



August 29, 2019

CIVIL PENALTY NOTICE AND ORDER

Location: 3090 Polk Avenue, San Diego, CA

APN No.: 446-321-32-00

**Property Owner/
Responsible Person:
Address:** Mission Gathering, a California non-profit religious corporation
Brandan Robertson, Lead Pastor
3090 Polk Avenue
San Diego, CA 92104-2633

**Agent for Service:
Address:** Brandan Robertson, Lead Pastor
3090 Polk Avenue
San Diego, CA 92104-2633

**Property Owner/
Responsible Person:
Address:** Christian Church (Disciples of Christ) of The Pacific Southwest
Region, a California non-profit religious corporation
2401 N. Lake Avenue
Altadena, CA 91001

**Agent for Service:
Address:** Bruce Allen Indermill
115 E. Wilshire Avenue
Fullerton, CA 92832

Zoning Designation: RM-3-7

You are hereby notified that the property identified above is in violation of the San Diego Municipal Code (SDMC). On **July 31, 2019**, the following violations were observed at the property and must be corrected:

- The modification and change of occupancy from a permitted church use to include a **music venue/night club** use ("The Irenic") without the required permits, inspections and approvals. Unpermitted modifications included, but not limited to: miscellaneous building, electrical and mechanical improvements.

Main venue (church sanctuary & nave):

- Unpermitted change of Use & Occupancy of the existing building without required permits, inspections and final approvals.
- Installation of new electrical sub-panels, feeders, lighting circuits and electrical outlets without the required permits, inspections and final approvals.
- Installation of new water heater without the required permits, inspections and final approvals, installed in chapel secondary room (behind sanctuary).
- Lack of required emergency lighting, exit signage and fire alarms for current occupant load.
- Lack of all required panic and fire exit hardware.
- Lack of required occupant load posting for spaces exceeding 50 or more.
- Lack of interior wall and ceiling finish required to limit fire spread and smoke development for occupant classification.
- Hazardous electrical alterations and conditions, work includes: Non-metallic sheathed cable installed without required supports and attachments and subject to damage; Electrical sub panels without required dead front panels; Electrical outlets and junction boxes without the required cover plates; and, unauthorized use of flexible electrical cords.
- Unauthorized obstruction of path of egress (gate latch installed lobby exit door).
- Lack of required stair handrail (stair unit located in area behind alter).
- Lack of required change of elevation indicators/markings in path of egress.
- Lack of all required portable fire extinguishers and fire extinguisher signage.

Secondary Venue/Assembly Hall/Overnight Shelter:

- Operation of an emergency shelter (Urban Street Angels) without the required Conditional Use Permit.
- Lack of required smoke detectors for sleeping area.
- Lack of required carbon monoxide detectors for sleeping area (gas fueled appliances installed in adjacent kitchen area).
- Unpermitted electrical alterations and upgrades, including new lighting circuits and electrical outlets.
- Unpermitted framing alterations (accessory storage room adjacent to stage).
- Lack of required emergency lighting, exit signage and fire alarms for current occupant load.
- Lack of interior wall and ceiling finish required to limit fire spread and smoke development for occupant classification.
- Lack of required working space in front of service panel and separation from combustible items.
- Unauthorized storage of items in path of emergency egress.
- Lack of required change of elevation indication in path of egress
- Lack of all required portable fire extinguishers and fire extinguisher signage.

Outdoor Venue/Patio:

- Unauthorized use of flexible electrical cords fastened to exterior of building and running through doorways.
- Festoon Lighting (string lighting) suspended at multiple attachment points between buildings, lacking the required messenger wire support.
- Lack of required emergency lighting, exit signage and fire alarms for current occupant load.
- Lack of all required portable fire extinguishers and fire extinguisher signage.

Classroom/Office Building:

- Unpermitted use of office rooftop as outdoor deck area.
- Failure to complete Mechanical Permit No. 245077 (AC replacement).
- Unpermitted rooftop access stairs and landing.

Exterior:

- Installation of signs, "MISSIONGATHERING CHRISTIAN CHURCH" and "THE IRENIC ALL AGES MUSIC VENUE" without the required permits, inspections and approvals.
- Vehicle parking within the unpaved Street Side Yard setback (Illinois Street side).

This is a violation of the following code section(s):

<u>Code Section</u>	<u>Violation Description</u>
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|---------------------------|--|
| • SDMC § 129.0113- | No structure or portion of a structure shall be used or occupied, and no change in use or occupancy shall be made until Building Official approves Use & Occupancy |
| • SDMC §129.0202 - | When a Building Permit is Required |
| • SDMC §129.0302 - | When an Electrical Permit Is Required |
| • SDMC §129.0402 - | When a Plumbing/Mechanical Permit Is Required |
| • CBC § 1013.3 & 1013.6 - | Exit signs shall be internally or externally illuminated and shall be illuminated at all times. |
| • CBC § 1008.3- | Illumination of means of egress under emergency power. |
| • CBC § 1010.1.10- | Required panic and fire door hardware for occupancy use. |
| • CBC § 1004.3- | Every room or space which is used for assembly having occupant load of 50 or more, shall have occupant load posted. |
| • CBC § 801.2- | Allowable fire performance and smoke development of interior wall and ceiling finish materials based on occupancy classification. |
| • CBC § 1011.11- | Stairways shall have handrails and shall comply with CBC § 1014. |
| • CBC § 1003.5- | Required elevation change indications for path of egress. |
| • CBC § 906.1 - | Portable Fire extinguisher requirements for occupancy classification |
| • CEC § 300.4- | Where subject to physical damage, conductors, raceways and cables shall be protected. |
| • CEC § 110.26- | There shall be a minimum 30" x 36" deep working space in front of service panels. |
| • CBC § 420.6- | Smoke alarms in all required areas. |

- CBC § 915.1.1- Carbon Monoxide detectors in all required areas.
- CBC § 1003.6- Obstructions shall not be place in required width of mean of egress.
- CEC § 400.8(1) & 400.8(4)- Flexible electrical cords shall not substitute permanent wiring or be fastened to exterior of building.
- CEC § 225 & 525.20(c) Overhead installation requirements for outdoor Festoon lighting (String Lighting)
- SDMC §129.0111 - General Rules for Construction Permit Inspections.
- SDMC §126.0303 - When a Conditional Use Permit Is Required
- SDMC §142.1206 - Violations of Sign Regulations
- SDMC §142.0510 - General Parking Regulations
- SDMC §142.0560 - Development and Design Regulations for Parking Facilities
- SDMC §§121.0202-121.0203 provides the authority regarding enforcement of the Land Development Code.
- SDMC §121.0302 requires compliance with the Land Development Code, specifies these violations are not permitted, and provides authority for the abatement of public nuisances.

If you correct the above violations as identified below, you will not be subject to any administrative civil penalties.

In order to avoid administrative civil penalties, you must correct the violations as follows:

You shall **IMMEDIATELY**:

- Cease unauthorized occupancy of buildings and obtain all required mixed Use & Occupancy approvals and certificates from Building Official.
- Install all required smoke alarms (Sleeping Unit/Shelter).
- Install all required carbon monoxide detectors (Sleeping Unit/Shelter).
- Remove all unauthorized storage obstructing means of egress path.
- Remove all unauthorized flexible electrical cords from exterior of building, cease unauthorized use of extension cords and power strips, install all service panel dead fronts, outlet box and junction box cover plates.
- Cease emergency shelter use until all required permits, inspections and approvals are obtained.
- Cease parking vehicles within the unpaved Street Side Yard setback (Illinois Street side).

By January 6, 2020, you shall:

- Obtain all required Use & Occupancy approvals and certificates from Building Official; or, cease music venue use.
- Obtain required permit(s) and successfully complete all required inspections to maintain unpermitted improvements; or, remove improvements and restore to its original configuration.
- Obtain required Electrical Permit(s) and successfully complete all required inspections.
- Obtain required Plumbing/Mechanical Permit(s) and successfully complete all required inspections.

- Perform modifications to ensure all required path of egress signs and exit sign illumination is provided in accordance with the California Building Code section 1013.
- Perform modifications to ensure that means of egress is illuminated under emergency power.
- Perform modifications to ensure all means of egress exit doors have the required panic and fire exit hardware.
- Perform modifications to ensure that occupant loads are posted in accordance to California Building Code § 1004.3
- Perform modifications to ensure interior wall and ceiling finishes are in accordance with California Building Code § 803.11 for Occupancy requirements.
- Perform modifications to ensure handrails are installed for all stairways requiring handrails.
- Perform modifications to insure path of egress elevation changes are provided with contrasting finish to adjacent floor finish material.
- Provide all required portable fire extinguishers and extinguisher signage
- Perform modifications to ensure all conductors, raceways and cables are protected from physical damage and installed in accordance to the California Electrical Code.
- Perform modifications to ensure minimum required working space is provided for service panel.
- Perform modifications to ensure overhead outdoor festoon lighting is supported in accordance with California electrical code; or, remove lighting.
- Successfully complete all required inspections and final approvals for Mechanical Permit No. 245077 (AC replacement).
- Obtain required Conditional Use Permit for the operation of an emergency shelter; or, cease use.
- Remove sign(s) or obtain required permit(s) and successfully complete all required inspections.

Reinspection fees are assessed for each inspection after the issuance of a violation notice in accordance with the SDMC §13.0103. An invoice will be sent following each inspection until compliance is achieved. Current reinspection fees range between \$264 and \$295.

Please refer to the San Diego Municipal Code sections cited for additional information via <https://www.sandiego.gov/city-clerk/>.

Additional forms and documents to assist in your compliance efforts are available at: <https://www.sandiego.gov/ced/forms>.

Failure to Comply with Notice and Order

If you fail to comply with this Notice and Order in the time and manner set forth above, you are subject to civil administrative penalties pursuant to SDMC §§12.0801-12.0810. The penalty rate for the above listed violation(s) has been established in accordance with SDMC §§12.0801-12.0810 at **\$300.00** per violation per day and shall be an ongoing

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assessment of penalties at the daily rate until the violations are corrected. Administrative civil penalty amounts are established by the Development Services Director.

The following factors were used in determining the amount:

- the nature and seriousness of the violation
- the impact of the violation upon the community

Pursuant to SDMC §12.0805(a), in determining the date on which civil penalties shall begin to accrue, the Development Services Director considers the date when the Code Enforcement Division first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence. The date on which the civil penalties began to accrue is **July 31, 2019**, and shall end on the date that the violation(s) has been corrected to the satisfaction of the Development Services Director or the Enforcement Hearing Officer.

Civil Penalties Hearing

If you fail to comply with the Notice and Order, written notice of the time and place of an administrative enforcement hearing will be served on you at least 10 calendar days prior to the date of the hearing in accordance with SDMC §12.0403. At the hearing, you may present evidence concerning the existence of the violation(s) and whether the amount of administrative civil penalties assessed was reasonable in accordance with SDMC §12.0808. Failure to attend an administrative enforcement hearing will constitute a waiver of your rights to an administrative hearing and administrative adjudication of the violation(s) set forth above.

Administrative Costs

The Development Services Director or Enforcement Hearing Officer is authorized to assess administrative costs. Administrative costs may include, but are not limited to: staff time to investigate and document violations; laboratory, photographic, and other expenses incurred to document or establish the existence of a violation; and scheduling and processing of the administrative hearing and all actions.

Failure to Comply with Administrative Enforcement Order

If you fail, neglect, or refuse to obey an order to correct the violations, administrative civil penalties will continue to accrue on a daily basis until the violation is corrected. The unpaid amount of administrative civil penalties will be referred to the City Treasurer for collection, recorded as a code enforcement lien against the property in accordance with SDMC §§13.0201-13.0204, and may be referred to the City Attorney to file a court action to recover the unpaid amount. Failure to correct the violations may also result in referral to the City Attorney for further enforcement action.

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If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact **William Dauphin, Jr., Senior Zoning Investigator, at (619) 533-6145** or **Val Sanchez, Combination Building Inspector, at (619) 533-3433**.

WBD/VS1/ao

cc: File
Council District 3

CED# 0506386

This information will be made available in alternative formats upon request.

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