

COTTONWOOD HEIGHTS

ORDINANCE NO. 201-A

AN ORDINANCE APPROVING THE RE-ZONE OF REAL PROPERTY LOCATED AT 6814 SOUTH HIGHLAND DRIVE AND 6826 SOUTH HIGHLAND DRIVE FROM R-1-8 (SINGLE FAMILY RESIDENTIAL) TO RO (ZC) (RESIDENTIAL OFFICE, WITH ZONING CONDITIONS) AND AMENDING THE ZONING MAP

WHEREAS, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 *et seq.*, as amended (the “*Act*”), provides that each municipality may enact a land use ordinance and a zoning map establishing regulations for land use and development; and

WHEREAS, pursuant to the Act, the municipality’s planning commission shall prepare and recommend to the municipality’s legislative body, following a public hearing, a proposed land use ordinance and a zoning map, or amendments thereto, that represents the planning commission’s recommendations for zoning the area within the municipality; and

WHEREAS, the Act also provides certain procedures for the municipality’s legislative body to adopt or amend the land use ordinance and zoning map for the city; and

WHEREAS, on 14 July 2005, the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 25 adopting a land use ordinance for the City and codifying such ordinance as Title 19 of the City’s code of ordinances (the “*Code*”); and

WHEREAS, pursuant to its Ordinance No. 25, the Council also adopted a zoning map for the City (the “*Zoning Map*”); and

WHEREAS, on 16 January 2013, the City’s planning commission (the “*Planning Commission*”) held a public hearing on a zone change applications by Mark Kizerian and the Olene Walker Housing Loan Fund requesting the re-zone of the two parcels of real property located at 6814 South Highland Drive and 6826 South Highland Drive in the City (collectively, the “*Property*”) from R-1-8 (Single Family Residential) to RO (Residential Office), at which time all interested parties were given the opportunity to provide written or oral comment concerning the proposed re-zone; and

WHEREAS, such public hearing before the Planning Commission was preceded by all required legal notices; and

WHEREAS, on 6 February 2013, the Planning Commission recommended approval of such proposed re-zone of the Property and forwarded such recommendation to the Council for final action; and

WHEREAS, on 12 February 2013, the Council met in regular meeting to consider, among other things, such proposed re-zone of the Property; and

WHEREAS, after careful consideration of the recommendation of the Planning Commission, comments at the public hearing and other public meetings where such proposed re-zone was discussed, and recommendations of City staff, the Council has determined that it is in the best interest of the health, safety and welfare of the citizens of the City to approve the re-zone of the Property, subject to imposition of certain zoning conditions under Code section 19.90.060, as specified below; and

WHEREAS, the zoning conditions to be imposed in connection with the requested re-zone of the Property from R-1-8 to RO are the omission and unavailability to the Property of the following conditional uses otherwise currently available in the RO base zone under the following sections of the Code: (a) Code section 19.35.030(3) (home occupations); (b) Code sections 19.35.030(5) and (14) (planned unit development); (c) Code section 19.35.030(6) (church); (d) Code section 19.35.030(7) (school); (e) Code section 19.35.030(12) (medical clinics, provided that no after-hour or overnight care shall be permitted) (omitted only due to redundancy with the conditional use under Code section 19.35.030[1], medical, optical, dental offices and clinics for health professionals, with the exception of after-hours care, overnight care or traditional medical retail stores, with a maximum gross floor area of 5,000 square feet on any one floor and 10,000 gross occupiable square feet); (f) Code section 19.35.030(13) (reception center); and (g) Code section 19.35.030(16) (bed and breakfast).

NOW, THEREFORE, BE IT ORDAINED by the city council of the city of Cottonwood Heights as follows:

Section 1. **Approval of Re-zone.** The Council hereby re-zones the Property from R-1-8 to RO (ZC) and, in connection therewith, hereby imposes certain zoning conditions on the Property pursuant to Code section 19.90.060. The zoning conditions so imposed are omitting and making unavailable to the Property the following conditional uses otherwise currently available in the RO base zone under Code chapter 19.35: (a) home occupations (currently codified at Code section 19.35.030[3]), based on, *inter alia*, the Council's finding that allowing such use will not promote new construction on the Property as desired by the City; (b) medical clinics, provided that no after-hour or overnight care shall be permitted (currently codified at Code section 19.35.030[12]), which conditional use #12 is omitted only due to redundancy with the conditional use under Code section 19.35.030(1) providing for medical, optical, dental offices and clinics for health professionals, with the exception of after-hours care, overnight care or traditional medical retail stores, with a maximum gross floor area of 5,000 square feet on any one floor and 10,000 gross occupiable square feet, which conditional use #1 shall remain available to the Property; and (c) reception center (currently codified at Code section 19.35.030[13]), based on, *inter alia*, the Council's finding that such use would be incompatible with adjacent residential uses; and

Section 2. **Adoption of Amended Zoning Map.** The Council hereby amends the City's zoning map to reflect the re-zone of the Property effected by this ordinance (this "*Ordinance*"), and hereby adopts the amended zoning map that is attached as an exhibit hereto as the City's current zoning map.

Section 3. **Re-zone Conditioned on Prompt Recordation of Zoning Conditions.** The re-zone of the Property effected by this ordinance is conditioned on the owner of legal title to the Property cooperating with the City, and otherwise taking all actions reasonably necessary, to cause

the aforementioned zoning conditions to be promptly recorded in the official records of the Salt Lake County Recorder against title to the Property, as provided in Code section 19.90.060(B).

Section 4. ***Action of Officers.*** All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this Ordinance, whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

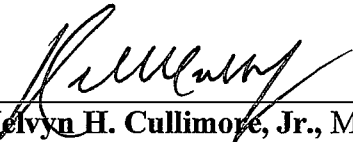
Section 5. ***Severability.*** All parts of this Ordinance are severable, and if any section, paragraph, clause or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 6. ***Repealer.*** All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

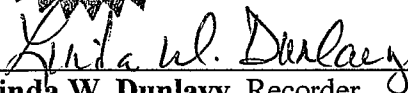
Section 7. ***Effective Date.*** This Ordinance, assigned no. 201-A, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City's recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 12th day of February 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By 
Kelvyn H. Cullimore, Jr., Mayor




Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken ABSENT	Yea <input type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the Recorder's office this 12th day of February 2013.

POSTED this 13 day of February 2013.

- F-20 Foothill Recreation
- F-1-43 Foothill Residential
- F-1-21 Foothill Residential
- RR-1-43 Foothill Residential
- RR-1-29 Rural Residential
- RR-1-21 Rural Residential
- RR-1-15 Residential Single Family
- RR-1-10 Residential Single Family
- R-1-8 Residential Single Family
- R-1-6 Residential Single Family
- R-2-8 Residential Multi-Family
- RM Residential Multi-Family
- RO Residential Office
- MU Mixed Use
- NC Neighborhood Commercial
- CR Regional Commercial
- PF Public Facilities
- O-R-D Office, Research, and Development

