

**ORDINANCE NO. 01-2021**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING THE TOWN CODE OF ORDINANCES AT CHAPTER 134, ZONING, AS FOLLOWS: AT ARTICLE I, IN GENERAL, SECTION 134-2, AMENDING THE DEFINITION OF SUPPLEMENTAL PARKING TO ALLOW SUPPLEMENTAL OFF-SITE SHARED PARKING IN UNDERGROUND GARAGES WITHOUT THE REQUIREMENT OF FIRST MEETING ALL ON-SITE REQUIRED PARKING; AT ARTICLE VI, DISTRICT REGULATIONS, SECTIONS 134-1107, 134-1157 AND 134-1207, PERMITTED USES, IN THE C-TS, C-WA AND C-OPI COMMERCIAL ZONING DISTRICTS TO ALLOW SUPPLEMENTAL OFF-SITE SHARED PARKING IN AN UNDERGROUND PARKING GARAGE AS A PERMITTED USE PROVIDED THAT SAID PARKING DOES NOT EXCEED 50 PERCENT OF THE PARKING INVENTORY IN AN UNDERGROUND GARAGE AND PROVIDING A SUNSETTING PROVISION FOR SAID USE IN THOSE DISTRICTS ON MARCH 13, 2024, UNLESS EXTENDED OR MODIFIED BY THE TOWN COUNCIL; AT ARTICLE VI, DISTRICT REGULATIONS, SECTIONS 134-1109, 134-1159 AND 134-1209, SPECIAL EXCEPTION USES TO CROSS REFERENCE THE SUPPLEMENTAL PARKING REGULATIONS IN SECTIONS 134-2177 AND 134-2182, AT ARTICLE IX, OFF-STREET PARKING AND LOADING; SECTION 134-2177 LOCATION OF PARKING SPACES, AND SECTION 134-2182, LOCATION OF PARKING SPACES, BY ALLOWING OFF-SITE SUPPLEMENTAL PARKING IN AN UNDERGROUND PARKING GARAGE AS A PERMITTED USE IN THE C-TS, C-WA AND C-OPI ZONING DISTRICTS AND SUNSETTING THE PROVISIONS IN THIS ORDINANCE ON MARCH 13, 2024, UNLESS EXTENDED OR MODIFIED BY THE TOWN COUNCIL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, after public hearings pursuant to notice required by law, the Planning and Zoning Commission considered all testimony and recommended modification to the Code of Ordinances; and

**WHEREAS**, after public hearing pursuant to notice required by law, the Town Council considered the Planning and Zoning Commission's Record and Report and all evidence and testimony and as the Local Planning Agency recommended that the Town Council adopt the subject Ordinance; and

**WHEREAS**, after public hearing pursuant to notice as required by law, the Town Council does hereby find, determine, and declare that the public health, safety, morals and general welfare of the citizens of the Town of Palm Beach requires that the aforesaid Chapter 134, ZONING, of the Code of Ordinances, be amended as hereinafter set forth.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**Section 1.** Article I, IN GENERAL, Sec. 134-2. Definitions and rules of construction is hereby amended to read as follows:

**Sec. 134-2. Definitions and rules of construction.**

...

Parking, supplemental means those parking facilities provided as a permitted or special exception and which are in addition to existing required parking as set forth in the schedule of off-street parking requirements. Supplemental off-site parking in an underground garage that is a permitted use in the C-TS, C-WA and C-OPI zoning districts is not required to be parking that is in addition to what is required in the schedule of off-street parking requirements in the Code.

**Section 2.** Article VI, DISTRICT REGULATIONS, Section 134-1107, Permitted uses, in the C-TS zoning district is hereby amended to read as follows:

**Sec. 134-1107. - Permitted uses.**

- (a) Enumeration; maximum gross leasable area. The permitted uses in the C-TS town-serving commercial district, with a maximum of 3,000 square feet gross leasable area (GLA), are as follows:
  - (1) ...
  - ...
  - (10) Supplemental off-site shared parking within an underground parking garage to not exceeding 50 percent of the garage parking inventory. This use will sunset on March 13, 2024, unless extended or modified by town council.

**Section 3.** Article VI, DISTRICT REGULATIONS, Section 134-1109, Special exception uses, in the C-TS zoning district is hereby amended to read as follows:

**Sec. 134-1109. - Special exception uses.**

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-TS town-serving commercial district are as follows:
  - (1) ...
  - ...
  - (7) Supplemental parking per Secs. 134-2177 and 134-2182.
  - ...

**Section 4.** Article VI, DISTRICT REGULATIONS, Section 134-1157, Permitted uses, in the C-WA zoning district is hereby amended to read as follows:

**Sec. 134-1157. - Permitted uses.**

- (a) Enumeration; maximum gross leasable area. The permitted uses in the C-WA Worth Avenue commercial district, with a maximum of 4,000 square feet gross leasable area (GLA), are as follows:

(1) ...

...

(32) Supplemental off-site shared parking within an underground parking garage to not exceed 50 percent of the garage inventory. This use will sunset on March 13, 2024, unless extended or modified by town council.

...

**Section 5.** Article VI, DISTRICT REGULATIONS, Section 134-1159, Special exception uses, in the C-WA Worth Avenue commercial zoning district is hereby amended to read as follows:

**Sec. 134-1159. - Special exception uses.**

- (a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-WA Worth Avenue district are as follows:

(1) ...

...

(6) Supplemental parking per Secs. 134-2177 and 134-2182.

...

**Section 6.** Article VI, DISTRICT REGULATIONS, Section 134-1207 Permitted uses., in the C-OPI, Office, Professional and Institutional district is hereby amended to read as follows:

Sec. 134-1207 Permitted uses.

The permitted uses in the C-OPI office, professional and institutional district are as follows:

(1) ...

...

(8) Supplemental off-site shared parking within an underground parking garage to not exceed 50 percent of the garage parking inventory. This use will sunset on March 13, 2024, unless extended or modified by town council.

**Section 7.** Article VI, DISTRICT REGULATIONS, Section 134-1209, Special exception uses, in the C-OPI Office Professional and Institutional commercial zoning district is hereby amended to read as follows:

**Sec. 134-1209. - Special exception uses.**

The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-OPI office professional and institutional district are as follows:

- (1) ...
- ...
- (5) Supplemental parking per Secs. 134-2177 and 134-2182.
- ...

**Section 8.** Article VI, DISTRICT REGULATIONS, Section 134-1259, Special exception uses in the C-PC Planned Center commercial district is hereby amended to read as follows:

**Sec. 134-1259. - Special exception uses.**

(a) The special exception uses require a site plan review as provided in article III of this chapter. The special exception uses in the C-PC planned center district are as follows:

- (1)...
- ...
- (5) Supplemental parking per Secs. 134-2177 and 134-2182.
- ...

**Section 9.** Article IX, OFF-STREET PARKING AND LOADING [14], Sec. 134-2177, Location of parking spaces is hereby amended to read as follows:

**Sec. 134-2177. Location of parking spaces.**

Parking spaces for all uses or structures which are provided as required parking in conformance with the schedule of off-street parking and other applicable sections shall be located on the same lot and shall have the same district classification as the principal use or structure they are intended to serve, except as specifically excepted as follows:

- (1) The town council may permit, as a special exception, the establishment of such required off-street parking facilities for commercial uses within 500 feet of the premises, as measured along the nearest public or permanent private pedestrian walkway they are intended to serve when:
  - a. Practical difficulties prevent the placing of the facilities on the same lot as the premises they are designed to serve;
  - b. The proposed location is located within the same zoning district as the principal use it is designated to serve;

- c. The owner of the parking area shall enter into a written agreement with the town, with enforcement running to the town, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and
- d. The owner agrees to bear the expense of recording the agreement and agrees that the agreement shall bind his heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.

(2) The town council may permit, as a special exception, the establishment of supplemental off-street facilities which are in addition to those facilities required in accordance with the schedule of off-street parking for a permitted or approved special exception use. Such supplemental off-street parking facilities may be permitted only after the required parking for the principal use involved has been provided in full at current standards as contained in the schedule. This additional parking may be supplemental parking located on the same lot or supplemental off-site parking located on a directly adjoining lot or a lot which would be directly adjoining except for the location of a street or public way; provided, however, that all other provisions for special exceptions as set forth in sections 134-227 through 134-233 are complied with and, further, that the granting of such supplemental on-site or supplemental off-site parking is not construed as permission to expand, enlarge, alter, renovate, or modify the use of structure except in accordance with the requirements of this chapter. The exception is that supplemental off-site shared parking within an underground parking garage is exempt from this section of the Code.

- (3) The town council may permit, as a special exception, the establishment of required off-street parking facilities for commercial uses in zoning districts differing from the district of the principal uses of structures they are intended to serve if the following conditions are met:
- a. The owner of the parking area shall enter into a written agreement with the town with enforcement running to the town providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the buildings with which the parking area serves so long as the facilities are required.
  - b. The owner of the parking area shall agree to bear the expense of recording the agreement, and agrees that the agreement shall bind his heirs, successors and assigns. The written agreement shall be voided by the town if other off-street facilities are provided in accordance with this chapter.
  - c. The parking area shall have been used as a parking area for the entirety of each of the five calendar years immediately preceding the application for special exception.
  - d. The parking area shall abut the property on which is situated the principal structure for which it is to furnish the required off-street parking.
  - e. The provisions for special exceptions as set forth in sections 134-227 through 134-233 are complied with.
  - f. The said parking area shall be located at ground level or below ground level and shall not be located within any structure above ground.

**Section 10. Article IX, OFF-STREET PARKING AND LOADING [14], Sec. 134-2182, Location of parking spaces, is hereby amended to read as follows:**

**Sec. 134-2182. - Shared parking in C-TS, C-WA and C-OPI commercial zoning districts.**

(a) Off-site supplemental shared parking within an underground garage is permitted by right in the C-TS, C-WA and C-OPI zoning districts without the requirement of first providing all required parking. However, said shared parking shall not exceed 50 per cent of the existing parking inventory in said underground garage.

(b) Special exception. Although there is no entitlement to shared parking, arrangements for shared parking may be allowed in the CT-S, C-WA and C-OPI commercial zoning districts, subject to the review and approval of a special exception as set forth under sections 134-227 through 134-233 and under the circumstances provided in this section.

(~~b~~c) On-site shared parking. When a new use is proposed to occupy existing floor space and the new use would require a greater number of parking spaces than required by the former use, the new use may request sharing of on-site parking to meet the town's off-street parking requirements, provided:

- (1) A traffic planner or traffic engineer clearly establishes to the town council, at the applicant's expense, that:
  - a. All uses utilizing the existing parking facilities will primarily utilize these parking spaces at different times of the day, week, month or year;
  - b. The sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities; and
  - c. The available parking will be adequate to serve the needs of the proposed use.
- (2) If the building official determines that professional advice and/or consultation is required to review the applicant's parking findings, the expense of such professional advice shall be borne by the applicant.
- (3) The applicant provides to the town, at the applicant's expense, a recorded three-party agreement, including the town as one of the parties, with enforcement running to the town, guaranteeing the continuing availability of the shared parking spaces during the period of operation of the applicant's use. The term of the agreement shall approximate the life of the building or use for which the shared parking spaces fulfill the town's off-street parking requirement. If the shared parking ever ceases to be available or becomes inadequate due to a change in the uses' respective schedules of operation that results in conflicting or overlapping usage, the proposed use shall be required to obtain a new occupancy permit and provide proof that sufficient parking will be provided or shall be required to immediately reduce the intensity of the use served to the extent that it will be conforming to the town's off-street parking requirements.

(ed)Supplemental off-site shared parking. With the exception of underground shared parking that is a permitted use in the C-TS, C-WA and C-OPI zoning district, A a conforming use may lease to another existing conforming use the former's required or supplemental parking spaces for use by patrons or employees of the latter, provided:

- (1) The area to be used for off-site shared parking shall be in the C-TS, C-WA, C-PC or C-OPI zoning district, and, except for shared parking within a parking garage or underground/underbuilding parking area, any area used for off-site shared parking shall be accessible only to and used by parking attendants and shall have controlled access in the form of gates or other barriers acceptable to the town that can be accessed and used only by parking attendants.
- (2) Off-site shared parking shall be located no more than 500 feet from the use the off-site shared parking is intended to serve.
- (3) The applicant shall provide evidence which shall prove to the satisfaction of the town council that the off-site shared parking use shall not increase noise, light or traffic impacts upon neighboring residential districts.
- (4) A traffic planner or traffic engineer establishes to the satisfaction of the town council, at the applicant's expense, that all other establishments using the existing parking spaces will primarily utilize these spaces at different times of the day, week, month or year from that of the applicant's use, and that the sharing of such parking spaces will not result in conflicting or overlapping usage of the parking facilities.
- (5) If the director of planning, zoning and building department should determine that professional advice and/or consultant is required to review the applicant's parking findings, the expense of such professional advice shall be borne by the applicant pursuant to sections 134-171 and 134-172.
- (6) Off-site shared parking shall only be supplemental, and such parking shall not be used to meet required parking for new construction or expansion or addition to existing floor area.
- (7) The town may impose such additional conditions that it deems necessary to minimize noise, light and traffic impacts upon neighboring residential districts.
- (8) The approval shall initially be limited to a period of six months, whereupon a subsequent review shall be made at a public hearing of the town council at which the interim approval may be renewed, modified or revoked.
- (9) The provisions in Sec. 134-2177 and 134 2182 related to supplemental off-site shared parking in an underground garage as a permitted use in the C-WA, C-TS and C-OPI zoning district will sunset on March 13, 2024 unless extended or modified by the town council.

**Section 11. Severability.**

If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

**Section 12. Repeal of Ordinances in Conflict.**

All other ordinances of the Town of Palm Beach, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

**Section 13. Codification.**

This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Palm Beach.

**Section 14. Effective Date.**

This Ordinance shall take effect thirty-one days after its adoption, as provided by law.

PASSED AND ADOPTED in a regular, adjourned session of the Town Council of the Town of Palm Beach on first reading this 13th day of January, 2021, second reading and final adoption on this 10th day of February, 2021.

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Gail L. Coniglio, Mayor

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Margret A. Zeidman, Town Council President

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Bobbie Lindsay, Council President Pro Tem

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Julie Araskog, Town Council Member

ATTEST:

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Danielle H. Moore, Town Council Member

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Queenester Nieves, Town Clerk

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Lewis S.W. Crampton, Town Council Member