



TOWN OF BLACK MOUNTAIN

TOWN COUNCIL

MAY 22, 2024

SPECIAL MEETING AGENDA

Time: 8:30 a.m.

Town Hall Council Chambers | 160 Midland Avenue, Black Mountain, NC 28711

Agendas and agenda packets may be accessed electronically from your laptop or smartphone. Visit the Town's website at www.townofblackmountain.org. Click on **Government** and select **Town Council** to access agenda materials for Town Council meetings. You can also scan this QR code with your smartphone to access agenda materials.



 **Conserve resources; print only when necessary.**

The Town of Black Mountain is committed to providing accessible facilities, programs, and services for all people in compliance with the American with Disabilities Act (ADA). Hearing assistive devices are available at the door. Should you need other assistance or accommodation for this meeting, please contact Town Clerk Wesley Barker at: town.clerk@tobm.org, or **(828) 419-9300 / TDD (800) 735-2962**

1. CALL TO ORDER

2. UNFINISHED BUSINESS

PUBLIC HEARING

The chair will recognize individuals requesting to address the Council regarding the specific topic of the public hearing. **Public hearing comments by any one speaker shall be limited to ten (10) minutes.** The Mayor reserves the right to alter time limits and other rules of procedure at the beginning of each public hearing.

A. Continued Public Hearing for Text Amendments to Chapter 43, Article VI to add a Social District- Jessica Trotman, Planning Director

3. NEW BUSINESS

A. Presentation of Manager's Recommended Budget for FY 24-25- Josh Harrold, Town Manager

B. Call for Special Meeting to hold a Public Hearing for FY 24-25 Budget

ORDINANCE #

AN ORDINANCE TO AMEND CHAPTER 43, TO ADD ARTICLE VI, DOWNTOWN SOCIAL DISTRICT, OF THE TOWN OF BLACK MOUNTAIN CODE OF ORDINANCES

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

WHEREAS, N.C.G.S. §160A-205.4 authorizes local governments to create and designate one or more “social districts” under N.C.G.S. §18B-300.1 within their jurisdiction; and

WHEREAS, a “social district” under N.C.G.S. §18B-300.1 is “A defined outdoor area in which a person may consume alcoholic beverages sold by businesses holding one or more permits issued by the Alcoholic Beverage Commission”; and

WHEREAS, local business owners within Downtown Black Mountain have expressed interest in creating a social district within the same general footprint of the Town’s Downtown area; and

WHEREAS, the Town desires to limit its “social district” to a walkable geographic area in the downtown where local bars and restaurants can sell alcoholic beverages to be consumed throughout the district, subject to certain rules and limitations; and

WHEREAS, the Black Mountain Town Council hereby finds and declares that this ordinance and these amendments are in the best interest of the public health, safety, and welfare.

NOW, THEREFORE, BE IT RESOLVED that Chapter 43 of the Town of Black Mountain Code of Ordinances, be amended to add an Article VI entitled “Downtown Social District” and to include the following:

ARTICLE VI. DOWNTOWN SOCIAL DISTRICT

Sec. 43.92. Establishment of the Downtown Black Mountain Social District

The Town hereby creates and designates the area located generally south of Montreat Road, east of Richardson Boulevard, north of Black Mountain Avenue, and west of South Dougherty Street, and more specifically depicted on the map titled “Downtown Black Mountain Social District Boundaries”, which is incorporated here by reference and is filed with the Town Clerk as the Downtown Black Mountain Social District, as authorized under N.C.G.S. §160A-205.4.

Sec. 43.93. Definitions

ABC Commission: The North Carolina Alcoholic Beverage Control Commission established under N.C.G.S. §18B-200.

ABC permit or permits: Any written or printed authorization issued by the ABC Commission pursuant to the provisions of N.C.G.S. Ch. 18B, other than a purchase-transportation permit. Unless the context clearly requires otherwise, as in the provisions concerning applications for permits, “ABC permit” or “permit” means a presently valid permit.

Alcoholic beverage: Any beverage containing at least one-half of one percent (0.5%) alcohol by volume, including malt beverages, unfortified wine, fortified wine, spiritous liquor, mixed beverages, and any alcohol consumable.

Alcohol, consumable: Any manufactured and packaged ice cream ice-pop, gum-based or gelatin-based food product containing at least one-half of one percent (0.5%) alcohol by volume.

Customer: A person who purchases an alcoholic beverage from a permittee that is in a social district.

Fortified wine: Any wine or alcohol consumable containing more than sixteen percent (16%) and no more than twenty-four percent (24%) alcohol by volume, made by fermentation from grapes, fruits, berries, rice or honey; or by the addition of pure cane, beet or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

Malt beverage: Beer, lager, malt liquor, ale, porter, and any other brewed or fermented beverage or alcohol consumable, except fortified or unfortified wine as defined by N.C.G.S. Ch. 18B, containing at least one-half of one percent (0.5%) and not more than fifteen percent (15%) alcohol by volume.

Mixed beverage: Either of the following:

- a. **A drink composed in whole or in part of spirituous liquor and served in a quantity less than the quantity contained in a closed package.**
- b. **A premixed cocktail served from a closed package containing only one serving.**

Non-permittee business. A business that is located in a social district and does not hold any ABC permit.

Open container: A container whose seal has been broken or a container other than the manufacturer’s unopened original container.

Permittee: An establishment holding any of the following permits issued by the ABC Commission:

- a. **An on-premises malt beverage permit issued pursuant to N.C.G.S. §18B-1001(1).**
- b. **An on-premises unfortified wine permit issued pursuant to N.C.G.S. §18B-1001(3).**
- c. **An on-premises fortified wine permit issued pursuant to N.C.G.S. §18B-1001(5).**
- d. **A mixed beverages permit issued pursuant to N.C.G.S. §18B-1001(10).**
- e. **A wine shop permit issued pursuant to N.C.G.S. §18B-1001(16).**
- f. **A distillery permit issued pursuant to N.C.G.S. §18B-1100(5).**

Person: An individual, firm, partnership, association, corporation, limited liability company, other organization or group or other combination of persons acting as a unit.

Police department: The Town of Black Mountain Police Department.

Premises: A fixed permanent establishment, including all areas inside or outside the licensed establishment, where the permittee has control through a lease, deed or other legal process.

Social district: A defined area in which a person may consume alcoholic beverages sold by a permittee. A social district may include both indoor and outdoor areas of businesses within or contiguous to the defined area during the days and hours set by the town by ordinance pursuant to N.C.G.S. §18B-300.1(d). A social district may include privately owned property, including permittees and non-permittee businesses, multi-tenant establishments, as defined in N.C.G.S. §18B-1001.5, and public streets, crosswalks or parking areas, whether or not the streets or parking areas are closed to vehicle traffic.

Spirituous liquor or liquor. Distilled spirits or ethyl alcohol, and any alcohol consumable containing distilled spirits or ethyl alcohol, including spirits of wine, whiskey, rum, brandy, gin and all other distilled spirits and mixtures of cordials, liqueur and premixed cocktails, in closed-containers regardless of their dilution.

Town: The Town of Black Mountain.

Unfortified wine: Any wine or alcohol consumable containing sixteen percent (16%) or less alcohol by volume that is made by fermentation from grapes, fruits, berries, rice or honey; or by the addition of pure cane, beet or dextrose sugar; or by the addition of pure brandy from the same type of grape, fruit, berry, rice or honey that is contained in the base wine and produced in accordance with the regulations of the United States.

Sec. 43-94. General Requirements.

- A. Designated map. The town shall have on file a map of tis social district. This map will include the restaurants, businesses, streets, sidewalks, dining areas, alleyways and other areas that are part of the defined social district.
- B. Hours of operation: The hours of the social district shall be Thursday through Sunday from 11:00 a.m. to 10:00 p.m. These hours are clearly marked and posted at conspicuous locations in and around the district boundaries, with the exception of standing special events including Sourwood Festival and Holly Jolly.
- C. Social district maintenance and management. The Town Manager or their designee is hereby authorized to create maintenance and management plans for the Downtown Black Mountain Social District consistent with the requirements of this article and other applicable law. The maintenance and management plan may include coordination with the Police Department, Public Works Department and downtown business owners. Property signage in the social district and information will be placed on the town website and social media. Maintenance and management plans shall be readily available for the public inspection at all times.
- D. Sale of alcoholic beverages.
1. A permittee shall only sell alcoholic beverages for consumption within the social district in which it is located or contiguous.
 2. The permittee shall only sell and serve alcoholic beverages for consumption within the social district on its licensed premises.
 3. The permittee shall only sell alcoholic beverages for consumption in the social district in a container that meets all of the requirements of the management and maintenance plan.
 4. The permittee may allow a customer to possess and consume on the business's premises alcoholic beverages purchased from any ABC permittee located in or contiguous to the social district.
- E. Possession and consumption of alcoholic beverages.
1. Alcoholic beverages purchased from a permittee located within or contiguous to the social district may be possessed and consumed within the designated social district.
 2. Alcoholic beverages may only be consumed within the designated social district.
 3. Alcoholic beverages shall only be in containers meeting the requirements set forth in subsection (e)(7) (a-e) of this section.

4. Alcoholic beverages shall only be possessed and consumed during the days and hours set by the Town Council in accordance with subsection (c) of this section.
 5. Nothing in this subsection shall be construed as authorizing the sale and delivery of alcoholic beverage drinks in excess of the limitation set forth in N.C.G.S. §18B-1010.
 6. A person shall dispose of any alcoholic beverage in the person's possession prior to exiting the social district unless the person is reentering the licensed premises where the alcoholic beverage was purchased.
 7. Alcoholic beverages shall be in containers that meet the requirements in the Social District Maintenance and Operations Plan.
- F. Enforcement. A violation of this section is an infraction as provided by N.C.G.S. §14-4 and §160A-175. As an alternative or additional measure of enforcement, any law enforcement officer or authorized town employee may issue a citation for a civil penalty for violation of this section in accordance with the requirements of Chapter 1, General Provisions, of the Code of Ordinances. This authority shall be in addition to any other authority and shall not preclude in any way any law enforcement officer from exercising any authority or carrying out the duties of a law enforcement officer, nor preclude the town from any other available legal enforcement procedure. Enforcement of an unpaid citation may be by issuance of a criminal summons, by the filing of a complaint to collect the unpaid debt owed to the town or by other means authorized by state law or outlined in Chapter 1, General Provisions, of the Code of Ordinances.

READ, APPROVED, AND ADOPTED by a vote of _____ to _____ this the 22nd day of May 2024.

C. Michael Sobol, Mayor

ATTEST:

Wesley M. Barker, Town Clerk