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KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 08/28/2017 02:45 PM PG: 1 OF 8

## Ordinance 2017-37

### An Ordinance Granting a Special Permit for an Accessory Retail Sales Facility in the I-1 Restricted Industrial District (4080 Commercial Avenue – Vapor-4-Life) (Plan Commission Docket No. FCD-17-10)

Passed by the Board of Trustees 8/8/2017  
Printed and Published 8/9/2017

Printed and Published in Pamphlet Form  
by Authority of the  
President and Board of Trustees  
VILLAGE OF NORTHBROOK  
COOK COUNTY, ILLINOIS

I hereby certify that this document  
was properly published on the date  
stated above.

/s/ Debra J. Ford  
Village Clerk

RECORDING FEE

52<sup>00</sup>

DATE 8/28/2017

COPIES

6x

OK BY

*[Signature]*

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## Ordinance 2017-37

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

### **An Ordinance Granting a Special Permit for an Accessory Retail Sales Facility in the I-1 Restricted Industrial District (4080 Commercial Avenue – Vapor-4-Life) (Plan Commission Docket No. PCD-17-10)**

shall be, and is hereby, adopted as follows:

#### Section 1. BACKGROUND.

Vapor 4 Life Holdings, Inc. ("**Applicant**") is the lessee of the property commonly known as 4080 Commercial Avenue Suite A ("**Property**"). The Property is improved with a one-story industrial/warehouse building and owned by Northbrook Commercial Properties, LLC ("**Owner**"), which has consented to the relief requested by the Applicant. Applicant currently operates a facility that serves as a warehouse and wholesale sales distribution point for e-cigarette equipment and supplies.

The Applicant seeks to provide the accessory retail sales of items manufactured, processed, assembled or warehoused on the Property ("**Facility**"). Such a use is classified as a special permit use in the I-1 Restricted Industrial District so long as the proposed accessory retail sales area does not exceed the lesser of (i) ten (10) percent of an applicant's gross floor area, whether leased or owned, or (ii) 1,000 square feet.

#### Section 2. DESCRIPTION OF PROPERTY.

The Property is commonly known as 4080 Commercial Avenue, which is legally described in *Exhibit A* attached to and, by this reference, made a part of this Ordinance. The Property is

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located within the I-1 Restricted Industrial District.

## Section 3. PUBLIC MEETINGS & HEARINGS.

A public hearing to consider the Applicant's request for a special permit was duly advertised on June 29, 2017 in the *Northbrook Star* and was held at the Plan Commission's regular meeting on July 18, 2017. On August 1, 2017, the Plan Commission formally adopted Resolution No. 17-PC-13 recommending approval of the application.

## Section 4. SPECIAL PERMIT.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 5 of this Ordinance, a special permit to allow the operation of Accessory Retail Sales of items manufactured, processed, assembled or warehoused on the premises (Village S.I.C. No. 9982.00) on the Property is hereby granted to the Applicant in accordance with and pursuant to Section 11-602 of the Code and the home rule powers of the Village of Northbrook.

## Section 5. SPECIAL PERMIT CONDITIONS.

The special permit granted in Section 4 above shall be, and is hereby, expressly subject to and contingent upon each of the following conditions, restrictions and provisions:

- A. Term. The special permit for the Facility shall terminate on January 31, 2020, which is coterminous with the Applicant's current lease for the Property, including all current lease extension options.
- B. Retail Sales Area. The accessory retail sales area shall consist of a 550 square foot area adjacent to the entrance to the Subject Property and at no time shall a lounge area for on premises consumption of the Applicant's products be permitted on the Subject Property.
- C. Age Restrictions. No customers under the age of 18 shall be permitted on the Subject Property.

## Section 6. FAILURE TO COMPLY WITH CONDITIONS.

Upon failure or refusal of the Applicant to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the special permit granted in Section 4 of this Ordinance shall, at the sole discretion of the Village Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village Board of Trustees may not so revoke the special permit unless it shall first provide the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees. In the event of revocation, the development and use of the Property shall be governed solely by the regulations of the I-1 Restricted Industrial District, as the same may, from time to time, be amended. Further, in the event of such revocation of the special permit, the Village Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances. The Applicant acknowledges that public notices and hearings have been held with respect to the adoption of this Ordinance, has considered the possibility of the revocation provided for in this Section, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Applicant or its successor required by this Section is given.

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## Section 7. AMENDMENT TO SPECIAL PERMIT.

Any amendment to the special permit granted by this Ordinance that may be requested by the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Code.

## Section 8. BINDING EFFECT; TRANSFERABILITY.

The privileges, obligations, and provisions of each and every Section of this Ordinance, are for the sole benefit of, and shall be binding on, the Applicant, except as otherwise expressly provided in this Ordinance. Nothing in this Ordinance shall be deemed to allow this Ordinance to be transferred to any person or entity unless and until (a) such person or entity ("*Transferee*") executes and files with the Village Clerk an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance in a form acceptable to the Village Manager and (b) the Board of Trustees has approved such transfer by resolution duly adopted.

## Section 9. EFFECTIVE DATE.

A. This Ordinance shall be effective only upon the occurrence of all of the following events:

- i. passage by the Board of Trustees of the Village of Northbrook by a majority vote in the manner required by law;
- ii. publication in pamphlet form in the manner required by law;
- iii. the filing by the Applicant and the Owner with the Village Clerk of an unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance. Said unconditional agreement and consent shall be in the form of *Exhibit B*, attached to and made a part of this Ordinance by this reference; and
- iv. recordation of this Ordinance, together with such exhibits as the Village Clerk shall deem appropriate for recordation, with the Cook County Recorder of Deeds. The Applicant shall bear the full cost of such recordation.

B. In the event that the Applicant does not file with the Village Clerk a fully executed copy of the unconditional agreement and consent referenced in Paragraph 9.A.iii of this Ordinance within 90 days after the date of passage of this Ordinance by the President and Board of Trustees, the corporate authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

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EXHIBIT A

## LEGAL DESCRIPTION OF PROPERTY

LOT 2 IN THE PLAT OF RESUBDIVISION OF LOTS 2 AND 3 IN VORBROOK COMMERCIAL PARK AND OF LOT 1 IN E.M.I. RESUBDIVISION, BEING A RESUBDIVISION OF LOTS 4 TO 9 INCLUSIVE, 12, 13, 14, 16 AND 17 IN VORBROOK COMMERCIAL PARK, IN SECTION 6, TOWNSHIP 42 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO SAID PLAT OF RESUBDIVISION RECORDED AUGUST 3, 1995 AS DOCUMENT 95513270.

P.I.N.: 04-06-107-004-0000 (Partial)

Commonly known as 4080 Commercial Avenue, Suite A, Northbrook, IL

Property of Cook County Clerk's Office

## EXHIBIT B

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Unconditional Agreement and Consent of Applicant and Owner

TO: The Village of Northbrook, Illinois ("**Village**");

WHEREAS, Vapor 4 Life Holdings, Inc. ("**Applicant**") is the lessee of a portion of the property commonly known as 4080 Commercial Avenue designated as Suite A ("**Property**"); and

WHEREAS, Northbrook Commercial Properties, LLC ("**Owner**") is the owner of the Property; and

WHEREAS, the Applicant plans to operate the accessory retail sales of items manufactured, processed, assembled or warehoused on the Property ("**Facility**") and has requested that the Village grant a special permit to allow the operation of the Facility on the Property; and

WHEREAS, the Property is located within the I-1 Restricted Industrial and Commercial Services District, in which accessory retail sales of items manufactured, processed, assembled or warehoused are allowed only as a special permit use; and

WHEREAS, the Applicant has applied for a special permit to allow the operation of the Facility on the Property and the Owner has consented to the application; and

WHEREAS, Ordinance No. 17-37, adopted by the President and Board of Trustees of the Village of Northbrook on August 8, 2017 ("**Ordinance**"), grants approval of such special permit, subject to certain conditions, for the benefit of Applicant; and

WHEREAS, Applicant desires to evidence to the Village its unconditional agreement and consent to accept and abide by each of the terms, conditions, and limitations set forth in said Ordinance, and the Owner desires to evidence its consent to recording the Ordinance against the Property;

NOW, THEREFORE, Applicant and the Owner do hereby agree and covenant as follows:

1. Applicant shall, and does hereby unconditionally agree to, accept, consent to and abide by all of the terms, conditions, restrictions, and provisions of that certain Ordinance No. 17-37, adopted by the Village Board of Trustees on August 8, 2017.
2. Applicant acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's review and approval of any plans for the Property, or the issuance of any permits for the use and development of the Property, and that the Village's review and approval of any such plans and issuance of any such permits does not, and shall not, in any way, be deemed to insure Applicant against damage or injury of any kind and at any time.
3. Applicant acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to Applicant required by Section 6 of the Ordinance is given.
4. Applicant agrees to and does hereby hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims

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that may, at any time, be asserted against any of such parties in connection with (a) the Village's review and approval of any plans and issuance of any permits, (b) the procedures followed in connection with the adoption of the Ordinance, (c) the development, construction, maintenance, and use of the Property, and (d) the performance by Applicant of their obligations under this Unconditional Consent and Agreement.

- 5. Applicant shall, and does hereby agree to, pay all expenses incurred by the Village in defending itself with regard to any and all of the claims mentioned in this Unconditional Consent and Agreement. These expenses shall include all out-of-pocket expenses, such as attorneys' and experts' fees, and shall also include the reasonable value of any services rendered by any employees of the Village.
- 6. Owner warrants and represents to the Village that it owns fee simple title to the Property and consents to the recording of the Ordinance against the Property.

**ATTEST:**

**VAPOR 4 LIFE HOLDINGS, INC.,** an Illinois corporation

By: Melanie Milin  
Signature

By: [Signature]  
Signature

By: Melanie Milin  
Print Name

By: Steve Milin  
Print Name

Its: Secretary

Its: CEO / President

**SUBSCRIBED and SWORN to** before me this 14<sup>th</sup> day of August, 2017.

Samantha Wilkenon  
Notary Public



**ATTEST:**

**NORTHBROOK COMMERCIAL PROPERTIES, LLC,** an Illinois limited liability company

By: \_\_\_\_\_  
Signature

By: Jamal Al-Wattar  
Signature

By: \_\_\_\_\_  
Print Name

By: JAMAL AL-WATTAR  
Print Name

Its: \_\_\_\_\_

Its: Principal

**SUBSCRIBED and SWORN to** before me this 14<sup>th</sup> day of August, 2017.

Samantha Wilkenon  
Notary Public



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Adopted: 8/8/2017

<b>RESULT:</b>	<b>ADOPTED BY CONSENT VOTE [UNANIMOUS]</b>
<b>MOVER:</b>	Kathryn Ciesla, Trustee
<b>SECONDER:</b>	A.C. Buehler, Trustee
<b>AYES:</b>	Han, Buehler, Ciesla, Israel, Frum
<b>ABSENT:</b>	Muriel Collison, James Karagianis

ATTEST:

/s/ Sandra E. Frum  
Village President

/s/ Debra J. Ford  
Village Clerk

Property of Cook County Clerk's Office

RECORD OF DEEDS  
COOK COUNTY

I hereby certify this to be a true and exact copy of the original.  
8/15/17  
Date

[Signature]  
Village Clerk

