

ORDINANCE NO. 2022-003

ORDINANCE ANNEXING PROPERTY BY CONSENT

AN ORDINANCE ANNEXING CERTAIN TERRITORY CONSISTING OF A PARCEL OF APPROXIMATELY 31.149 ACRES OF PROPERTY LOCATED AT 4001 SMITHS GROVE-SCOTTSVILLE ROAD IN WARREN COUNTY, KENTUCKY AND PRESENTLY OWNED BY BUC-EE'S SMITHS GROVE, LLC, WITH SAID TERRITORY BEING ADJACENT OR CONTIGUOUS TO EXISTING CITY LIMITS

WHEREAS, pursuant to KRS 81A.412, the City of Smiths Grove, Kentucky (the "City") may annex any area which meets the requirements for annexation if the owner of record of the land to be annexed gives prior consent in writing; and

WHEREAS, Buc-ee's Smiths Grove, LLC ("Buc-ee's") is the owner of record of the hereinafter described unincorporated territory (the "Territory"), has requested the City annex the Territory and, pursuant to KRS 81A.412, has given prior written consent to such annexation; and

WHEREAS, the City has determined the Territory to be annexed (a) is adjacent or contiguous to the boundaries of the City and that it is desirable to annex the Territory; (b) is urban in character and suitable in nature to the City pursuant to KRS 81A.410(1)(b); (c) is not included within the boundary of another incorporated city pursuant to KRS 81A.410(2); and (d) is not an agricultural district as prohibited by KRS 262.850(10); and

WHEREAS, no enactment of a notification ordinance is required pursuant to KRS 81A.420(1) and no notice is required pursuant to KRS 81A.425 because the sole property owner of the Territory to be annexed has signed a consent agreeing to annexation; and

WHEREAS, the City is not required to wait the sixty (60) day period provided for in KRS 81A.420(2).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF SMITHS GROVE, KENTUCKY PURSUANT TO KRS 81A.412 AS FOLLOWS:

Section 1. The recitals are hereby incorporated as a part hereof.

Section 2. The City finds the Territory meets the requirements of KRS 81A.410 and is as follows:

- (a) Adjacent or contiguous to the existing boundaries of the City,
- (b) Urban in character and suitable for development for urban purposes without unreasonable delay, and
- (c) Not included within the boundary of another incorporated city.

Section 3. The Territory is located at 4001 Smiths Grove-Scottsville Road and is legally described on Exhibit "A" attached hereto and incorporated herein by reference. The Territory is comprised of a single parcel, and Buc-ee's is the sole owner.

Section 4. Buc-ee's, the sole owner of record of the Territory, has filed with the City written consent to this annexation pursuant to KRS 81A.412 and therefore, the following are not applicable to this annexation: (a) the notification ordinance required by KRS 81A.420(1); (b) the notice requirement of KRS 81A.425; and (c) the waiting period of KRS 81A.420(2).

Section 5. The Territory shall be and is hereby annexed into the City, by consent of the owner, and the boundaries of the City are hereby extended to include and incorporate all of this land into the City.

Section 6. The Mayor and all other appropriate City officers and officials are authorized and directed to any and all documents necessary to carry out and complete this

annexation, and the City Commission is to act for and in the name of the City throughout the administration and performance thereof.

Section 7. The City reaffirms that the boundaries of the “downtown business district” for purposes of KRS 103.200(n) and the issuance of industrial revenue bonds by the City shall be the City’s corporate boundaries as they exist from time to time, including the Territory upon its annexation hereby.

Section 8. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

Section 9. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

Section 10. This Ordinance is adopted pursuant to KRS 83A.060 in that it was introduced on May 24, 2022, and given final reading on June 27, 2022, 2022, and said Ordinance shall be in full force and effect upon signature, recordation and publication in summary pursuant to KRS Chapter 424.

ADOPTED: June 27, 2022

APPROVED: David L. Stiffey
Mayor, Chairman of Board of Commissioners

ATTEST: Nancy Howard
City Clerk

SPONSORED BY: Mayor David L. Stiffey

Exhibit "A"

The following described real property located within the jurisdictional boundary of Warren County, Kentucky, and more particularly described as follows:

BEGINNING AT THE RIGHT OF WAY LINE INTERSECTION OF INTERSTATE 65 SOUTHWEST RAMP AND HWY 101 (SMITHS GROVE - SCOTTSVILLE ROAD); THENCE WITH THE WEST RIGHT OF WAY LINE OF SAID HWY 101, AS FOLLOWS: S 07°22'13" W A DISTANCE OF 107.93 FEET TO A CONCRETE MONUMENT FOUND; THENCE S 05°17'51" W A DISTANCE OF 58.24 FEET TO A CONCRETE MONUMENT FOUND; THENCE S 08°44'45" W A DISTANCE OF 41.77 FEET TO A 1/2" IRON PIN SET; THENCE S 09°16'50" W A DISTANCE OF 81.12 FEET TO A 1/2" IRON PIN SET; THENCE S 24°05'25" W A DISTANCE OF 33.25 FEET TO A KYRW DISK FOUND; THENCE S 23°58'51" W A DISTANCE OF 40.00 FEET TO A 1/2" IRON PIN SET; THENCE WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 354.21 FEET WITH A RADIUS OF 1095.92 FEET WITH A CHORD BEARING OF S 33°10'50" W, WITH A CHORD LENGTH OF 352.67 FEET TO A CONCRETE MONUMENT FOUND; THENCE S 36°47'44" W A DISTANCE OF 353.26 FEET TO A 1/2" IRON PIN SET; THENCE LEAVING SAID RIGHT OF WAY LINE WITH THE NORTH LINE OF THE LEON TARTER PROPERTY, RECORDED IN DEED BOOK 949, PAGE 957 N 87°53'32" W A DISTANCE OF 947.47 FEET TO A 1/2" IRON PIN SET; THENCE ACROSS THE PARENT TRACT N 01°29'07" E A DISTANCE OF 619.28 FEET TO A 1/2" IRON PIN SET; THENCE N 13°49'35" E A DISTANCE OF 528.87 FEET TO A 1/2" IRON PIN SET IN THE SOUTH RIGHT OF WAY LINE OF SAID INTERSTATE 65; THENCE WITH SAID SOUTH RIGHT OF WAY LINE, AS FOLLOWS: WITH A CURVE TURNING TO THE RIGHT WITH AN ARC LENGTH OF 311.65 FEET WITH A RADIUS OF 5579.58 FEET WITH A CHORD BEARING OF N 88°18'35" E, WITH A CHORD LENGTH OF 311.61 FEET TO A R/W POST; THENCE S 82°35'21" E A DISTANCE OF 456.33 FEET TO A R/W POST; THENCE S 70°02'30" E A DISTANCE OF 546.28 FEET TO THE POINT OF BEGINNING. HAVING AN AREA OF 1,356,864 SQUARE FEET, 31.149 ACRES, MORE OR LESS. ACCORDING TO ALTA SURVEY BY KENNETH A. BAU, RLS 3645, YOUNG HOBBS & ASSOCIATES, DATED FEBRUARY 2, 2021.

BEING THE SAME PROPERTY CONVEYED FROM BUC-EE'S KENTUCKY, LLC, A DELAWARE LIMITED LIABILITY COMPANY, TO BUC-EE'S SMITHS GROVE, LLC, A KENTUCKY LIMITED LIABILITY COMPANY, BY THAT CERTAIN DEED OF RECORD IN DEED BOOK 1255, PAGE 293, IN THE OFFICE OF THE CLERK OF WARREN COUNTY, KENTUCKY.

CONSENT TO ANNEXATION

THIS CONSENT TO ANNEXATION is made effective as of May 24, 2022, by (i) **BUC-EE'S SMITHS GROVE, LLC**, a Delaware limited liability company having an address of 327 FM 2004, Lake Jackson, Texas 77566 ("Buc-ee's"), in favor of (ii) the **CITY OF SMITHS GROVE, KENTUCKY**, a municipal corporation and political subdivision of the Commonwealth of Kentucky, having an address of 146 South Main Street, P.O. Box 114, Smiths Grove, Kentucky 42171 (the "City").

RECITALS

A. The City desires to annex land owned by Buc-ee's having an area of 31.149 acres, more or less, and more particularly described on Exhibit "A" (the "Land").

B. Buc-ee's desires the City annex the Land consensually pursuant to KRS 81A.412.

NOW THEREFORE, Bucee's consents to annexation of its Land and further states as follows:

1. Buc-ee's is the owner of record of the Land.
2. Buc-ee's requests the City annex the Land and make such Land a part of the City.
3. Buc-ee's intends this Consent constitute prior consent in writing to the City's annexation of the Land pursuant to and within the meaning of KRS 81A.412.
4. Buc-ee's waives its rights under KRS 81A.420(2) and (3) and KRS 81A.460 and requests and consents to the immediate annexation of the Land pursuant to KRS 81A.412.

[Signature Page Follows]

[SIGNATURE PAGE TO CONSENT TO ANNEXATION]

WITNESS the signature of Buc-ee's as of the day and year first above written.

BUC-EE'S SMITHS GROVE, LLC
a Delaware limited liability company

By: *[Signature]*
Joseph R. O'Leary
Vice President

STATE OF TEXAS)
) Sct.
COUNTY OF BRAZORIA)

The foregoing instrument (including the appended **Exhibit A**) was subscribed, sworn to and acknowledged before me this 20th day of May, 2022, by Joseph R. O'Leary, as the Vice President of **BUC-EE'S SMITHS GROVE, LLC**, for and on behalf of said limited liability company.

[Seal] My commission expires 3-8-2026


[Signature]
Notary Public
Printed Name: Joan A. Wehring
Commission No. 126823909

This instrument prepared by:

STOLL KEENON OGDEN PLLC
500 W. Jefferson Street
Louisville, Kentucky 40202

By: *[Signature]*
Timothy J. Eifler

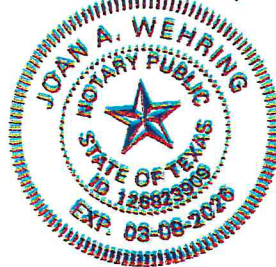


EXHIBIT "A"
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