting at their behest or direction, has caused the Church to suffer damages.

COUNT I – VIOLATION OF RLUIPA'S "EQUAL TERMS" PROVISION, 42 U.S.C. § 2000cc(b)(1)

104. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

105. Defendant's Code, both on its face and as applied, violates the equal terms provision of RLUIPA, 42 U.S.C. § 2000cc(b)(1).

106. Redemption Community Church is a religious assembly or institution.

107. Defendant's Amended Code regulates land use in Laurel, Maryland.

108. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, treats the Church on less than equal terms than secular assemblies and institutions because secular assemblies do not have these same restrictions in the C-V Zone.

109. Other secular assemblies and institutions which are not subject to this special exception requirement include: amateur performances, open microphone venues, professional comedic performances, theatre or hall for the performing arts or symphony, community theatre, cinema, health club or spa, library, museum, and schools for business, art, or music.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT II – VIOLATION OF RLUIPA'S "NONDISCRIMINATION" PROVISION,
42 U.S.C. § 2000cc(b)(2)**

110. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

111. Defendant's Code, both on its face and as applied, violates the nondiscrimination provision of RLUIPA, 42 U.S.C. § 2000cc(b)(2).

112. The Church is a religious assembly or institution.

113. The Church's religious beliefs are sincerely and deeply held.

114. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, discriminates against the Church on the basis of its religion or religious denomination.

115. Three days after the Church first toured 385 Main and made known its intent to use the property as a non-profit coffee shop and house of worship, the City proposed an amendment to the C-V table of uses that prohibited non-profit businesses. Approximately one month later, the City Council passed the amendment.

116. Shortly thereafter, and less than one week after the Church purchased 385 Main, the City proposed an amendment to prohibit houses of worship located on less than one acre to exist in the C-V Zone without submitting to a costly and onerous special exception process. Approximately one month later, that amendment passed.

117. The City's Director of Economic and Community Development explicitly stated at the City Council meeting on April 27, 2015, that requiring a special exception for houses of worship located on less than one acre was "to provide an additional level of review by the Planning Commission."

118. Secular assemblies and institutions are not subject to a costly and onerous special exception process, nor "an additional level of review" by the Planning Commission.

119. Through its policy and actions, the City has discriminated against and continues to discriminate against religious land uses in the C-V Zone, and has targeted the Church through costly and onerous regulations that comparable secular assemblies and institutions do not face.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT III – VIOLATION OF RLUIPA’S “SUBSTANTIAL BURDEN” PROVISION,
42 U.S.C. § 2000cc(a)(1)**

120. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

121. Defendant’s Code, both on its face and as applied, violates the Church’s free exercise of religion as guaranteed by RLUIPA, 42 U.S.C. § 2000cc(a)(1).

122. The Church believes its congregants are to regularly assemble with others to pray, study the Bible, sing religious songs, and share biblical insight.

123. The Church’s religious beliefs are sincerely and deeply held.

124. The Church’s intended use of the property constitutes “religious exercise” under 42 U.S.C. § 2000cc-5(7)(A)-(B).

125. Defendant’s Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, imposes a substantial burden on religious exercise by completely prohibiting the Church from having worship services in the C-V Zone without expending substantial time, money, and resources to seek a special exception.

126. Further, the City’s cease and desist letter threatens the Church with fines of \$250 per day that it continues to hold worship gatherings on its Property.

127. The Church has been forced to stop worshipping at 385 Main Street.

128. Defendant’s Amended Code requiring a special exception for houses of worship located on less than one acre is not in furtherance of a compelling governmental interest because similar secular assemblies in the C-V Zone like halls for the performing arts, community theatres, cinemas, health clubs, libraries, museums, and art and business schools are permitted to operate as of right.

129. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre is not the least restrictive means of furthering any compelling governmental interest.

130. Upon information and belief, Defendant receives federal financial assistance.

131. Upon information and belief, Defendant's Amended Code affects commerce with foreign nations, among the several states, or with Indian tribes.

132. Defendant's Amended Code permits it to make individualized assessments of the proposed uses of property within the City, including the Church's property.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT IV – VIOLATION OF THE RIGHT TO FREE EXERCISE OF RELIGION
UNDER THE UNITED STATES CONSTITUTION**

133. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

134. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, violates the Church's right to free exercise of religion, as guaranteed by the First Amendment to the United States Constitution.

135. The Church believes its congregants are to regularly assemble with others to pray, study the Bible, sing religious songs, and share biblical insight.

136. The Church's religious beliefs are sincerely and deeply held.

137. Under Defendant's Amended Code, houses of worship under one acre must first undergo an onerous, costly, and uncertain special exception process to obtain permission to exist in the C-V Zone.

138. Similarly-situated nonreligious assemblies and institutions are not similarly required to undergo a special exception process; they may locate in the C-V Zone as of right.

139. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, is neither neutral nor a general law of applicability because similar secular assemblies and institutions are not subject to this regulation.

140. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, discriminatorily targets religion and religious worship.

141. There is no compelling government interest sufficient to justify requiring a special exception for a house of worship if located on less than one acre.

142. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre is not the least restrictive means to accomplish any permissible government purpose sought to be served by the land use regulations.

143. Defendant's Amended Code requiring a special exception for a house of worship if located on less than one acre is not narrowly tailored as required for restrictions on the Church's free exercise of religion.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT V – VIOLATION OF THE RIGHT TO FREE SPEECH UNDER
THE UNITED STATES CONSTITUTION**

144. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

145. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, violates the Free Speech Clause of the First Amendment to the United States Constitution as incorporated and applied to the states through the Fourteenth Amendment.

146. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, operates as a prior restraint on speech because the Church and other religious organizations must obtain special exception before engaging in religious speech such as prayer, Bible reading and discussion, or singing religious songs with others in a house of worship in the C-V Zone.

147. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre is a content-based restriction on speech because it requires the Defendant to review the content of speech and other expressive activity to determine whether it is subject to the special exception requirement.

148. The Defendant's Amended Code is underinclusive because it does not require nonreligious assemblies, institutions, and organizations which do not incorporate religious speech to seek a special exception before locating in the C-V Zone.

149. The Defendant's Amended Code is overbroad because it sweeps within its ambit protected First Amendment speech, thus violating the rights of the Church and third parties not before the Court.

150. Defendant does not have a compelling interest in requiring houses of worship located on less than one acre to obtain a special exception while permitting similar secular assemblies and institutions to operate within the C-V Zone as of right.

151. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, is not narrowly tailored to achieve a compelling state interest nor is it the least restrictive means of achieving a compelling state interest.

152. Defendant's Amended Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, does not leave open ample alternative channels of communication.

153. Defendant does not have a significant interest in requiring houses of worship to obtain a special exception if located on less than one acre while permitting similar secular assemblies and institutions to operate within the C-V Zone as of right.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT VI – VIOLATION OF THE RIGHT TO PEACEABLE ASSEMBLY UNDER
THE UNITED STATES CONSTITUTION**

154. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

155. The Church believes that it must regularly assemble with others to pray, study the Bible, sing religious songs, and share biblical insight in order to express devotion to God.

156. Defendant's Code requiring a special exception for houses of worship located on less than one acre, prohibit the Church from assembling for religious speech and other religious purposes.

157. The City has no compelling interest in limiting the peaceable assembly of the Church.

158. Defendant's Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, constitutes a violation of the Church's right of

peaceable assembly under the First Amendment to the United States Constitution, as incorporated and applied to state action, under the Fourteenth Amendment.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief set forth in the prayer for relief.

**COUNT VII – VIOLATION OF THE ESTABLISHMENT CLAUSE OF
THE UNITED STATES CONSTITUTION**

159. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

160. The First Amendment’s Establishment Clause, incorporated and made applicable to the states by the Fourteenth Amendment to the United States Constitution, prohibits the establishment of any religion and/or excessive government entanglement with religion.

161. To determine whether a gathering of persons is a “house of worship,” the City must analyze the content of speech and other expressive activity.

162. Obtaining sufficient information for the City to analyze the content of speech and other expressive activity of the Plaintiff requires ongoing, comprehensive government surveillance that impermissibly entangles the City with religion in violation of the Establishment Clause.

163. Furthermore, the Code disfavors smaller churches and Redemption Community Church by subjecting them to the costly and onerous special exception process, while permitting larger churches on an acre or more of land to exist in the C-V Zone as of right.

164. Defendant’s Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, entangles the City with religion because it treats smaller churches less favorably than larger churches.

165. Additionally, Defendant’s Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, is hostile toward religion because it

targets churches with unfavorable treatment compared to similar secular assemblies and institutions.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

**COUNT VIII – VIOLATION OF EQUAL PROTECTION CLAUSE
OF THE UNITED STATES CONSTITUTION**

166. The Church hereby reiterates and adopts each and every allegation in the preceding paragraphs 1-103.

167. The Church's right to equal protection under the laws is protected by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

168. Defendant's Code is an unconstitutional abridgement of the Church's affirmative right to equal protection of the laws, is not facially neutral, and specifically targets the Church's religious viewpoints and speech.

169. Defendant's Code requiring a special exception for houses of worship located on less than one acre, both on its face and as applied, treats religious organizations, assemblies and institutions less favorably than it treats secular organizations, assemblies and institutions that are permitted in the C-V Zone as of right.

170. Defendant's Code is an unconstitutional abridgement of the Church's right to equal protection of the law because Defendant treats the Church differently from similarly situated assemblies or institutions on the basis of the Church's religious content and expression.

171. Defendant's Code is not supported by a compelling governmental interest sufficient to justify its enactment or enforcement against the Church.

172. Defendant's Code is not the least restrictive means to accomplish any permissible government interest sought to be served by the regulations.

173. Defendant's Code does not serve a significant government interest.

174. Defendant's Code does not leave open ample alternative channels of communication.

175. Defendant's Code is irrational and unreasonable, and imposes irrational and unjustifiable restrictions on constitutionally protected speech.

176. Defendant, in violation of the Equal Protection Clause, has caused, and will continue to cause, the Church to suffer undue and actual hardship and irreparable injury.

177. The Church has no adequate remedy at law to correct the continuing deprivations of the Church's most cherished constitutional liberties.

178. As a direct and proximate result of the Defendant's continuing violations of the Church's rights, the Church has in the past and will continue to suffer in the future direct and consequential damages, including but not limited to, the loss of the ability to exercise its constitutional rights.

WHEREFORE, the Church respectfully requests that the Court grant the equitable and legal relief and damages set forth in the prayer for relief.

PRAYER FOR RELIEF

Redemption Community Church prays for judgment as follows:

A. That this Court immediately issue a Preliminary and Permanent Injunction to enjoin the Defendant, Defendant's officers, agents, employees and all other persons acting in active concert with them, from enforcing its Amended Code so that:

- (1) Defendant must not prohibit the Church from operating its house of worship in the C-V Zone;
- (2) Defendant must not prohibit the Church from operating its house of worship and coffee shop at 385 Main Street, Laurel, MD 20707;

- (3) Defendant must treat the Church equally with similar secular or nonreligious assemblies or institutions;
- (4) Defendant must not discriminatorily target the Church through its Code;
- (5) Defendant's Code will not be used in any manner to infringe upon the Church's rights.

B. That this Court render a Declaratory Judgment declaring Defendant's Amended Code regarding the Church unconstitutional, and declaring that Defendant, Defendant's officers, agents, employees and other persons acting in active concert with them, unlawfully obstructed the Church from exercising the Church's constitutionally protected rights and further declaring that:

- (1) Defendant must not prohibit the Church from operating its house of worship in the C-V Zone;
- (2) Defendant must not prohibit the Church from operating its house of worship and coffee shop at 385 Main Street, Laurel, MD 20707;
- (3) Defendant must treat the Church equally with similar secular or nonreligious assemblies or institutions;
- (4) Defendant must not discriminatorily target the Church through its Code;
- (5) Defendant's Code will not be used in any manner to infringe upon the Church's rights; and

C. Grant to the Church damages;

D. Grant to the Church an award of its costs of litigation, including reasonable attorneys' fees and expenses.

E. Grant such other and further relief as this Court deems just and proper.

Dated this 9th day of February, 2018.

Respectfully submitted,

/s/ John R. Garza

John R. Garza
MD Bar # 01921
GARZA LAW FIRM, P.A.
17 W. Jefferson Street
Rockville, MD 20850
Telephone: (301) 340-8200
Fax: (301) 761-4309
Email: jgarza@garzanet.com

Christiana M. Holcomb*
DC Bar # 176922
ALLIANCE DEFENDING FREEDOM
440 First Street NW, Suite 600
Washington, D.C. 20001
Telephone: (202) 393-8690
Fax: (202) 347-3622
Email: cholcomb@ADFlegal.org

Erik W. Stanley*
AZ Bar # 030961
Kyle McCutcheon*
AZ Bar # 032310
ALLIANCE DEFENDING FREEDOM
15100 N. 90th Street
Scottsdale, AZ 85260
Telephone: (480) 444-0020
Fax: (480) 444-0028
Email: estanley@ADFlegal.org
Email: kmccutcheon@ADFlegal.org

Counsel for Plaintiff

**Pro Hac Vice Motions forthcoming*

VERIFICATION OF COMPLAINT

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I have read the foregoing Verified Complaint and the factual allegations thereof and that to the best of my knowledge the facts alleged therein are true and correct.

Executed this 7th day of February, 2018.



Jeremy Tuinstra
Pastor
Redemption Community Church