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VILLAGE OF HARWOOD HEIGHTS  
COOK COUNTY, ILLINOIS

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ORDINANCE NO. 10 - 23

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AN ORDINANCE AMENDING CHAPTER 3.64 OF THE VILLAGE OF HARWOOD HEIGHTS CODE OF ORDINANCES TO REPEAL THE SELF-STORAGE FACILITY ACCOMMODATIONS TAX AND REPLACE THE SAME WITH A TAX IMPOSED ON THE PRIVILEGE OF RENTING NON-RESIDENTIAL REAL PROPERTY FOR THE PRIMARY PURPOSE OF LONG-TERM STORAGE OF PERSONAL PROPERTY

Passed by the Board of Trustees, July 8, 2010

Printed and Published, July 8, 2010

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By Authority of the Village Board of Trustees

VILLAGE OF HARWOOD HEIGHTS  
COOK COUNTY, ILLINOIS

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

  
Village Clerk

**VILLAGE OF HARWOOD HEIGHTS**

**ORDINANCE NO. 10-23**

**AN ORDINANCE AMENDING CHAPTER 3.64 OF THE VILLAGE OF HARWOOD HEIGHTS CODE OF ORDINANCES TO REPEAL THE SELF-STORAGE FACILITY ACCOMMODATIONS TAX AND REPLACE THE SAME WITH A TAX IMPOSED ON THE PRIVILEGE OF RENTING NON-RESIDENTIAL REAL PROPERTY FOR THE PRIMARY PURPOSE OF LONG-TERM STORAGE OF PERSONAL PROPERTY**

**WHEREAS**, the Village of Harwood Heights (hereinafter, “the Village”) is a home rule unit of government pursuant to Section 6(a), Article VII of the 1970 Illinois Constitution; and

**WHEREAS**, pursuant to its home rule power, the Village may exercise any power and perform any function relating to its government and affairs; and

**WHEREAS**, the Village seeks to refine its earlier-enacted self-storage facility accommodations tax; and

**WHEREAS**, in exercise of its home-rule authority, the Village, through its President and Board of Trustees, has found and determined that, in order to raise additional revenue, the Village is desirous of imposing a tax on the privilege of a Lessee renting out non-residential real property for the primary purpose of storing personal property therein for a period of 30 days or more; and

**WHEREAS**, the Corporate Authorities find that such real property rentals as above-described do not generate sales tax revenues for the Village and that imposing the tax herein described will have a minimal effect on Lessees and Owners of such property in light of relatively small base rental charges for such property as compared with other types of real property rentals not subject to the tax levied herein; and

**WHEREAS**, the Corporate Authorities find that long-term real property rentals for the primary purpose of storing personal property receive less frequent consumer/Lessee visitation,

traffic and resultant self-effectuating oversight than rentals of like kind for shorter durations (such as daily or hourly vehicle parking) and thus the real property subject to such long-term rental activity poses an increased risk of unreported deterioration or building code violations absent increased municipal monitoring; and

**WHEREAS**, the Corporate Authorities do not wish to further undercut the already-weak fundamentals underlying the distressed residential rental housing market; and

**WHEREAS**, the Corporate Authorities find that leasing real property for the primary purpose of long-term storage of personal property is distinguishable from other real property rentals insofar as it does not generate sales tax revenues or other secondary economic benefits for the Village as contrasted with other classes of commercial real property; and

**WHEREAS**, the Corporate Authorities believe such a tax to be in the best interest of the public health, safety, and welfare of its citizens by increasing municipal tax receipts at a time of economic hardship while imposing minimal economic burden on the subjects of the tax in light of relatively small base rental rates as compared with leases undertaken primarily for residential or other varieties of commercial purposes such as office, industrial or shopping uses;

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Harwood Heights, Cook County, Illinois, as follows:

**SECTION 1. RECITALS.** The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

**SECTION 2. TITLE.** This Ordinance shall be known and may hereafter be referred to as the *Long-Term Storage Rental Tax Ordinance*.

**SECTION 3. REPEALER AND ENACTMENT.** Title 3 (“Revenue and Finance”), Chapter 3.64 (“Self-Storage Facility Accommodations Tax”) of the Harwood Heights Village Code, shall be, and hereby is, repealed in its entirety and replaced with a new Chapter 3.64. The repeal and replacement of the former Chapter 3.64 is prospective in nature, such that all tax payments made under the former Chapter 3.64 prior to the enactment of this amendatory ordinance shall be remitted to the Village by the Owner, Landlord, Manager or Operator of a self-storage facility, but the newly enacted Section 3.64.050 shall apply to any tax receipts collected but not yet remitted under the former Ordinance. The new Chapter 3.64, which shall replace the former Chapter 3.64 in its entirety, shall read as follows:

**CHAPTER 3.64 TAX ON THE TENANT’S PRIVILEGE OF LEASING NON-RESIDENTIAL REAL PROPERTY FOR LONG-TERM STORAGE OF PERSONAL PROPERTY.**

**SECTION 3.64.010 DEFINITIONS.**

For purposes of this Chapter, the following terms and phrases shall have the following meanings:

“Base rental or leasing charge” shall mean any kind of direct or indirect charge for the use of rooms or space for long-term storage of personal property.

“Long-term storage” shall mean the non-transitory, semi-permanent containment, holding, leaving, keeping or placement of goods, materials, merchandise or household items in a non-residential leased real property premises, space or unit for a minimum of thirty (30) consecutive days with the intention of retrieving such personal property at a later time. It includes, but is not limited to, the leasing of space for long-term storage of personal property in warehouses, self-storage facilities, garages not accessory to residential premises, or other

facilities providing for 30 days or more of parking or storage of motor vehicles, boats, RVs and the like. It does not include the interim accumulation or custody of personal property during processing, maintenance, alteration, cleaning or repair, nor the deposit and subsequent retention of personal property in safety deposit vaults or boxes at or by a financial institution.

“Person” shall mean any individual, firm, partnership, association or corporation.

“Personal property” shall mean movable property not affixed to land and includes, but is not limited to, goods, materials, wares, merchandise, furniture, other household items, vehicles, or any other tangible personal property.

“Primary purpose” shall mean the dominant, principal, main, first or highest in rank use of real property, and shall exclude those uses of real property that are merely subservient, ancillary, accessory or incidental to another use that is of more importance or value.

“Self-storage facility” shall mean any building or structure containing separately divided storage rooms offered for lease or rent to members of the general public for the storage of personal property.

“Warehouse” shall mean any room, house, structure, building, place, yard or protected enclosure where personal property belonging to another is stored for compensation.

“Owner,” “Manager,” “Landlord,” “Lessor,” and “Operator” shall mean, for purposes of this Chapter only, any person legally authorized to, and in the normal course of business responsible for, charging and collecting rental payments from Tenants as compensation for the provision of space, room or other accommodation within and upon real property for the long-term storage of personal property.

“Tenant” and “Lessee” shall mean, for purposes of this Chapter only, a person who has been given the right to use and occupy real property owned by another person through a lease or

rental agreement for the limited purpose of storing personal property therein.

**SECTION 3.64.020 TAX IMPOSED.**

A. There is hereby imposed and levied a tax upon the Tenant's privilege of renting or leasing any non-residential real property for the primary purpose of long-term storage of personal property within the Village of Harwood Heights, at the rate of three percent (3%) of the base rental or leasing charge to such Tenant. The ultimate incidence of and liability for payment of such tax shall be upon the Lessee of non-residential real property for the primary purpose of long-term storage of personal property. Nothing herein shall be construed to impose a tax upon the occupation of leasing such real property by Owners, Landlords, Managers or Operators of such real property.

B. The tax herein imposed shall be levied and collected on a "cash basis," meaning that it is to be calculated as a percentage of the base rent chargeable for the leasing of the non-residential real property for the primary purpose of long-term storage of personal property, and that the tax shall be payable to and subsequently remitted by Owners, Landlords, Managers or Operators of real property subject to the tax herein imposed only when rent is actually received from and paid by the Tenant, as opposed to an "accrual basis." Any Tenant otherwise subject to the tax levied herein shall not be liable for taxes associated with periods of time for which rent has already been paid prior to the effective date of this Ordinance.

C. It shall be deemed a violation of this Chapter for any Lessee of non-residential real property for the primary purpose of long-term storage of personal property to fail to include the tax imposed herein with rental payments to the Owner, Landlord, Manager or Operator of such real property.

**SECTION 3.64.030 COLLECTION OF TAX.**

The tax herein levied shall be collected by the Owner, Landlord, Manager or Operator from the Lessee or Tenant when collecting the price, charge or rent to which it applies. Every Lessee or Tenant shall be given a bill, invoice, receipt or other statement or memorandum of the price, charge or rent payable, upon which the tax herein imposed shall be stated, charged and shown separately, to the extent that an Owner, Landlord, Manager or Operator of real property provides a bill, invoice, receipt or other statement or memorandum of the price, charge or rent payable to Lessees in the normal course of business. If such bills, invoices, receipts or other statements or memoranda are not provided in the normal course of business to Lessees, than Owners, Landlords, Managers or Operators of affected real property shall provide notification to Lessees within thirty days of the effective date of this Ordinance of the tax herein imposed.

The tax shall be collected by the Owner, Landlord, Manager or Operator as trustee thereof for and on behalf of the Village and remitted to the Village Clerk, along with an accounting therefore, on a monthly basis, on forms provided by the Village Clerk. Collected taxes and corresponding tax returns shall be remitted to the Village by the last day of the following calendar month (*e.g.* taxes collected on January rental payments are due the Village, together with the corresponding tax return, by the end of February). Owners, Landlords, Managers or Operators of affected real property shall not be liable for their tenants' non-payment of taxes and the failure of such Owners, Landlords, Managers or Operators to collect the tax shall not excuse or release their tenants from the obligation to pay the tax.

**SECTION 3.64.040 TAX RETURN TO BE FILED.**

On or before the last day of each month, every Owner, Landlord, Manager or Operator within the Village shall cause a sworn tax return to be filed with the Village Clerk showing tax receipts received with respect to such real property space rented or leased during the preceding calendar month, which return shall be made upon forms prescribed by the Village Clerk. At the time of filing said tax return, the Owner, Landlord, Manager or Operator of such real property shall pay or cause to be paid to the Village Clerk all taxes due for the period to which the tax return applies.

**SECTION 3.64.050 REIMBURSEMENT FOR ADMINISTRATIVE DUTIES.**

Every Owner, Landlord, Manager or Operator within the Village shall be entitled to retain 5% of all tax monies collected to defray the administrative burdens and costs associated with serving as tax collector for the Village. The retained percentage shall be shown as a debit on the tax return with the remainder turned over to the Village Clerk together with the corresponding tax return.

**SECTION 3.64.060 FAILURE TO PAY TAX BY TENANTS PROHIBITED.**

It is unlawful and a violation of this Chapter for any Tenant of non-residential real property leased for the primary purpose of long-term storage of personal property to fail to pay the tax levied herein.

**SECTION 3.64.070 FAILURE TO TIMELY REMIT COLLECTED TAX REVENUES  
AND CORRESPONDING RETURNS PROHIBITED.**

It is unlawful and a violation of this Chapter for any Owner, Manager, Landlord or

Operator within the Village to fail to timely remit collected tax monies together with a tax return to the Village as herein provided. Owners, Landlords, Managers or Operators of affected real property shall not be liable for their tenants' non-payment of taxes, but are obligated under this Section to remit tax revenues actually collected.

#### **SECTION 3.64.080 MAINTENANCE OF RECORDS.**

Each Owner, Landlord, Manager or Operator of non-residential real property within the Village shall have the duty to maintain complete and accurate books, records and accounts showing all current leases, the duration and rental monthly rates pertaining to each lease, the identity of Lessees, and all charges collected from the Lessees of non-residential real property leased for the primary purpose of long-term storage of personal property, which shall be available in the Village of Harwood Heights for examination and for audit by the Village upon reasonable notice during customary business hours. Such books shall include information as to the identity of any tenant failing to pay the tax levied herein.

#### **SECTION 3.64.090 LATE REMITTANCE PENALTY**

If any collected tax imposed by this Chapter is not remitted to the Village in full when due following its timely payment by a tenant, a late payment penalty equal to one percent (1%) of such collected-but-unremitted tax shall be imposed for each month or any portion thereof that such tax remains unpaid, and the total of such late remittance penalty shall be paid over to the Village along with the tax imposed by this Chapter. Whenever any Owner, Landlord, Manager or Operator within the Village shall fail to remit any tax herein imposed to the Village following collection thereof from a tenant, upon the request of the Village, the Corporation Counsel of the

Village shall bring or cause to be brought an action to enforce the remittance of said collected tax on behalf of the Village in any court of competent jurisdiction.

#### **SECTION 3.64.100 LATE PAYMENT PENALTY**

If any tax imposed by this Chapter is not paid by the Lessee of non-residential real property leased for the primary purpose of long-term storage of personal property to the Owner, Landlord, Manager or Operator of such property in full when due, a late payment penalty equal to one percent (1%) of the unpaid tax shall be imposed for each month or any portion thereof that such tax remains unpaid, which shall be collected by and may be kept by the Owner, Landlord, Manager or Operator of such property to defray any administrative costs which may be incurred by such Owner, Landlord, Manager or Operator as a result of any efforts to collect such late tax payments by the Tenant.

#### **SECTION 3.64.110 PROCEEDS TO BE PAID TO VILLAGE TREASURY.**

All proceeds resulting from the imposition of the tax levied in this Chapter 3.64, including penalties, paid over to the Village shall be paid into the Treasury of the Village.

#### **SECTION 3.64.120 PENALTIES.**

In addition to the late payment penalties imposed by Sections 3.64.090 and 3.64.100, any Owner, Manager, Landlord or Operator or other person who makes a late return, fails to make a return, who makes a fraudulent return, or any Lessee who fails to timely pay the tax in full or who violates any other provision of this Chapter, upon conviction thereof shall be fined not less than one hundred dollars (\$100) nor more than seven hundred fifty dollars (\$750) for each such

offense. Each day that the violation occurs or continues shall constitute a separate offense. Owners, Landlords, Managers or Operators of affected real property shall not be liable for their tenants' non-payment of taxes, but must remit tax revenues actually collected there from to the Village, together with the corresponding tax returns.

**SECTION 4. RESOLUTION OF CONFLICTS.**

All Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

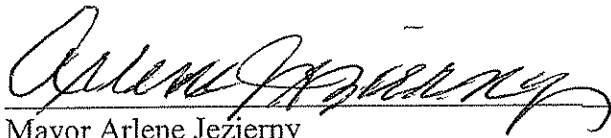
**SECTION 5. SAVING CLAUSE**

If any section, paragraph, clause, or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance, which are hereby declared to be separable.

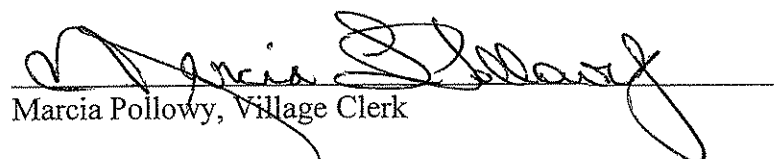
**SECTION 6. EFFECTIVE DATE.**

This Ordinance shall be in full force and effect from after its passage, approval and publication as provided by law. All affected lessees are given a thirty day grace period following publication of this Ordinance to comply herewith without penalty.

Passed and Approved this 8th day of July, 2010.

  
\_\_\_\_\_  
Mayor Arlene Jezierny

ATTEST:

  
\_\_\_\_\_  
Marcia Pollowy, Village Clerk

## VOTES

AYES: Trustee Dobrzycki, Gadzinski, Mougolias, Schuepfer, Steiner

NAYS:

ABSENT: Trustee Szlendak

ABSTAIN:

STATE OF ILLINOIS

COUNTY OF COOK

**CERTIFICATION**

I, Marcia L. Pollowy, do hereby certify that I am the duly elected and acting Clerk of the Village of Harwood Heights, County of Cook, State of Illinois.

I do further certify that the foregoing Ordinance 10-23 entitled:

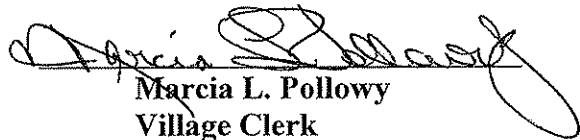
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Is true and correct copy of an Ordinance adopted by the Board of Trustees of the Village of Harwood Heights at a meeting held on the 8th day of July, 2010.

I do further certify that the original of which the foregoing is a true copy is entrusted to my care and safekeeping, and that I am keeper of the same.

I do further certify that I am the keeper of the records, ordinances, and resolutions of said Village of Harwood Heights, Cook County, Illinois.

In witness whereof I have hereunto set my official hand and seal this 8<sup>th</sup> day of July, 2010.

  
Marcia L. Pollowy  
Village Clerk

Corporate Seal