

# COTTONWOOD HEIGHTS

## RESOLUTION No. 2018-61

### A RESOLUTION APPROVING AN EXCEPTION TO THE FENCING REQUIREMENT FOR A FLAG LOT LOCATED AT 7989 SOUTH ROYAL LANE

**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 an ordinance establishing regulations for the subdivision of land use in such municipality; and

**WHEREAS**, on 14 January 2005, the city council (the “*Council*”) of the city of Cottonwood Heights (the “*City*”) enacted its Ordinance No. 05-08 adopting a subdivision ordinance for the City and codifying such ordinance as Title 12 (“*Title 12*”) of the City’s code of ordinances (the “*Code*”); and

**WHEREAS**, Code section 12.20.060 authorizes the subdivision of land to create a flag lot, subject to certain conditions, including the requirement (the “*Fencing Requirement*”) under Code section 12.20.060(M) that the flag lot be accessed by a “*solid visual barrier six feet (6’) in height shall be installed on the outside property line of the flag lot stem, running from the front setback of the original (front) lot to the rear property boundary of the flag lot*”; and

**WHEREAS**, an exception to such requirement is available, however, under Code section 12.08.020, which provides:

**12.08.020 Exceptions—Permitted when.**

*In cases where unusual topographic, aesthetic or other exceptional conditions exist or the welfare, best interests and safety of the general public will be usefully served or protected, variations and exceptions of this Title may be made by the city council after the recommendation of the planning commission, provided, that such variations and exceptions may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Title.*

**WHEREAS**, the owners (“*Applicants*”) of a flag lot located at 7989 Royal Lane in the City (the “*Lot*”) have requested an exception to the Fencing Requirement (the “*Exception*”); and

**WHEREAS**, on 5 September 2018, the City’s planning commission (the “*Planning Commission*”) held a public hearing on Applicants’ request for the Exception, at which time all interested parties were given the opportunity to provide written or oral comment concerning the Exception; and

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

**WHEREAS**, on 5 September 2018, the Planning Commission recommended approval of the Exception and forwarded such recommendation of approval to the Council for final action; and

**WHEREAS**, on 25 September 2018 the Council met in regular meeting to consider, among other things, whether to grant the Exception; 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 Exception;

**NOW, THEREFORE, BE IT RESOLVED** by the city council of Cottonwood Heights that the Exception is hereby approved based on the Council's finding that approval of the Exception will not result in a substantial detriment to the public good nor substantially impair the intent and purpose of Title 12; and it is

**FURTHER RESOLVED** that the City's Director of Community and Economic Development is hereby authorized and directed to effect the Exception as to the Lot in full conformity with all other applicable laws and ordinances.

This Resolution, assigned no. 2018-61, shall take effect immediately upon passage.


**PASSED AND APPROVED** this 25<sup>th</sup> day of September 2018.

**ATTEST:**

By:   
Paula Melgar, Recorder



**COTTONWOOD HEIGHTS CITY COUNCIL**

By:   
Michael J. Peterson, Mayor

**VOTING:**

Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tali C. Bruce	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Christine Watson Mikell	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

**DEPOSITED** in the office of the City Recorder this 25<sup>th</sup> day of September 2018.

**RECORDED** this 25 day of September 2018.