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01/01/2018

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## ORDINANCE NO. 96-40

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 SPECIAL PERMITS FOR THE OPERATION OF  
(1) VETERINARY SERVICES FOR ANIMAL SPECIALTIES AND  
(2) DOG GROOMING SERVICES AT 291 SKOKIE BOULEVARD

(PETSMART, INC.)  
(PLAN COMMISSION DOCKET NO. 96-15 B/C)

be and is hereby adopted as follows:

### Section 1. BACKGROUND.

PETSMART, Inc., a Delaware corporation (the "Applicant"), has requested two special permits to allow for the operation of (1) a veterinary clinic and (2) a dog grooming facility at 291 Skokie Boulevard in the space formerly occupied by Today's Man within Phase I of the Village Square of Northbrook shopping center (the "Subject Property"). The Subject Property is located within the C-5 Boulevard Commercial District. The operation of the proposed veterinary clinic is classified in the Northbrook Zoning Code (1988), as amended from time to time (the "Zoning Code"), as Veterinary Services for Animal Specialties (Village S.I.C. Code No. 0742.00). The operation of the proposed dog grooming facility is classified in the Zoning Code as Dog Grooming Services (Village S.I.C. Code 0752.01).

### Section 2. DESCRIPTION OF SUBJECT PROPERTY.

The Subject Property is located at 291 Skokie Boulevard within Phase I of the Village Square of Northbrook shopping center. A legal description of Phase I of the Village Square of Northbrook shopping center is attached as Exhibit A and made a part of this Ordinance by this reference.

### Section 3. PUBLIC HEARING.

A public hearing to consider the application for the two special permits requested for the Subject Property in the C-5 Boulevard Commercial District was duly advertised on July 18, 1996 in the *Northbrook Star* and publicly heard by the Northbrook Plan Commission on August 6, 1996.

### Section 4. SPECIAL PERMIT FOR VETERINARY SERVICES FOR ANIMAL SPECIALTIES.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 6 of this Ordinance, a special permit to allow for the operation of Veterinary Services for Animal Specialties (Village S.I.C. Code No. 0742.00) on the Subject Property is hereby granted to the Applicant in accordance with and pursuant to Section 11-602 of the Zoning Code and the home rule powers of the Village of Northbrook.

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## Section 5. SPECIAL PERMIT FOR DOG GROOMING.

Subject to and contingent upon the conditions, restrictions, and provisions set forth in Section 6 of this Ordinance, a special permit to allow for the operation of Dog Grooming Services (Village S.I.C. Code 0752.01) on the Subject Property is hereby granted to the Applicant in accordance with and pursuant to Section 11-602 of the Zoning Code and the home rule powers of the Village of Northbrook.

## Section 6. SPECIAL PERMIT CONDITIONS.

The special permits granted in Sections 4 and 5 above shall be, and are hereby, expressly subject to and contingent upon each of the following conditions, restrictions and provisions:

A. Compliance with Plans. The development, use and maintenance of the Subject Property shall be only in strict accordance with the following documents and plans, except for minor changes and site work approved by the Director of Development or the Village Engineer (for matters within their respective permitting authorities) in accordance with all applicable Village standards:

- i. Fixture Plan, consisting of one (1) sheet, prepared by CASCO, undated, attached as Exhibit B and made a part of this Ordinance by this reference; and
- ii. Letter dated July 22, 1996 from Ronald D. Holley, Director of Real Estate for the Applicant, to Thomas R. Poupard, Director of the Department of Community Planning for the Village, outlining various operating procedures employed by the Applicant, attached as Exhibit C and made a part of this Ordinance by this reference.

B. Engineering Plans. No exterior modifications to the existing building and structures are proposed by the Applicant. Therefore, engineering plans are not required for this use of the Subject Property.

C. Compliance with Building Code and Accessibility Laws. The building on the Subject Property, and all modifications thereof, shall comply with the Village's building regulations (Chapter 6 of the Northbrook Municipal Code (1988), as amended), as well as the requirements of the Americans with Disabilities Act and any applicable Illinois statutes regarding accessibility.

D. Licenses and Permits. The Applicant shall obtain and maintain all licenses, certifications, permits and other approvals required for the legal operation of Veterinary Services for Animal Specialties and Dog Grooming Services on the Subject Property.

F. Compliance with Codes. The Applicant shall comply with all other requirements applicable to the operation of the Veterinary Services for Animal Specialties

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and Dog Grooming Services In the Zoning Code and other codes and ordinances of the Village.

G. Prohibition of Sale of Dogs and Cats. The Applicant shall not sell any dog or cat for value at any time on or near the Subject Property.

H. Prohibition of Overnight Stays. The Applicant shall not permit any dog or cat to remain on the Subject Property overnight.

## Section 7. FAILURE TO COMPLY WITH CONDITIONS.

Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the special permits granted in Sections 4 and 5 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 permits 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 Subject Property shall be governed solely by the regulations of the C-5 Boulevard Commercial District, as the same may, from time to time, be amended. Further, in the event of such revocation of the special permits, 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 required by this Section is given.

## Section 8. AMENDMENT TO SPECIAL PERMIT.

Any additional amendment to the special permits granted in Sections 4 and 5 of this Ordinance that may be requested by the Applicant after the effective date of this Ordinance, including, without limitation, expansion of the size of the building, may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Code.

## Section 9. BINDING EFFECT; NON-TRANSFERABILITY.

The privileges, obligations, and provisions of each and every Section of this Ordinance are for the sole benefit of, and shall inure to the benefit of, and are and shall be binding on, the Applicant, except as otherwise expressly provided in this Ordinance. Nothing in this Ordinance shall be deemed to allow the privileges, obligations, and provisions of this Ordinance to be transferred to any person or entity other than the Applicant without a new application for approval for any person or entity other than the Applicant.

## Section 10. EFFECTIVE DATE.

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

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- 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; and
- iii. the filing by the Applicant with the Village Clerk, for recording in the Office of the Cook County Recorder of Deeds, 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 D, attached to and made a part of this Ordinance by this reference.

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 Section 10.A.iii of this Ordinance within 90 days of the date of passage of this Ordinance by the Corporate Authorities, the Corporate Authorities shall have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

PASSED: This 10th day of September, 1996.

AYES: (5) Trustees Frum, Hedien, Lew, Karagianis and Buehler III

NAYS: (1) Trustee Jaeger

/s/ Mark W. Damisch  
Village President

ATTEST:

/s/ Lona N. Louis  
Village Clerk

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## LIST OF EXHIBITS

- EXHIBIT A: Legal Description of Phase I of the Village Square of Northbrook shopping center
- EXHIBIT B: Fixture Plan, consisting of one (1) sheet, undated
- EXHIBIT C: July 22, 1996 Letter from Ronald D. Holley to Thomas R. Poupard
- EXHIBIT D: Unconditional Consent and Agreement of Applicant

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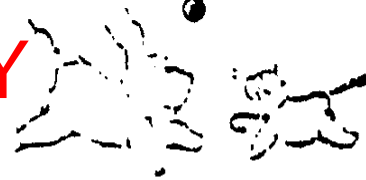




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Monday, July 22, 1996

RECEIVED

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DEPT. OF DEVELOPMENT

Thomas R. Poupard, AICP  
Director, Department of Community Planning  
VILLAGE OF NORTHBROOK  
1225 Cedar Lane  
Northbrook, IL 60062-4582

RE: VILLAGE SQUARE OF NORTHBROOK

Dear Tom:

This letter is in response to the Board of Trustee's questions regarding the proposed operation of our new store in the captioned shopping center. The questions that were raised at the meeting and the respective answers are as follows:

1) Q - How long do animals stay in the vet clinic? A - PETSMART does not intend to operate a boarding facility. In fact, it is rare that animals are boarded overnight, but occasionally the need arises, usually as a result of surgery. It is normal procedure that surgeries are scheduled in the early mornings so that the animal has sufficient time to recover in time to go home in the evening, but emergencies and complications do arise. If a recovery period is expected to take several days, those cases are usually referred to a 24 hour clinic that provides that type of care. When the need does arise, animals are boarded in stainless steel cages within the vet clinic area of the store.

2) Q - What is the location of the health services, and can it have a separate entrance to the parking lot? A - Since this store is a retrofit of an existing facility and due to the irregular configuration of the space, the health services department is located in the middle left hand portion of the store (former Today's Man fitting room area). As a result, it isn't possible to have a separate outside entrance into the vet area. We normally encourage that customers bring their animals into the store anyway, so this shouldn't pose an operating problem. In fact, our new prototypical stores provide the vet facility within the store and we have found that we can better serve the customer with the facility located in this fashion.

3) Q - What procedures are in place to take care of dog droppings either in the parking lot, or in the store? A - Store personnel are trained to maintain the store and parking lot on a regular basis. We have water available in the front of the store and regularly hose off the sidewalk area as well as arranging for periodic steam cleaning of the common area sidewalks. Hourly surveillance is made of the parking lot and usually more often when retrieving shopping carts back into the store. Inside the store, cleaning facilities are immediately available (i.e. paper towels, pooper scoopers and cleaning/disinfectant spray) and there is no higher priority than to clean up a fresh "mess" on the floor.

4) Q - What are the vet operating hours? A - The whole store's normal hours are expected to be Monday through Saturday 9:00 am to 9:00 pm and Sunday 10:00 am to 6:00 pm. The vet's hours in the proposed Northbrook location are anticipated to be Monday through Saturday 9:00 am to 7:00 pm, and Sunday 10:00 am to 4:00 pm. The groomer has similar operating hours as the store except they typically open at 7:00 am most days for the convenience of our customers

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to drop off their pets on the way to  
Mr. Thomas R. Poupard, AICP  
July 22, 1996  
Page 2

work and pick them up on their way home.

I hope that I have answered the Board's questions and would be happy to discuss any further concerns that they may have about our PETS<sup>SMART</sup> operation in the Northbrook Village. I am also enclosing pictures of one of our more recent stores for the Boards review. Please let me know is we can be of further assistance.

Very truly yours,



Ronald U. Holley  
Director of Real Estate  
PETS<sup>SMART</sup> INC.  
400 Chesterfield Center, Suite 400  
Chesterfield, Missouri 63017  
314-537-7899

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5/20/96



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## EXHIBIT D

### Unconditional Agreement and Consent of Applicant

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

WHEREAS, PETS<sup>SM</sup>MART, Inc., a Delaware corporation (the "Applicant"), has applied for special permits to allow the operation of Veterinary Services for Animal Specialties and Dog Grooming Services at 291 Skokie Boulevard within Phase I of the Village Square of Northbrook shopping center in the Village of Northbrook (the "Subject Property"); and

WHEREAS, Ordinance No. 96-40, adopted by the President and Board of Trustees of the Village of Northbrook on September 10, 1996 (the "Ordinance"), grants approval of such special permits, subject to certain conditions; and

WHEREAS, the 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;

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

1. The 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 Village Ordinance No. 96-40, adopted by the Village Board of Trustees on September 10, 1996 (the "Ordinance").
2. The 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 Subject Property, or the issuance of any permits for the use and development of the Subject 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 the Applicant against damage or injury of any kind and at any time.
3. The 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 the Applicant required by Section 5 of the Ordinance is given.
4. The 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 that may, at any time, be asserted against any of such parties in connection with (a) the Village's review and

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approval of 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 Subject Property, and (d) the performance by the Applicant of its obligations under this Unconditional Consent and Agreement.

5. The 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.

**PETSMART, Inc.**

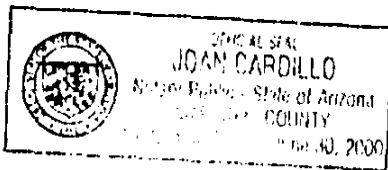
By: *Debra*  
Its: Vice President of Real Estate

ATTEST:

By: *Angela*  
Its: \_\_\_\_\_

SUBSCRIBED AND SWORN TO  
before me this 2nd day  
of October, 1996

*Joan Cardillo*  
Notary Public



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