

Exhibit 1 to Ordinance 2213

REZONING WITH CONDITIONS AGREEMENT

THIS REZONING WITH CONDITIONS AGREEMENT ("Agreement") made this ____ day of _____, 2026, by and between the CITY OF MADISON HEIGHTS ("City"), a Michigan municipal corporation, whose offices are located at 300 W. Thirteen Mile Road, Madison Heights, MI 48071, and SOUTH LYON COMPANY, LLC ("Property Owner"), the owners of the property that is subject to this Agreement, whose address is 47448 Pontiac Trail, Suite 285, Wixom, MI 48393, and SMOKIN BEAR TOBACCO JOHN R, INC. ("Applicant"), a company whose address is 31075 John R Road, Ste. C, Madison Heights, MI 48071.

WHEREAS, the Applicant is the owner of a Tobacco/Smoke Shop business (Smokin Bear Tobacco) that seeks to occupy one retail tenant space in a building located on property owned by the Property Owner and has submitted, with the Property Owner's approval and signature, an application to rezone said real property ("Property") located in the City of Madison Heights, legally described as:

The South 2 feet of Lot 92 and all of Lots 93 through 105, both inclusive and the North 13 feet of Lot 106, also ½ of the vacated alley adjacent to said Lots, also all of Lots 166 through 171, inclusive and the North 35 feet of Lot 172, also ½ of the vacated alley adjacent to said Lots, JULIUS BERMAN'S JOHN R. SUBDIVISION, according to the plat thereof as recorded in Liber 34 of Plats, page(s) 7, Oakland County Records.

PIN 44-25-02-478-021. 31075 John R Road

from its current zoning classification of B-1, NEIGHBORHOOD BUSINESS, to B-2, COMMUNITY BUSINESS pursuant to the City of Madison Heights Zoning Ordinance to operate a Tobacco/Smoke Shop on the Property; and

WHEREAS, pursuant to the Michigan Zoning Enabling Act, PA 110 of 2006, and Section 15.07.3.C of the Madison Heights Zoning Ordinance, the City may approve rezoning conditions voluntarily offered by an applicant; and

WHEREAS, Applicant voluntarily offered, in writing, certain use restrictions as conditions of the rezoning; and

WHEREAS, on June 15th, 2026, the City of Madison Heights Planning Commission held a public hearing in accordance with City and State law; and

WHEREAS, on _____, 2026, the City of Madison Heights City Council voted to approve Applicant's requested Rezoning with Conditions, accept Applicant's proposed limitations on the use of the Property, and approve the terms and conditions of this Rezoning with Conditions Agreement.

NOW, THEREFORE, in consideration of the premises and rights reserved, herein, and in order to accomplish the foregoing purposes, the undersigned hereby agree:

1. Rezoning with Conditions

Pursuant to Section 405 of the Michigan Zoning Enabling Act, PA 110 of 2006, and the Madison Heights Zoning Ordinance, the Applicant and Property Owner voluntarily agree to limit the use and development of the Property as set forth in this Agreement. Upon execution of this Agreement by the parties, the City shall effectuate the rezoning with conditions of the Property from zoning classification B-1, Neighborhood Business, to B-2, Community Business.

2. List of Conditions

The Applicant and Property Owner agree that the development of the Property will proceed in accordance with the following conditions which have been voluntarily offered by the Applicant as a condition of rezoning the property:

- a. Applicant's/Property Owner's business operations would include tobacco sales and anything incident to said tobacco sales (e.g., tobacco accessories); and
- b. Uses on the Property would not include any other uses outside of the current B-1 zoning permitted uses; and
- c. Applicant/Property Owner would not engage in any operations as a financial institution; and
- d. Applicant/Property Owner would not engage in any operations in automobile sales; and
- e. Applicant/Property Owner would not engage in any operations in automobile service/repairs; and
- f. Applicant/Property Owner would not engage in any operations in gasoline sales; and
- g. Applicant/Property Owner would not engage in any operations as a medical facility; and
- h. Applicant/Property Owner would not engage in any operations in alcohol sales; and
- i. Applicant/Property Owner would not engage in any operations in adult/child care; and
- j. Applicant/Property Owner would not engage in any operations in firearm sales; and

- k. Applicant/Property Owner would not engage in any operations as a kennel/boarding facility; and
- l. Applicant/Property Owner would not engage in any operations as a funeral home; and
- m. Applicant/Property Owner would not engage in any operations in home improvement; and
- n. Applicant/Property Owner would not engage in any operations as a hotel/lodging facility; and
- o. Only one Tobacco/Smoke Shop shall be authorized for use – at any given time – at the Property

3. Acknowledgments

Property Owner and Applicant acknowledge that they voluntarily offered and consented to the conditions contained in this Agreement in connection with the Rezoning with Conditions and future development and use of the Property, and that such conditions were offered in writing. Property Owner, Applicant and City acknowledge that the conditions in the Agreement are authorized by all applicable state and federal law and constitution, and that the Agreement is valid and was entered into on a voluntary basis and represents a permissible exercise of authority by the City.

Furthermore, it is agreed and acknowledged that each of the requirements and conditions in the Rezoning with Conditions Agreement represents a necessary and reasonable measure which, when considered with all other conditions and requirements, is roughly proportional to the increased impact created by the use represented in the approved Agreement taking into consideration the changed zoning district classification and the specific use authorization granted.

4. Future Development and Uses

All development of the Property, and all current and future uses, shall be in strict compliance with all applicable City Ordinances, regulations, and applicable building code and utility requirements and shall not be developed or used in a manner inconsistent with this Agreement.

5. Entire Agreement

This Agreement, together with any agreements referenced herein, constitutes the entire agreement between the parties with respect to the subject of this Agreement.

6. Amendment of Conditions

The terms of this Agreement may be amended, changed, or modified in the same manner as required to obtain the review and approval of a new Rezoning with Conditions application. All proposed amendments, waivers or modifications shall be made in writing.

7. Effective Date.

This Agreement shall take effect upon the effective date of the Ordinance to Amend the Zoning Map which rezones the Property to B-2, with conditions, and incorporates this Agreement as an Exhibit.

8. Period of Approval

The City, Property Owner, and Applicant agree that the Agreement shall expire and be considered null and void and of no further force and effect after a period of one (1) year from the effective date of this Agreement unless applicant has obtained a Certificate of Occupancy for the Tobacco/Smoke Shop use or applied for an extension that may be granted or denied at the sole discretion of the Planning and Zoning Administrator.

9. Compliance with Conditions

Once commenced and established, development and use of the Property must remain in compliance with the conditions of rezoning of this Agreement. Any failure to comply with a condition herein shall constitute a violation of the Madison Heights Zoning Ordinance and shall be punishable as provided for therein. Additionally, any such violation shall be deemed a nuisance per se and be subject to abatement as provided by law.

10. Termination of Agreement

In the event that the Property Owner and Applicant, or their designees, fail to adhere to the Period of Approval as specified in Section 8, above, rendering the Agreement null and void, the following procedures shall apply:

- a. The Property Owner may seek a new rezoning of the property within thirty (30) days of the expiration of the Period of Approval.
- b. If no application is made for a new rezoning of the property, the land shall revert to its former zoning classification as set forth in the Michigan Zoning Enabling Act and the City of Madison Heights Zoning Ordinance. The City Council shall direct the Planning Commission to proceed with consideration of rezoning the land to its former zoning designation following the standard rezoning procedures set forth in this Zoning Ordinance.
- c. Until such time that a new zoning district classification of the property has become effective, no development shall be undertaken or permits for development issued.

11. Binding Effect.

The terms and conditions of this Agreement shall be binding and inure to the benefit of the parties, their heirs, successors, assigns and transferees, and shall run with the Property.

12. City's Right to Rezone.

Nothing in this Agreement shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to this Agreement to another zoning classification. Any such rezoning shall be conducted in compliance with the City of Madison Heights Zoning Ordinance and the Michigan Zoning Enabling Act; provided, however, that the City shall not rezone the property to a different zoning classification during the Period of Approval as specified in Section 8 of this Agreement.

13. Obligation to Obtain Other Approvals

Property Owner and Applicant acknowledge that any use or development approved by the Rezoning with Conditions may require Special Land Use approval, a dimensional variance, site plan approval, or other form of approval under the terms of the Zoning Ordinance and, if required, shall only commence if said approvals are granted.

14. Severability

If any provision of this Agreement shall be declared invalid, illegal, or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and this Agreement shall be construed as if those provisions were not contained in this Agreement.

15. Conflicts

To the extent that the provisions of this Agreement conflict with Madison Heights Zoning Ordinance or another applicable ordinance, code, regulation, requirement, standard, or policy, the provisions of this Agreement shall prevail.

16. Applicable Law

This Agreement shall be interpreted and enforced according to the laws of the State of Michigan.

17. Recordation

This Agreement shall be filed and recorded by the Property Owner or Applicant at their expense at the Oakland County Register of Deeds and a copy shall be provided to The City.

PAGE INTENTIONALLY ENDS HERE
SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the day and year recited above.

OWNER: SOUTH LYON COMPANY, LLC,
a Michigan limited liability company

By: _____

Its: _____

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026,
by _____, as _____ of South Lyon Company,
LLC, a Michigan limited liability company.

Notary Public

_____ County, Michigan

My Commission Expires: _____

Acting in _____ County, Michigan

APPLICANT: SMOKIN BEAR TOBACCO JOHN R.
INC., a Michigan corporation

By:

Its:

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026,
by _____, as _____ of Smokin Bear Tobacco
John R., Inc., a Michigan corporation.

Notary Public

____ County, Michigan

My Commission Expires: _____

Acting in _____ County, Michigan

CITY: THE CITY OF MADISON HEIGHTS,
a Michigan municipal corporation

By: Melissa R. Marsh

Its: City Manager

By: Cheryl E. Rottmann

Its: City Clerk

STATE OF MICHIGAN)
) ss
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this ____ day of _____, 2026,
by Melissa R. Marsh, as City Manager, and Cheryl E. Rottmann, as City Clerk, on behalf of the
City of Madison Heights, a Michigan municipal corporation.

Notary Public

_____ County, Michigan

My Commission Expires: _____

Acting in _____ County, Michigan

When recorded, return to:

Cheryl E. Rottmann
City Clerk
City of Madison Heights
300 W. Thirteen Mile Road
Madison Heights, MI 48071