

**ORDINANCE NO. 16
SERIES 2022**

**AN EMERGENCY ORDINANCE SUSPENDING THE ISSUANCE OF
PERMITS FOR THE BOOTH HEIGHTS PROPERTY**

WHEREAS, the real property more particularly described as Lot 1 East Vail Workforce Housing Subdivision, Vail, Colorado, located at 3700 North Frontage Road East (the "Booth Heights Property"), is currently vacant land, without any improvements;

WHEREAS, the Booth Heights Property contains significant natural and wildlife resources, and provides critical habitat for a Colorado bighorn sheep herd;

WHEREAS, the Town values open space and holds as part of its mission environmental stewardship and the care of wildlife and natural resources;

WHEREAS, the Town is seeking to acquire the Booth Heights Property as open space, and thereafter to maintain the Booth Heights Property as open space pursuant to Section 13.11 of the Town's Home Rule Charter;

WHEREAS, because the current owner of the Booth Heights Property, Vail Resorts, has declined the Town's offers to purchase the Booth Heights Property for fair market value, the Town is now seeking to acquire the fee interest in the Booth Heights Property by condemnation;

WHEREAS, on May 3, 2022, the Town Council approved Resolution 22, authorizing the exercise of the Town's eminent domain power to acquire the Booth Heights Property in the form attached hereto as **Exhibit A** and made a part hereof by this reference, and subsequently provided notice of Resolution 22 to Vail Resorts;

WHEREAS, Colorado law requires that Vail Resorts receive just compensation for the interest condemned by the Town, regardless of the suspension imposed by this ordinance;

WHEREAS, the Town has engaged experts to consider the bighorn sheep herd habitat located on the Booth Heights Property, and such experts have recommended that the Booth Heights Property not be disturbed in any manner;

WHEREAS, Vail Resorts has applied for a permit to conduct soils testing and other geologic activities on the Booth Heights Property, both of which would create large disturbances on the Booth Heights Property;

WHEREAS, to date, the Town's consideration of the application for a soils testing permit has been stayed, because of numerous appeals filed by adversely affected property owners, but those appeals will be concluded on August 2, 2022; and

WHEREAS, to avoid irreparable damage to the bighorn sheep herd and other natural and wildlife resources on the Booth Heights Property, the Town Council finds it in

the best interest of the public health, safety and welfare to stay all permit activity related to the Booth Heights Property, effective immediately.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF VAIL, COLORADO, THAT:

Section 1. Suspension. Based on the foregoing recitals, the Town hereby suspends the issuance of any permits for the Booth Heights Property, from the effective date of this ordinance through November 1, 2022. This suspension applies to grading permits, soils permits, building permits, right-of-way permits, sign permits, fence permits and any other permits, licenses or approvals that would allow disturbance of the Booth Heights Property.

Section 2. Severability. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance; and the Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

Section 3. Emergency. Pursuant to § 4.11 of the Vail Town Charter, the Town Council hereby finds and declares that this ordinance is necessary for the preservation of the public health, safety and welfare, because the suspension is necessary to prevent irreparable damage to the wildlife and natural resources on the Booth Heights Property.

Section 4. Effective Date. This ordinance shall be effective immediately upon adoption.

INTRODUCED, APPROVED, AND ORDERED PUBLISHED IN FULL this 2nd day of August, 2022.

Kim Langmaid, Mayor

ATTEST:

Tammy Nagel, Town Clerk