An Ordinance Amending the Text of the Moab Municipal Code (MMC) to Add Regulation for Outdoor Dining by Amending Sections 17.21 C-2 Commercial Residential Zone, 17.24 C-3 Central Commercial Zone, 17.27 C-4 General Commercial Zone and 17.31 RC Resort Commercial Zone and by allowing consideration of parklets in the City Right-of-Way (ROW) by amending Section 17.24 C-3 Central Commercial Zone. Associated definitions will be added to MMC Section 17.06 Definitions.

WHEREAS, the City has enacted Title 17 Zoning, of the Moab Municipal Code (“MMC”) that governs land use and development within the City Limits.

WHEREAS, from time to time the City undertakes revisions of Title 17.00 to improve the quality of land development and align the Code with state law and contemporary planning concepts.

WHEREAS, the City finds that this Ordinance will serve the public health, safety, and welfare, and that adoption is in the best interests of the Moab community.

WHEREAS, Title 17.00 of the MMC does not address outdoor dining.

WHEREAS, outdoor dining adds activity and pedestrian scale to the City’s commercial areas.

WHEREAS, the City permitted “parklets” to be constructed in City Right of Way (ROW) to allow restaurants to be able to operate on-site during COVID-19 restrictions and the City would like to allow parklets, under specific conditions, as part of Title 17 Zoning.

WHEREAS, the Planning Commission has discussed and reviewed the proposed ordinance revisions on numerous occasions and has provided valuable input.

WHEREAS, the Planning Commission held a public hearing on May 27, 2021 after meeting the public hearing notice requirement of the MMC.

WHEREAS, after the public hearing, the Planning Commission considered the ordinance and public input and forwarded a positive recommendation to the City Council on May 27, 2021.

NOW, THEREFORE BE IT ORDAINED that the Moab City Council hereby approves Text Amendments to the MMC as follows:
Section 1: Add definitions to 17.06 to include:
Parklets - Parklets are on-street parking spaces that are temporarily converted to outdoor seating to allow temporary, seasonal outdoor dining.

Restaurant with Outdoor Dining, Permanent - Outdoor dining, permanent - Any restaurant with an outdoor eating and drinking area that is associated with and incidental and subordinate to a primary use of that parcel or lot. The outdoor dining is constructed as a part of the primary building, as an addition to the building or a separate structure that is a permanent structure. The outdoor dining areas may include design features to allow year-round use.

Restaurant, with Outdoor Dining, Seasonal - Any restaurant with an outdoor eating and drinking area that is associated with and incidental and subordinate to a primary use of that parcel or lot. This use may include removable tables, chairs, planters, or similar features and equipment.

Section 2: Modify the C-2 Commercial – Residential Zone to allow Outdoor Dining by adding Outdoor Dining and associated development standards to 17.21.020 Permitted Uses and Regulations and renumbering the balance of the section as necessary, as follows:

Restaurant with Outdoor Dining, Permanent
a. All Outdoor Dining must comply with the applicable Building, Health and Fire Codes.
b. Outdoor Dining must not encroach into the zone required setbacks.
c. Additional parking will be required to include the additional floor area.
d. Parking area shall be an all-weather, durable surface such as concrete, asphalt or sealed gravel that will not generate dust or deposit gravel on paved roadways.
e. Noise, odor and glare shall be contained on the property. All operations shall comply with the Noise Provisions of the MMC.
f. All additional lighting will have to comply with the Dark Sky lighting provisions of the code.
g. Landscaping, screening, and fencing shall be installed and maintained to mitigate impacts on surrounding residential uses.
h. Outside storage of equipment, materials, and supplies shall be contained and located within a building or a sight obscuring fence; Vehicular ingress and egress traffic patterns shall be designed to not impede existing traffic flows and provide adequate interior circulation.
i. No amplified music will be allowed.
j. Hours of operation will not exceed seven a.m. to ten p.m.
k. Individual businesses are responsible for adding any temporary space to their premises for purposes of DABC licensing if they wish. Currently, only restaurants with approved proper DABC permits may serve alcohol outdoors. All restaurants shall be responsible for following DABC rules and regulations.
Restaurants with Outdoor Dining, Seasonal

a. All Outdoor Dining must comply with the applicable Building, Health and Fire Codes
b. Outdoor Dining must not encroach into the zone required setbacks.
c. Noise, odor and glare shall be contained on the property.
d. All additional lighting will have to comply with the Dark Sky lighting provisions of the code.
e. Landscaping, screening, and fencing shall be installed and maintained to mitigate impacts on surrounding residential uses.
f. Outside storage of equipment, materials, and supplies shall be contained and located within a building or a sight obscuring fence; Vehicular ingress and egress traffic patterns shall be designed to not impede existing traffic flows and provide adequate interior circulation.
g. No amplified music will be allowed
h. Hours of operation will not exceed seven a.m. to 10 p.m.
i. Temporary structure such as umbrellas, planters, tents, or temporary barriers are allowed. Such items shall be properly spaced; space heaters are permitted as long as they are at least 2 feet away from any flammable materials. Tents may be allowed if approved by the Moab Building Official and by Fire Officials. Outdoor cooking is not permitted. Coolers or other displays may be allowed but have to be easily moved and follow health guidelines for distribution.
j. Individual businesses are responsible for adding any temporary space to their premises for purposes of DABC licensing if they wish. Currently, only restaurants with approved proper DABC permits may serve alcohol outdoors. All restaurants shall be responsible for following DABC rules and regulations.

Section 3: Modify the C-23 Central Commercial Zone to allow Outdoor Dining:
Add Outdoor Dining and associated development standards to 17.24.020 Permitted Uses and Regulations with associated standards as shown for Section 2 above.

Section 4: Modify the C-4 General Commercial Zone to allow Outdoor Dining:
Add Outdoor Dining and associated development standards to 17.27.020 Permitted Uses and Regulations with associated standards as shown for Section 2 above.

Section 5: Modify the RC Resort Commercial Zone to allow Outdoor Dining: Add Outdoor Dining and associated development standards to 17.31.020 Permitted Uses and Regulations as shown for Section 2 above.

Section 6: Modify the C-3 Central Commercial Zone to allow consideration of Parklets:
Add Parklets and associated standards to 17.24.020 as follows:

Parklets
a. Parklets on City Property will only be considered if there is not adequate area on the property to accommodate outdoor dining. If outdoor dining already exists, the property is not eligible for a Parklet.
b. Sidewalks and Public Rights of Way must maintain an adequate pedestrian flow. The recommended width of the sidewalk is 72 inches. The placement of the outdoor dining shall maintain access to fire hydrants, crosswalks, public utility access and building entrances. A 15’ Fire lane must be maintained at all times.

c. Width shall not exceed the frontage of the business property without written permission from the adjacent property owner. Adjacent properties are strongly encouraged to coordinate. A 72” pedestrian path (preferred width) should be maintained at all times. Each business is responsible for ensuring compliance with fire/emergency access and ADA requirements.

d. Temporary structure such as umbrellas, planters or temporary barriers are allowed, but shall not be permanently affixed to public property. Such items shall be properly weighted and cannot be more than 80 inches above the sidewalk. Space heaters are permitted if they are at least 2 feet away from any flammable materials. Tents may be allowed if approved by the Moab Building Official and by Fire Officials. Outdoor cooking is not permitted. Coolers or other displays may be allowed but must be easily moved and follow health guidelines for distribution. The City has the right to ask that the parklet be removed within 24 hours if necessary, for public health, safety, or welfare purposes.

e. All businesses are responsible for their own trash, waste, and recycling. The site must be kept clean. In the event of a strong storm causing minor flooding, the business owner is responsible for cleaning up any debris, as necessary.

f. Individual businesses are responsible for adding any temporary space to their premises for purposes of DABC licensing if they wish. Currently, only restaurants with approved proper DABC permits may serve alcohol outdoors. All restaurants shall be responsible for following DABC rules and regulations.

g. Main Street (Hwy 191) is a state highway, and the City does not have the authority to grant any activities in the State Right of Way.

h. All business activities shall be governed by the City’s noise and nuisance provisions. No amplified music will be allowed.

i. Parklets may be used during normal dining hours. Use of the outdoor dining area must end at 10:00pm.

j. Parklets are allowed seasonally, from April 15th through October 31st.

k. If a Property is located on a corner, only one parklet is allowed per restaurant. The parklet will be located on the street with lower volumes of traffic and where the parklet will least disrupt the entrances to other businesses.

l. Other Design Criteria:
   1. Maximum encroachment into street: 12 feet from edge of gutter
   2. No more than width of storefront, if parklet will be in front of the business in the City ROW
   3. Minimum remaining lane width: 15 ft (Can be reduced on a case-by-case basis)
      Minimum remaining sidewalk width: 72 inches preferred (Can be reduced on a case-by-case basis)
   4. Enter/Exit outdoor dining from sidewalk only, not from street
   5. Safety lighting is required, signage and reflective materials are allowed and encouraged
6. All street furniture must be secure to withstand high winds
7. All street furniture should be secured after closing
8. Must follow Southeast Utah Health Department (SEUHD) requirements
9. Enclosures should be able to be removed within 24 hours, if needed and required by City

A License Agreement shall be required as specified in Parklet information application and packet

Submittal requirements are stated in the Parklet Information and packet and shall include:
1. Completed Application Form
2. Site Plan (8.5” by 11” minimum size) showing
   i. Parcel boundary lines
   iii. Location of proposed outdoor dining area (with dimensions)
3. Plans that indicate the following:
   i. Location of tables, general table dimensions, spacing between tables (feet), spacing between tables and public walkways (feet), and number of seats per table.
   ii. ADA accessible routes between the outdoor dining space and indoor space, noting location of restrooms.
   iii. Occupancy of outdoor dining space meeting applicable public health guidelines.
   iv. Location of any additional outdoor structures such, kiosks, tents or shade structures.
   v. All parklets are required to install barriers on all sides. The only access to the parklet will be from the sidewalk.
   vi. Description of what type of barriers you will use to define the parklet space. Materials can include Jersey Barriers or similar barriers, planters, and fences (that can be removed within 24 hours, if necessary) Steel tubing or similar materials.

Signage and Lighting: Lighting Plan Consistent with Moab’s Dark Sky Ordinance. For safety purposes, it is important that the parklet be lighted and visible, but the lighting must meet the lighting requirement on our Code (Dark Sky Compliant Lighting).

Notification of adjacent property owners: This process requires that the applicant communicate with all adjoining property owners. The application shall include evidence of how this outreach was done and resulting concerns raised by the neighbors.

PASSED by the City Council in a public meeting on _____________ by the following vote:

MOAB CITY COUNCIL:

Those voting aye:____________________________________
Those voting nay: ______________________________________

Those abstaining: ______________________________________

Those absent: ______________________________________

_________________________
Emily Niehaus, Mayor

ATTEST:

_________________________
Sommar Johnson, Clerk/Recorder