

ORDINANCE NO. 2020-02 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 ENTITLED “LAND DEVELOPMENT REGULATIONS” OF THE CODE OF ORDINANCES BY AMENDING ARTICLE I “GENERAL PROVISIONS” RELATING TO DEFINITIONS; ARTICLE 3 “ZONING DISTRICTS” BY CREATING A CULTURAL ARTS DISTRICT OVERLAY; AND FOR OTHER PURPOSES; PROVIDING FOR SEVERABILITY, CONFLICTS, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Lake Worth Beach, Florida (the “City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City adopted a new Chapter 23 “Land Development Regulations” of the Code of Ordinances on August 6, 2013 (“2013 Regulations”); and

WHEREAS, the 2016 Evaluation and Appraisal Review (EAR) resulted in major amendments to the City’s Comprehensive Plan including the creation of the “Cultural Arts Overlay (Policies 1.1.1.1 and 1.1.1.14); and

WHEREAS, The Cultural Arts Overlay land use category is intended to provide for the establishment and enlargement of cultural arts related uses within a variety of broader land use categories near the urban core of the city and along the FEC railway corridor within close proximity of the historic downtown with the implementing zoning districts to include DT, MU-E, MU-DH, SF-R, SF-TF 14, TOD-E, and AI.; and

WHEREAS, on October 10, 2018, the City adopted the Cultural Master Plan, as prepared by Lord Cultural Resources and Jon Stover Associates, under the direction of the Cultural Council of Palm Beach County; and

WHEREAS, on April 16, 2019, the City Commission adopted an amendment to the Comprehensive Plan to include by reference the adopted Cultural Arts Master Plan; and

WHEREAS, the Planning and Zoning Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the Historic Resources Preservation Board, in its capacity as the local planning agency for historic districts, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the City Commission has reviewed the recommended amendments, and has determined that the amendments are in the best interest of the public health, safety, and welfare of the City and its residents and serve a valid public purpose. NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1. The foregoing recitals are hereby affirmed and incorporated herein.

Section 2. Chapter 23, Article 1, Division 2, Section 23.1-12, Definitions, is hereby amended by adding the words shown in underlined type and deleting the words struck through as follows:

Arts related personal improvement services: Establishments primarily engaged in providing instruction in (i) the visual arts, including, but not limited to, painting, sculpting, photography and folk arts, or (ii) the performing arts including, but not limited to, music, dance, and theatre. This does not include any instruction related to tattooing or body piercing.

Artist studio, single artist (or "Single-artist studio"): A building, or portion thereof, used as a place of work by a single artist engaged in (i) the visual arts, including, but not limited to, painting, sculpting, photography and folk arts, or (ii) the performing arts, including, but not limited to, music, dance, and theatre. A single-artist studio includes the creation of work and the accessory sale of work produced only by the artist in his or her own studio. Works from other artists may not be offered for sale. This does not include a studio for tattooing or body piercing.

Artist studio, multiple-artists (or "Multiple-artists studio"): A building, or portion thereof, used as a place of work by multiple artists engaged in (i) the visual arts, including, but not limited to, painting, sculpting, photography and folk arts, or (ii) the performing arts, including, but not limited to, music, dance, and theatre. A multiple-artists studio includes the creation of work and the accessory sale of work produced by multiple artists using or sharing the studio(s). Works from other artists may not be offered for sale. This does not include a studio for tattooing or body piercing.

Gallery: A building or portion thereof, used as a place to exhibit and offer for sale the works of visual artists, including, but not limited to, painting, sculpting, photography and folk arts.

Section 3. Chapter 23, Article 3, Division 9, Section 23.3-29, Reserved, is hereby amended by creating the Cultural Arts District Overlay by adding the words shown in underlined type and deleting the words struck through as follows:

Sec. 23.3-29.—Reserved. Cultural Arts district overlay

a) Intent. The purpose of the Lake Worth Beach Cultural Arts Overlay District, also referred to as the “Arts Overlay District” or the “Arts District” is to provide an optional set of land development regulations for single family and two family dwellings in a targeted sub-area of the City’s Downtown, Mixed Use - East, Mixed Use – Dixie Highway, TOD-E, Artisanal Industrial and residential areas in close proximity to these zoning districts. The establishment of an Arts District provides for regulations that are more responsive to the needs of artists in the community, encourages more owner-occupied dwellings in this geographic area and expands the economic opportunities for home owners, property owners, and artists.

b) Applicability. The following area of the City is hereby established as the Cultural Arts Overlay District:

The area bounded on the east by Dixie Highway, on the south by 6th Avenue South, on the west by the alley west of “F” street, and on the north by 3rd Avenue North.

c) Use restrictions. Refer to the permitted use table at section 23.3-6 for a complete list of uses, which includes those uses allowed by the underlying zoning district.

1. Principal uses permitted by Administrative Use.

- A. Artisan Studio
- B. Arts and Crafts Studio
- C. Art Gallery
- D. Bakery
- E. Ceramics Studio with Kiln
- F. Ceramics Studio without Kiln
- G. Commissary Kitchen
- H. Craft Gallery
- I. Custom Jewelry Fabrication/Studio
- J. Photography Studio
- K. Photography gallery (including picture framing)
- L. Pottery Shop/Studio
- M. Recording Studio
- N. Sculpture Studio with Kiln
- O. Sculpture Studio w/o Kiln
- P. Stained Glass Studio

2. General.

- A. The provisions of the Arts Overlay District shall be available through the Administrative Use process (See Section 23.2-128 (b)) for parcels containing a single-family detached dwelling unit, with or without an accessory dwelling unit, or a two-family dwelling unit.

- i. Parcels with a two-family dwelling unit shall be owned by the same person or entity.
 - ii. Parcels with multi-family units may be converted to a single-family or two-family unit in order to comply with this section.
 - B. Existing nonconforming dwellings within this overlay may be used for this purpose so long as the building footprint or building area is not expanded or additional residential structures added to the lot.
 - C. Using the provisions of the Arts District can benefit a property owner by allowing greater intensity and variety of uses than would otherwise be allowed in the base Zoning District.
 - D. The use of the Arts Overlay District is optional. However, if the owner or artist opts to use the Arts Overlay District, the provisions and requirements of the Arts District must be used in their entirety. An owner or artist may not select only specific elements from the Arts Overlay District regulations.
 - E. Not all types of arts uses will be appropriate for the residential areas eligible for the optional Arts District. The addition of arts uses can be very compatible and add to the character of a neighborhood, but some more intensive uses with negative impacts such as noise, fumes, dust or hours of operation will not be suitable for location in the Arts District.
 - F. Section 23.2.28, "Home Occupations", does not apply to arts related businesses regulated in this overlay district.
 - G. In addition to the standards provided in this section, all applicable standards and reviews must be met for properties located within a Historic District.
 - H. To the extent that the Arts District does not address a specific development requirement, the regulations contained in the base zoning district and in the entirety of these LDRs shall apply.
- d) Development regulations.
 - 1. Design and performance standards
 - A. Dwelling units in the Arts Overlay District must be owner occupied.
 - B. For a single-artist studio in a single family dwelling unit, the artist must be a resident in the dwelling unit. For a single-artist studio in a two-family dwelling, the artist must be a resident in one (1) of the dwelling units.
 - C. For a multiple-artists studio as a permitted use, the maximum number of artists allowed shall be two (2) and both artists must be full time residents in the dwelling unit.
 - D. No additional dwelling units shall be created and no accessory structures shall be used for living purposes, unless said accessory structure is an approved dwelling unit.
 - E. No more than one (1) non-resident employee is permitted per artist.
 - F. Notwithstanding Section 23-4.6 "Home Occupations", up to fifty percent (50%) of the dwelling unit may be used for the arts related business.

2. Outdoor storage. Outdoor storage shall comply with Section 23.4-19. All materials and work products related to the arts related business must be stored in an enclosed building.
3. Outdoor impacts.
 - A. Any creation of art that generates excessive noise or is not compliant with Section 15-24 of the Code or otherwise not in keeping with noise levels appropriate to a residential zoning district, is prohibited. Noise generating activities must be located in a completely enclosed building that attenuates the noise.
 - B. Excessive lights, dust, fumes, odors, and vibrations are prohibited unless the impacts are mitigated and the activity is located in a completely enclosed building that attenuates the lights, dust, fumes, odors and vibrations. Excessive lights, dust, fumes, odors and vibrations are those that due to intensity, frequency, or duration disrupt the ability of the neighbors to enjoy and use their property.
4. Solid waste disposal. All solid waste shall be disposed of in individual residential pick-up containers. Dumpsters are not permitted.
5. Parking.
 - A. No additional parking is required for a single-artist studio.
 - B. For all other arts related businesses, one (1) additional parking space shall be provided for every 500 square feet or portion thereof of the arts related business.
 - C. Additional required parking may be located either on-site or immediately adjacent to the lot on the public street.
 - D. If additional on-site parking is added, it shall be located behind the front building line unless approved through a conditional use permit.
6. Signage.
 - A. One (1) permanent sign to identify the arts use shall be allowed. The sign may be a wall sign, a projecting sign, or a freestanding sign, and shall not exceed four (4) square feet in area.
 - B. One (1) directional sign is allowed, not to exceed four (4) feet in height and three (3) square feet in area.
 - C. A wall sign may be attached as follows:
 - i. Attached to the façade of the main building.
 - ii. Attached to a structure containing an arts studio.
 - iii. Attached to a fence on the property, provided it does not impede pedestrians or impact sight distances.

- D. The projecting sign may be hung from a porch or other portion of the main structure or studio. No portion of any sign is allowed above the first floor.
 - E. A freestanding sign shall be a maximum of five (5) feet in height. Such freestanding sign may be placed within five (5) feet of the property line provided that the sign does not impede pedestrians or impact sight distances. A freestanding sign may be a pole sign, but may not be a monument sign.
 - F. Signs may be double-sided.
 - G. Changeable copy is not allowed.
 - H. Sign Illumination
 - i. The sign may only be illuminated externally.
 - ii. No internal illumination, either of a sign box or individual channel letters, shall be allowed.
 - iii. Illumination is allowed when the arts use is open for business.
 - iv. No light source shall create an unduly distracting or hazardous condition to a motorist, pedestrian or the general public.
 - v. Lighted signs shall be placed, shielded or deflected so as not to shine into residential dwelling units or structures, or impair the road vision of the driver of any vehicle.
 - vi. Light sources for a sign shall be directed and shielded to limit direct illumination of any object other than the sign.
 - vii. Neon signage is not allowed.
 - viii. Strip lighting is not allowed.
 - I. Alterations to the sign regulations contained in the Arts Overlay District may be requested as part of a conditional use permit. This can include a greater number or size of signs, location of signs or the use of artistic sign embellishments.
7. Hours of operation. The hours of operation related to activities associated with an arts related business that is open to the public are as follows: Sunday through Thursday between 9:00 am and 7:00 pm and Friday and Saturday between 9:00 am and 9:00 pm, except as may be allowed during a special event or otherwise approved by the City.
8. Outdoor cultural events and performances. Outdoor events or performances that are open to the public and that feature visual art, music, dance, theater, performance art, science, design or cultural heritage are permitted, subject to the following:
- A. The outdoor event or performance must be presented by an existing business on the property and must comply with all applicable codes and ordinances.
 - B. The business' regularly stocked items may be displayed outdoors and be available for purchase during the event or performance but payment for all

items shall occur indoors. No other items may be displayed for sale outdoors during the event or performance.

- C. Outdoor events or performances are limited to Fridays, Saturdays and Sundays only.
- D. Friday and Saturday outdoor events or performances shall be limited to the hours between 10:00 a.m. and 10:00 p.m. No amplified music or loudspeakers may be used outside after 10:00 p.m.
- E. Sunday outdoor events or performances shall be limited to the hours between 10:00 a.m. and 10:00 p.m. No amplified music or loudspeakers may be used outside after 8:00 p.m.
- F. Hours and days of outdoor events or performances may be extended subject to obtaining a use permit in accordance with the standards and procedures of the Development Review Official Section of the Zoning Ordinance.
- G. Outdoor events or performances shall be a minimum of 100 feet from a single-family residential zoning district.
- H. Not more than twelve (12) art-related, Arts District wide special events may be held in any one (1) calendar year.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 6. Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section", "division", or any other appropriate word.

Section 7. Effective Date. This ordinance shall become effective ten (10) days after passage.

The passage of this ordinance on first reading was moved by Commissioner Hardy, seconded by Commissioner Maxwell, and upon being put to a vote, the vote was as follows:

Mayor Pam Triolo
Vice Mayor Andy Amoroso

AYE
AYE

Commissioner Scott Maxwell	AYE
Commissioner Omari Hardy	AYE
Commissioner Herman Robinson	AYE

The Mayor thereupon declared this ordinance duly passed on first reading on the 18th day of February, 2020.

The passage of this ordinance on second reading was moved by Commissioner Maxwell, seconded by Vice Mayor Amoroso, and upon being put to a vote, the vote was as follows

Mayor Pam Triolo	AYE
Vice Mayor Andy Amoroso	AYE
Commissioner Scott Maxwell	AYE
Commissioner Omari Hardy	AYE
Commissioner Herman Robinson	AYE

The Mayor thereupon declared this ordinance duly passed on the 3rd day of March, 2020.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Pam Triolo, Mayor

ATTEST:

Deborah M. Andrea, CMC, City Clerk