



**TOWN OF AVON, COLORADO
ORDINANCE NO. 16-04**

ANNEXING THE MOUNTAIN STAR TANK SITE PROPERTY

WHEREAS, on January 25, 2016 the Upper Eagle Regional Water Authority, filed with the Town Clerk for the Town of Avon ("Town") the petition for annexation ("Petition") requesting that the Town Council of the Town ("Town Council") commence proceedings to annex to the Town certain unincorporated tract or tracts of land located in Eagle County, Colorado, and described on **Exhibit A: Legal Description of the Mountain Star Tank Site Property** attached hereto and incorporated herein by this reference (the "Annexation Property"); and

WHEREAS, the Town Council, by Resolution Number 16-02, and by Resolution Number 16-06, has determined with regard to the Petition that, pursuant to Section 31-12-110, C.R.S.: (1) the applicable parts of Sections 31-12-104 and 31-12-105, C.R.S., have been met; (2) an election is not required under Sections 31-12-107(2) or 31-12-112, C.R.S.; and (3) no additional terms and conditions are to be imposed on the Petition; and

WHEREAS, annexation proceedings to annex the Annexation Property have not commenced for annexation of all or part of the Annexation Property to another municipality; and

WHEREAS, the Town Council finds that it is in the best interests of the Town to annex the Annexation Property to the Town; and

WHEREAS, the Town Council held public hearings on March 22, 2016 and April 12, 2016, received all evidence and testimony presented with regard to the annexation of the Annexation Property at such public hearings; and at the conclusion of such public hearings the Town Council considered such evidence and testimony so introduced, and by this Ordinance sets forth its findings of fact and conclusions, stated as follows:

THE TOWN COUNCIL MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS:

1. The submission, processing, consideration and approval of the Petition have fully met and complied with all applicable laws and regulations of the State of Colorado and the Town, including, without limitation, Article II, Section 30 of the Colorado Constitution and Sections 31-12-101 through 31-12-123, C.R.S.
2. All public hearings concerning whether the Town should annex the Annexation Property have been held and conducted in accordance with all applicable laws and regulations of the State of Colorado and the Town.

3. All notices required for the public hearings at which the Town Council considered the Petition were properly and timely published, posted or mailed in accordance with all applicable laws and regulations of the State of Colorado and the Town.

4. In order to encourage well-ordered development to the Town, it is desirable that the Annexation Property be annexed to the Town.

5. The annexation of the Annexation Property to the Town is in the best interests of the public health, safety and general welfare of the people of the Town.

WHEREAS, approval of this Ordinance on First Reading is intended only to confirm that the Town Council desires to comply with the requirements of the Avon Home Rule Charter by setting a public hearing in order to provide the public an opportunity to present testimony and evidence regarding the application and that approval of this Ordinance on First Reading does not constitute a representation that the Town Council, or any member of the Town Council, supports, approves, rejects, or denies this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO that:

Section 1. Annexation. The Annexation Property as described on the annexation map and accompanying Petition is hereby annexed into the Town of Avon, Colorado. Specifically, Tracts WT-1 and WT-2 are annexed in series such that WT-1 is annexed first and WT-2 is annexed second, thereby annexing the entire Annexation Property.

Section 2. Executing and Filing Documents. The Mayor and Town Clerk are hereby authorized to execute all necessary documents to complete the annexation of the Annexation Property. As required by statute, the Town shall:

(a) File one copy of the annexation map with the original of this Ordinance in the office of the Town Clerk for the Town; and

(b) File for recording three certified copies of this Ordinance and of the map of the area annexed containing a legal description of such area with the Clerk and Recorder of Eagle County, Colorado.

Section 3. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it has passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term “provision” means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term “application” means and

includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

Section 4. Effective Date. This Ordinance shall take effect thirty (30) days after the date of final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

Section 5. Safety Clause. The Town Council hereby finds, determines and declares this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public and this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 6. Publication. The Town Clerk is ordered to publish this Ordinance in accordance with Chapter 1.16 of the Avon Municipal Code.

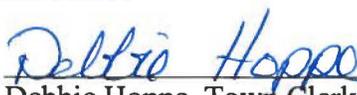
INTRODUCED AND ADOPTED ON FIRST READING AND REFERRED TO PUBLIC HEARING on March 22, 2016 and setting such public hearing for April 12, 2016 at the Council Chambers of the Avon Municipal Building, located at One Lake Street, Avon, Colorado.

BY:



Jennie Fancher, Mayor

ATTEST:



Debbie Hoppe, Town Clerk

ADOPTED ON SECOND AND FINAL READING on April 12, 2016.

BY:



Jennie Fancher, Mayor

ATTEST:



Debbie Hoppe, Town Clerk



APPROVED AS TO FORM:



Eric J. Heil, Town Attorney