WENDOVER CITY COUNCIL

ORDINANCE NO. 97-09

AN ORDINANCE ADOPTING THE REDEVELOPMENT PLAN FOR THE DENNER ECONOMIC DEVELOPMENT PROJECT AREA AS THE OFFICIAL REDEVELOPMENT PLAN FOR THE PROJECT AREA.

WHEREAS, acting pursuant to the Utah Neighborhood Development Act, as amended (the "Act"), Title 17A, Chapter 2, Part 1200 of the Utah Code Annotated, the Wendover Redevelopment Agency ("Agency"), in consultation with the Wendover Planning Commission (the "Planning Commission") has prepared a Redevelopment Plan for the Denner Economic Development Project Area (the "Proposed Redevelopment Plan");

WHEREAS, the Agency has caused to be prepared and has approved the Agency's Report to Accompany the Redevelopment Plan for the Denner Economic Development Project Area (the "Agency Report");

WHEREAS, the City Council has considered the Agency Report, the Planning Commission Report, the matters contained in the record of the hearing, and all evidence and testimony for and against the adoption of the Proposed Redevelopment Plan submitted to it at or prior to the Hearing;

WHEREAS, the Agency has determined in its Report that the Project Area meets the requirements of an economic development project area;

WHEREAS, the Wendover City Council ("Council") concurs in the findings that the Project Area meets the requirements of an economic development project area;

WHEREAS, the Planning Commission and the Agency have recommended the adoption of the proposed Redevelopment Plan with the modifications, if any, that have been incorporated by the modification Resolution and the Agency has submitted the same to the Council for its action;

WHEREAS, the Council has concurred in the modifications, if any, recommended by the Agency and the Planning Commission in the Proposed Redevelopment Plan, has made the recommended modifications in the Proposed Redevelopment Plan, and has overruled all objections to the adoption of the Proposed Redevelopment Plan received by the Council at or prior to the Hearing, whether written or oral, except insofar as such objections are the basis for the modifications recommended by the Agency and subsequently made by the Council;

WHEREAS, the Council has determined that the owners of less than forty percent (40%) of the area of the property included within the Project Area proposed in the Proposed Redevelopment Plan as modified (the "Official Redevelopment Plan"), excluding property

owned by the public agencies or dedicated to public use, made objections in writing prior to or at the hearing;

WHEREAS, the Council finds and determines that the Official Redevelopment Plan would redevelop the Project Area in conformity with the Utah Neighborhood Development Act, as amended; that it would further the interests of the public peace, health, safety and welfare; that the adoption and carrying out of the Official Redevelopment Plan is economically sound and feasible; and that a number of other appropriate reasons call for the adoption and implementation of the Official Redevelopment Plan for the Denner Economic Development Project Area (the "Redevelopment Project");

BE IT ORDAINED BY THE WENDOVER CITY COUNCIL

SECTION 1 Adoption of the Plan

The City Council hereby approved and adopts the Official Redevelopment Plan for the Denner Economic Development Project Area, which is the Proposed Redevelopment Plan as modified by the Commission to incorporate changes recommended by the Agency, if any.

SECTION 2 Legal Description

The legal description of the boundaries of the Denner Economic Development Project Area ("Project Area") are as provided in Exhibit A to this resolution, which Exhibit A is attached hereto and incorporated herein by this reference.

SECTION 3 Purpose and Intent of The Agency's

The purpose and intent of the Redevelopment Agency with respect to the Project Area are as follows:

A. To reduce and eliminate existing blighted conditions and to prevent further deterioration within the Project Area.

B. To facilitate new development of types and quality desired by the community thereby creating new jobs for the City and State.

C. To encourage the businesses already located in the Project Area to renovate and beautify the area.

D. To take any or all additional steps which may be appropriate or necessary to promote or further the aim of improving the Project Area (and, indirectly, surrounding areas) and to prevent deterioration within the Project Area.

SECTION 4 The Redevelopment Plan

The Official Redevelopment Plan, which incorporates modifications to the Proposed Redevelopment Plan recommended by the Agency made by the Council, and the final Report to accompany the Redevelopment Plan for the Project Area, including the Report and Recommendations of the Planning Commission on the proposed Redevelopment Plan for the Project Area, are incorporated herein by this reference.

SECTION 5 Designation of the Redevelopment Plan as the Official Redevelopment Plan for the Project Area

The proposed Redevelopment Plan as modified and approved by the Redevelopment Agency is hereby adopted and approved by the City Council and is designated as the Official Redevelopment Plan for the Denner Economic Development Project Area, (the "Official Redevelopment Plan").

SECTION 6 Findings and Determinations of the Wendover City Council

The Council hereby makes the following findings and determinations:

A. Conformity with Utah Neighborhood Development Act and Other Public Purposes. The Official Redevelopment Plan will redevelop the Project Area in conformity with the Act and in the interests of the public peace, health, safety and welfare in that:

1. It will enable the Agency to make financing alternatives available to parties electing to become participants in the Redevelopment Project and to developers, thereby providing necessary assistance for investment, redevelopment, rehabilitation within the Project Area.

2. It will help to prevent erosion of the City's economic base.

3. It will help attract desirable businesses to locate and expand within the Project Area and increase job opportunities for the City and State.

4. It will facilitate revitalization of the Project Area.

5. It will contribute in a variety of other ways to the redevelopment of the Project Area in conformity with the Act, and to the furthering of the interests of public peace, health, safety and welfare.

B. Feasibility. The adoption and carrying out of the Official Redevelopment Plan is economically sound and feasible in that the Official Redevelopment Plan will proceed and be carried out only if and when financing becomes available. The

financing of projects is primarily based upon the willingness of public and private entities to invest and develop in the Project Area.

C. Conformity to Comprehensive Plan. The Official Redevelopment Plan conforms to the City's General Plan, as amended, as more particularly shown in the Agency and Planning Commission Reports.

D. Effects of Carrying Out the Redevelopment Plan. The carrying out of the Official Redevelopment Plan will promote the public peace, health, safety and welfare of the community, and will effectuate the purpose and policy of the Act in that it will promote and facilitate:

1. The elimination or reduction of conditions which may further erode the Project Area.

2. Measures which will prevent further stagnation deterioration, and/or fragmentation within the Project Area.

3. The attraction of desirable businesses into the Project Area.

4. The revitalization and beautification of the Project Area.

5. Other measures which will promote the public peace, health, safety and welfare and which would be consistent with the purposes of the Act.

E. Eminent Domain. Under the requirements of the Utah Neighborhood Development Act, economic development project areas do not have the power of eminent domain. Therefore, the inclusion of the power of eminent domain will not be allowed in the plan or this project area.

F. Relocation. The Agency has a feasible method or plan for the relocation of families and persons displaced from the Project Area in the event that the Redevelopment Plan may result in the temporary or permanent displacement of any occupants of housing facilities in the Project Area, in that the Redevelopment Plan specifies that the Relocation Rules and Regulations for Implementation of the Utah Relocation Assistance Act for the Redevelopment Project Area ("Relocation Rules") shall govern relocation of persons, businesses, and other entities displaced by Agency action.

SECTION 7 Availability of Replacement Housing

The City Council is satisfied permanent housing facilities will be available within three years from the time occupants of the Project Area may be or are displaced and that pending the development of such facilities there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their

displacement. Persons may not be displaced from property pursuant to the Official Redevelopment Plan unless or until this condition is met and meeting this requirement assures (and shall be construed to require) that replacement housing be available in substantially less than three years.

SECTION 8 Participation Rules

This Official Redevelopment Plan shall operate subject to the Rules Governing Participation and Preferences by Owners, Operators of Businesses, and Tenants in the Denner Economic Development Project Area as adopted by ordinance by the Wendover City Council.

SECTION 9 The Agency's Governing Board

As required by the Utah Neighborhood Development Act, as amended, and as specifically provided for in the Agency's bylaws, the governing body of the Wendover Redevelopment Agency shall be of the same individuals who constitute the legislative body of the Wendover City Council.

SECTION 10 Public Hearings

The Agency may hold a public hearing on any proposed development within the Project Area with respect to which the Agency proposes to enter into a legally binding agreement (e.g., a participation agreement or a development agreement) that will obligate the financial resources of the Agency, including but not limited to the tax increment financing. For any public hearing the Agency may give such general public notice as the City would normally provided in connection with a hearing on a proposed zoning change by the Wendover Planning Commission. This notice shall be provided in the same manner that individualized notice is given prior to making any zoning changes in the City.

SECTION 11 Severability

If any one or more provision, section, subsection, sentence, clause, phrase, or word of this Ordinance or the application thereof to any person, property or circumstance is found to be unconstitutional or otherwise contrary to law, the same is declared to be severable and the balance of this Ordinance shall remain effective. The City hereby declares that it would have passed this Ordinance and each provision, section, subsection, sentence, clause, phrase, or word thereof, irrespective of the fact that any one or more provisions, section, subsection, clause, phrase, or word be declared unconstitutional or otherwise contrary to law.

SECTION 12 Effective Date

This Ordinance shall become effective on the 29th day of December, 1997, or if a summary of this Ordinance is required, on the date said summary of this Ordinance is posted or published.

PASSED AND ADOPTED BY THE WENDOVER CITY COUNCIL this 29th day of December, 1997.

Chairman

ATTEST:

City Recorder