ORDINANCE #

AN ORDINANCE TO AMEND CHAPTER 1, SECTION 1.2.3, DEFINITIONS; CHAPTER 4, SECTION 4.7.7.2, CENTRAL BUSINESS DISTRICT; CHAPTER 4, SECTION 4.7.14, TABLE OF USES; AND CHAPTER 5, SECTION 5.18, SIDEWALK SEATING, OF THE TOWN OF BLACK MOUNTAIN LAND USE CODE

WHEREAS, the Black Mountain Code of Ordinances was adopted by the Town Council on the 13th day of December, 1993, and the Black Mountain Land Use Code was adopted by the Town Council on the 11th day of January, 2010; and

NOW, THEREFORE, BE IT RESOLVED that Chapter 1, Section 1.2.3, Definitions; Chapter 4, Section 4.7.7.2, Central Business District; Chapter 4, Section 4.7.14, Table of Uses; and Chapter 5, Section 5.18, Sidewalk Seating, of the Town of Black Mountain Land Use Code, be amended to the following (additions are underlined in bold and deletions are shown as red struck text):

Chapter 1
Section 1.2.3 Definitions.

Sidewalk Seating: An area adjacent to and directly in front of a street-level eating or drinking establishment located within the sidewalk area of the public right-of-way and used exclusively for dining, drinking, and circulation of customers. Excludes benches and similar furniture that is directly against the wall of a building and removed from the sidewalk area.

Chapter 4
Section 4.7.7.2 Supplementary district requirements (CB).

A. Primary entrances to buildings must connect to sidewalks.

B. ~~Existing sidewalks may be used for outdoor seating.~~ Sidewalks may ~~also~~ be used for displays or temporary signs as permitted by Chapter 9 of this LUC as long as four feet (4' or 48"), as measured from the back of the curb toward the building, is maintained as free and clear passage for pedestrians and wheelchairs.

C. As part of new construction, sidewalks are required adjacent to state and town roadways and must be a minimum of six feet wide. Sidewalks intended for shared use with outdoor seating or retail displays must be a minimum of 12 feet wide.

Chapter 4
Section 4.7.14, Table of Uses

Category	Uses	CR-1	SR-2	TR-4	UR-8	NMU-8	OI-6	CBD	HB-8	LI-8	HI-0
Commercial	**Sidewalk Seating**							**A**			

Chapter 5

Section 5.18 Sidewalk seating.

Sidewalk seating will comply with the following:

A. **A free-and-clear passage area on the sidewalk that is a minimum of four feet wide between the outermost edge of the seating area barrier and the closest point of all fixtures, planter boxes, poles, etc., on the street side of the sidewalk.**

B. **A removable post-and-rope type stanchion barrier.**

C. **An annually renewed Sidewalk Seating permit that includes:**
   a. **If alcoholic beverages are to be served on any day of the week, or at any time of the day, in the sidewalk seating area, a copy of the relevant ABC permit will be attached to the application.**
   b. **A site plan.**
   c. **Acknowledgement that the entire post-and-rope barrier system will be removed by the permit holder at the end of business hours on any day during which outdoor seating is set up.**
   d. **Acknowledgement that the area will be used exclusively for dining, drinking, and circulation of customers.**

If there is sufficient room to establish outdoor seating, a parking space (or spaces) in a parking lot can be converted to a parklet through a joint agreement among property and business owners. A parklet is a cordoned-off area for seating and dining, and it typically includes significant landscaping or hardscaping to enhance the cordoning to make it noticeably clear that the area is not for vehicles.

READ, APPROVED, AND ADOPTED by a vote of _____ to _____ this the 8th day of September 2025.

_____
C. Michael Sobol, Mayor

ATTEST:

_____
Wesley M. Barker, Town Clerk