

RESTRICTIVE (SHARED PARKING) COVENANT

For SUNWEST COMMERCE CENTER

This Restrictive (Shared Parking) Covenant for the center known as Sunwest Commerce Center (f/k/a CSG Sunwest) is entered into this ____ day of _____, 2016, by Sunwest CC Association, Inc., a Florida not For Profit Corporation, Sunwest Office Park, LLC, a Florida Limited Liability Company (hereinafter "Owner" or "Declarant I"), Yoga Factory & Fitness, Inc., a Florida Profit Corporation (hereinafter "Declarant II"), and The Florida District of the Wesleyan Church, Inc. a Florida Not for Profit Corporation (hereinafter "Declarant III"). Owner/Declarant I, Declarant II and Declarant III are collectively referred to as the Declarants.

WITNESSETH

WHEREAS, Section 16-145 of the City of Sunrise Code of Ordinances ("Code") provides that upon application to the Community Development Department, and after public meeting, the City Commission of the City of Sunrise ("City") may approve shared parking for two (2) or more separate permitted uses; and

WHEREAS, Sunwest Commerce Center is comprised of 2 existing buildings and a parking lot and consists of several parcels known as folio # 50-40-09-20-0011, 50-40-09-20-0110, and 50-40-09-20-0390; and

WHEREAS, Sunwest CC Association, Inc. is the owner of the parking lot located within folio # 50-40-09-20-0010; and

WHEREAS, Sunwest Office Park, LLC owns the unit located at 15481 SW 12th Street, Unit 300, Sunrise, FL, and wants to lease Unit 300 to Declarant II; and

WHEREAS, The Florida District of Wesleyan Church owns the unit located at 15491 SW 12th Street, Unit 407, Sunrise, FL; and

WHEREAS, Declarants II and III have agreed to restrict the hours of their operation to those identified in Exhibit "B;"

WHEREAS, Owner, desires to share parking located within Owner's existing subject property (folio #50-40-09-20-0010) with Declarant II and Declarant III; and

WHEREAS, Owner has control and authority to regulate the use of all parking spaces located within said folio #50-40-09-20-0010; and

WHEREAS, Declarants have requested that shared parking be permitted at the Property which is fully described within Exhibit "A" (the "Property") which is attached hereto and incorporated herein; and

WHEREAS, the City Commission, following a public meeting on May 10, 2016, approved shared parking for the Property known as Sunwest Commerce Center and located as

described in Exhibit “A” in conformity with the Parking Analysis which is attached hereto and incorporated herein as Exhibit “B”; and

WHEREAS, Section 16-145 of the Code requires that a covenant running with the land be recorded in the Public Records of Broward County as a condition of approval of an application for shared parking;

NOW, THEREFORE, in consideration of the foregoing recitals, Declarants hereby set forth the following restrictions as covenants running with the Property;

1. The foregoing recital clauses are true and correct and incorporated herein by reference.
2. Each and every use of the Property that requires shared parking shall be in compliance with this shared parking approval granted by the City Commission on May 10, 2016, by Resolution 16-, by Section 16-145 of the City of Sunrise Code and by this Restrictive (Shared Parking) Covenant (collectively "Shared Parking Approvals"). All references herein to Owner and Declarants shall be interpreted to include their successors in interests and assigns. Owner and Declarants shall provide sufficient information to demonstrate compliance with the Shared Parking Approvals to the Director of the Community Development Department of the City as a condition of obtaining approval for any change of use.
3. This Restrictive (Shared Parking) Covenant (“Covenant”) is made for the benefit of Owner, Declarants and the City. Owner, Declarants and the City shall be entitled to enforce the covenants and restrictions contained in this Restrictive (Shared Parking) Covenant. Owner and Declarants agree to be jointly and severally responsible for assuring compliance with this Covenant, the Shared Parking Approvals and Chapter 16, Article VII "Off-Street Parking and Loading" of the Code of Ordinances.
4. The City shall be entitled to enforce the covenants and restrictions contained herein through all procedures available under the City Code and Florida Law. Owner and Declarants understand and agree that, if for any reason the parking spaces required under the Shared Parking Approvals are no longer available for use, Owner and Declarants shall be required to reduce or cease operation and use of the Property to the extent necessary to bring the Property into conformance with Chapter 16, Article VII "Off-Street Parking and Loading" of the Code of Ordinances. It is further agreed and understood that if the owner and Declarants do not come into conformance with the Shared Parking Approvals and with Chapter 16, Article VII, they shall be subject to enforcement for a violation of Chapter 16 and this Covenant.
5. If the Director of the Community Development Department (“Director”) receives information indicating that the Owner or Declarants are in violation of the Shared Parking Approvals, Section 16-145 of the City Code, or this Covenant, then the Director shall provide written notice of the alleged violation to the Owner and Declarants at their addresses provided herein by certified mail, return receipt requested. Owner or Declarants may change their notice address, by providing written notice of such change to the Director. The notice from the Director shall describe the violation of the Shared Parking Approvals. The notice from the Director shall advise of the nature of the alleged violation and any steps necessary to avoid future violations, and advise that the Owner and Declarants may provide written responses to the notice within twenty (20) days of its receipt.

a. Administrative Finding of Violation: Within 30 days of providing written notice to the Owner and Declarants, the Director shall, consider his or her review of the conditions and available information, including any and all written responses/provided by the Owner and Declarants, and make a written finding as to whether one or more of the parties to this Covenant violated the Shared Parking Approvals. Written notice of the Director's finding of violation of the Shared Parking Approvals shall be provided to the Owner and Declarants at their notice address by certified mail, return receipt requested

b. Administrative Appeal: Within thirty (30) days of the Director's issuance of the finding of violation, a party found to be in violation may file an administrative appeal of the Director's decision to the City Commission via the Board of Adjustment pursuant to Section 16-48 of the Code of Ordinances.

c. Termination of Covenant if Second Violation Within One Year Is Upheld or Not Appealed: This Covenant shall automatically terminate following a finding that a second violation occurred within a year, and that finding of second violation is not appealed or is upheld following appeal. The year shall be measured from the time of the incident to which each violation relates. If no administrative appeal has been filed within thirty (30) days of the Director's issuance of the finding of second violation of all or a portion of the Shared Parking Approvals, the Covenant shall automatically terminate. Should an appeal be filed and a second finding of violation upheld, the Covenant shall terminate upon the date of the conclusion of the final available appeal proceeding. Upon termination, the Shared Parking Approvals shall be discontinued, and the Owner and Declarants shall immediately make other arrangements to come into compliance with Chapter 16, Article VII "Off-Street Parking and Loading" of the Code of Ordinances. A Notice of Termination of Covenant shall be recorded by the City within (30) days after the termination occurs.

6. Violations of the Shared Parking Approvals shall be considered violations of Chapter 16, Article VII "Off Street Parking and Loading" of the Code of Ordinances and may, at the City's option, be enforced through the code enforcement procedures of Chapter 2 of the Code of Ordinances or any other procedure provided by law.

7. The Covenant and restrictions shall continue in full force and effect for a period of ten (10) years from the date of recordation and shall thereafter be renewed automatically for successive ten (10) year periods unless and until terminated as provided in Paragraphs 5 or 8.

8. This Covenant may be terminated, extended, modified, or amended, as to the whole of said Property or any portion, only with the written consent of the City.

9. All covenants and restrictions contained in this Covenant are made for the direct, mutual, and reciprocal benefit of Owner, Declarants and the City, in favor of the Owner, Declarants and the City, and shall create reciprocal rights and obligations between all grantees of the Property, or portions of the Property, their heirs, successors, personal representatives and assigns, and operate as a covenant running with the land for the benefit of the Property.

Every person who now or hereafter acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant and restriction contained in this Restrictive (Shared Parking) Covenant by which such person acquired

an interest in the Property. All future Shared Parking Approvals related to the Property shall be required to execute and record a Joinder and Consent to this Restrictive (Shared Parking) Covenant, and shall further require this Restrictive (Shared Parking) Covenant to be amended in order to incorporate the additional Shared Parking Approvals and add the additional owners or tenants of the Property as Owners or Declarants.

Any waiver of failure to enforce any provision of this Restrictive (Shared Parking) Covenant in a particular situation shall not be deemed a waiver or abandonment of such provision. The failure of Owner, Declarants or City to enforce any covenant or restriction shall in no event be deemed to be a waiver of the right to do so hereafter, nor of the right to enforce any other covenant or restriction. In the event that the City finds it necessary to commence litigation to enforce the terms and conditions of this Restrictive (Shared Parking) Covenant, the City will be entitled to recover its reasonable attorney's fees and costs if it is the prevailing party.

Each party represents and warrants that on this date they are duly authorized to bind their respective principals by their signatures below.

RESTRICTIVE (SHARED PARKING) COVENANT
For
Sunwest Commerce Center

JOINDER AND CONSENT TO
RESTRICTIVE (SHARED PARKING) COVENANT

The undersigned, Craig S. Perry, as Agent of Sunwest CC Association, Inc. ("Owner"), with an address for notice at, 15481 SW 12th Street #309, Sunrise, FL 33326 does hereby join in and consent to the terms of this Restrictive (Shared Parking) Covenant and agrees that the same shall be binding upon the Owner and further represents that the undersigned has the appropriate authority to execute the Restrictive (Shared Parking) Covenant on behalf of the Owner.

IN WITNESS WHEREOF, these presents have been executed this _____, day of _____, 2016.

Witnesses: By: _____
Craig S. Perry, Agent

Signature

Printed Name

Signature

Printed Name

STATE OF FLORIDA
COUNTY OF BROWARD

SWORN TO and subscribed before me this ____ day of _____, 2016, by Craig S. Perry, Agent of Sunwest CC Association, Inc., who is personally known to me or who produced _____ as identification.

My Commission Expires: _____
Notary Public signature

(stamp) _____
(Printed, Typed or Stamped Name of Notary)

RESTRICTIVE (SHARED PARKING) COVENANT
For
Sunwest Commerce Center
JOINDER AND CONSENT TO
RESTRICTIVE (SHARED PARKING) COVENANT

The undersigned, Craig S. Perry, as Trustee of Sunwest Office Park, LLC, ("Declarant"), with an address for notice at 15481 SW 12th Street #309, Sunrise, FL 33326, does hereby join in and consent to the terms of this Restrictive (Shared Parking) Covenant and agrees that the same shall be binding upon the Declarant and its tenants and further represents that the undersigned has the appropriate authority to execute the Restrictive (Shared Parking) Covenant on behalf of the Declarant.

IN WITNESS WHEREOF, these presents have been executed this _____, day of _____, 2016.

Witnesses: By: _____
Craig S. Perry, Trustee

Signature

Printed Name

Signature

Printed Name

STATE OF FLORIDA
COUNTY OF BROWARD

SWORN TO and subscribed before me this ____ day of _____, 2016, by Craig S. Perry, Trustee of Sunwest Office Park, LLC, who is personally known to me or who produced _____ as identification.

My Commission Expires: _____
Notary Public signature

(stamp) _____
(Printed, Typed or Stamped Name of Notary)

RESTRICTIVE (SHARED PARKING) COVENANT
For
Sunwest Commerce Center

JOINDER AND CONSENT TO
RESTRICTIVE (SHARED PARKING) COVENANT

The undersigned, Barry L. Haley, as Director of Yoga Factory & Fitness, Inc. (“Declarant”), with an address for notice at 15481 SW 12th Street, Suite 300, Sunrise, Florida 33326, does hereby join in and consent to the terms of this Restrictive (Shared Parking) Covenant and agrees that the same shall be binding upon the Declarant and further represents that the undersigned has the appropriate authority to execute the Restrictive (Shared Parking) Covenant on behalf of the Declarant.

IN WITNESS WHEREOF, these presents have been executed this _____, day of _____, 2016.

YOGA FACTORY & FITNESS, INC.

By: _____
Barry L. Haley, Director

Witnesses:

Signature

Printed Name

Signature

Printed Name

STATE OF FLORIDA
COUNTY OF BROWARD

SWORN TO and subscribed before me this ____ day of _____, 2016, by Barry L. Haley, Director of Yoga Factory & Fitness, Inc. who is personally known to me or who produced _____ as identification.

My Commission Expires:

Notary Public signature

(Printed, Typed or Stamped Name of Notary)

(stamp)

RESTRICTIVE (SHARED PARKING) COVENANT
For
Sunwest Commerce Center
JOINDER AND CONSENT TO
RESTRICTIVE (SHARED PARKING) COVENANT

The undersigned, Reverend Patrick J. Styers, as District Superintendent of The Florida District of the Wesleyan Church, Inc. ("Declarant"), with an address for notice at 3807 Maryweather Lane #102, Wesley Chapel, Florida, 33544, does hereby join in and consent to the terms of this Restrictive (Shared Parking) Covenant and agrees that the same shall be binding upon the Declarant and further represents that the undersigned has the appropriate authority to execute the Restrictive (Shared Parking) Covenant on behalf of the Declarant.

IN WITNESS WHEREOF, these presents have been executed this _____, day of _____, 2016.

THE FLORIDA DISTRICT OF THE
WESLEYAN CHURCH, INC.

By: _____
Reverend Patrick J. Styers,
District Superintendent

Witnesses:

Signature

Printed Name

Signature

Printed Name

STATE OF FLORIDA
COUNTY OF _____

SWORN TO and subscribed before me this ____ day of _____, 2016, by Reverend Patrick J. Styers, District Superintendent of The Florida District of the Wesleyan Church, Inc. who is personally known to me or who produced _____ as identification.

My Commission Expires: _____
Notary Public signature

(stamp) _____
(Printed, Typed or Stamped Name of Notary)