VILLAGE OF HARWOOD HEIGHTS
COOK COUNTY, ILLINOIS

ORDINANCE NO. 19 - 17

AN ORDINANCE AMENDING TITLE 4 ("BUSINESS LICENSES AND REGULATIONS"), CHAPTER 4.28 ("OTHER BUSINESSES"), ARTICLE 30 ("VIDEO GAMING") OF THE VILLAGE CODE REGARDING VIDEO GAMING TERMINALS

Passed by the Board of Trustees, October 10, 2019

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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

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WHEREAS, the Village of Harwood Heights (the "Village") is an Illinois municipal corporation organized and operating pursuant to authority granted by the Constitution and Laws of the State of Illinois;

WHEREAS, 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, in 2009, the Illinois General Assembly passed the Video Gaming Act (230 ILCS 40/1 *et seq.*) (the "Act") permitting video gaming in certain licensed establishments, subject to certain conditions and criteria; and

WHEREAS, Article IV of the Illinois Liquor Control Act of 1934, 235 ILCS 5/4-1, *et seq.* (the "Act"), authorizes the corporate authorities of the Village to license and regulate the sale of alcoholic liquor within the Village, to determine the number, kind and classification of local liquor licenses, establish fees for such licenses, and to regulate establishments that sell and dispense alcoholic beverages; and

WHEREAS, on August 9, 2018, the Village Board enacted Ordinance 18-25, authorizing video gaming in the Village, creating a supplementary video gaming liquor license, video gaming terminal licenses, and establishing regulations governing the conduct of and eligibility for video gaming in the Village; and

WHEREAS, on June 28, 2019, the Act was amended to allow, among other things, up to six video gaming terminals on the premises of a licensed establishment instead of five such video gaming terminals; and

WHEREAS, based on the recent amendment to the Act, the Corporate Authorities desire to amend the Village Code as set forth herein to maintain consistency with the Act and to clarify enforcement authority over video gaming terminal operators and liquor licensees, respectively.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Harwood Heights, County of Cook, Illinois, in the exercise of the Village's home rule powers, that the Village Code be amended as follows, with all existing provisions of the Village Code not set forth below continuing in full effect as currently written:

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. The findings and recitals herein are declared to be prima facie evidence of the law of the Village and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

SECTION 2. Up to Six Terminals in a Licensed Establishment. Title 4 ("Business Licenses and Regulations"), Chapter 4.28 ("Other Businesses"), Article 30 ("Video Gaming"), Section 4.28.1540 ("Regulations") of the Harwood Heights Code of Ordinances is hereby amended as follows (additions in **bold and underline**, deletions in ~~**bold and strikethrough**~~), with those subsections not referenced herein continuing in full force and effect as written:

Title 4 ("Business Licenses and Regulations")

Chapter 4.28 ("Other Businesses")

Article 30 ("Video Gaming")

4.28.1540 - Regulations.

The following regulations apply to all licensed establishments operating a video gaming terminal on the licensed premises:

1. A valid state video gaming license must be clearly displayed at all times.

2. Valid village video gaming terminal license must be clearly displayed at all times.

3. No more than ~~five (5)~~ **six (6)** video gaming terminals may be located on the licensed premises.

4. All video gaming terminals must be located in an area restricted to persons over twenty-one (21) years of age. No licensed establishment, or its employee or agent may permit any person under the age of twenty-one (21) years to be within the restricted area. Licensed establishments that admit individuals under the age of twenty-one (21) must have the video gaming restricted area separated from the rest of the premises by a constructed divider that shields gaming machines from view of seated patrons outside the restricted area. The entrance to the restricted area must be within the view of at least one (1) employee of the establishment who is over twenty-one (21) years of age. Each underage person located within the restricted area constitutes a separate and distinct violation of this subsection.

5. No licensed establishment, or its employee or agent may permit any person under the age of twenty-one (21) years to use, play, or operate a video gaming terminal. Each underage person playing a video gaming terminal constitutes a separate and distinct violation of this subsection.

6. It is unlawful for any person under twenty-one (21) years of age to play or operate a video gaming terminal. The fine for violating this subsection shall be seven hundred fifty dollars ($750.00) per offense, imposed against the individual violating this subsection.

7. Signage must be posted at the entrance to, and inside of, the designated gaming area in accordance with the regulations adopted by the Illinois Gaming Board.

8. The licensed establishment must fully comply with all applicable village ordinances, including the village's liquor control regulations, as well as any applicable federal and state laws and regulations.

9. The licensed establishment must fully comply with the Illinois Video Gaming Act, as amended, and all rules, regulations, and restrictions imposed by the Illinois Gaming Board.

10. Licensed establishments must immediately notify the village president in the event the Illinois Gaming Board revokes or suspends the licensed establishment's video gaming license. The revocation, loss, or suspension of a valid state video gaming license shall automatically result in the revocation, loss, or suspension of the village video gaming license for all video gaming terminals without any refund of any fee.

11. An owner, manager, or employee over the age of twenty-one (21) must be present during all hours of operation when video gaming terminals are available for use by the public.

12. Video recording and monitoring equipment shall be installed and maintained in good working order in the licensed premises pursuant to specifications as determined from time to time by the chief of police or his or her designee and shall continuously record the restricted area containing video gaming terminals during all hours of operation. Video recordings shall be stored and maintained for a period of at least sixty (60) days and must be accessible to the chief of police or his or her designee upon request at anytime. A written notice that "video gaming operations are video recorded" shall be posted at the entrance to the restricted area. Licensees who have video gaming terminals shall record all persons entering or leaving the building, the operation and playing of all video gaming terminals, and all payouts/distributions of winnings from gaming activities.

13. The licensed establishment shall prevent access to video gaming terminals by persons who are visibly intoxicated.

14. Except as otherwise provided herein, on-premises exterior signage by the licensee pertaining to video gaming is limited to one (1) single-faced sign or one (1) double-faced sign not to exceed 11" x 17" placed in or on a window stating, in block lettering no larger than six (6) inches, "VIDEO GAMING." Such sign shall not feature any flashing, blinking or intermittent lights. Notwithstanding the foregoing, each newly licensed holder of a supplementary Class V liquor license in the Village may post a temporary sign for up to thirty (30) days upon commencement of video gaming operations open to the public announcing the grand opening of video gaming on the premises. Such sign shall be limited to a banner sign, as defined in Section 17.36.070(B)(2), and may not exceed eighteen feet (18') long, or three feet (3') tall, notwithstanding stricter limitations set forth in Section 17.36.130. Such temporary signage shall be placed in a single location on the exterior wall of the licensed premises along the primary frontage of the building for a maximum of thirty (30) days and may only be posted upon the issuance of a permit.

15. Upon receipt of proof of the issuance of an Illinois video gaming license, the issuance of a Class V village liquor license, and payment of all appropriate fees, the village shall issue Village of Harwood Heights video gaming terminal stickers,

which shall be affixed to each video gaming terminal in a conspicuous place and shall be clearly displayed at all times on each video gaming terminal. Video gaming stickers shall not be transferable. It is unlawful to operate a video gaming terminal in the village without a valid video gaming terminal sticker affixed thereon.

16. Each licensed terminal operator must be an Illinois resident or have performed business continuously within Illinois for a period of forty-eight (48) months prior to the effective date of the Video Gaming Act.

17. A video gaming terminal operator may not be a video gaming terminal manufacturer or distributor. An owner or manager of a licensed video gaming location may not be a video gaming terminal manufacturer or distributor.

18. A burglar alarm system shall be installed and maintained in good working order in the licensed premises. The burglar alarm system shall alert the licensed premises' alarm system monitor who will in turn promptly notify the village police department in instances of unpermitted entry into the licensed premises. Alarm systems operating within the village shall have an alarm permit issued by the village and such system shall be approved by the chief of police.

19. No building housing a video gaming terminal shall be located within one hundred (100) feet of another building housing a video gaming terminal. This distance separation requirement shall be measured to the nearest corner of the building or leased space housing the video gaming terminal to the nearest corner of the building or leased space housing another video gaming terminal. No license shall be issued if the village determines that this distance separation requirement is not met.

SECTION 3. Video Gaming Infraction Constitutes Liquor License Infraction.

Title 4 ("Business Licenses and Regulations"), Chapter 4.12 ("Alcoholic Beverages"), Section 4.12.050 ("License Classifications") of the Harwood Heights Village Code of Ordinances, shall be, and hereby is amended as follows (additions in **bold and underline**, deletions in ~~**bold and strikethrough**~~), with those subsections not referenced herein continuing in full force and effect as written:

Title 4 ("Business Licenses and Regulations")

Chapter 4.28 ("Other Businesses")

Article 30 ("Video Gaming")

4.12.1570 – Penalties.

. . .

A. It shall be unlawful for any person to violate any provision of this Article 30. Except as otherwise specifically provided herein, any person found liable at a hearing or following opportunity for a hearing of violating or opposing the enforcement of any provision of this Article 30, any provision of other Village ordinances, or any applicable State or Federal law or regulation shall, upon entry of a finding of liability, be subject to the following penalties:

1. First offense in 12-month period – 72-hour gaming terminal license suspension and $1,000 fine;

2. Second offense in 12-month period – 72-hour gaming terminal license suspension and $1,500 fine;

3. Third offense in 12-month period – Revocation of gaming terminal license and $2,000 fine.

A separate offense shall be deemed to have been committed on each day during or on which a violation occurs or continues. The foregoing penalties are in addition to any criminal or civil penalties which might be prosecuted by the Village or others. In addition, any and all licenses issued to the **liquor** licensee **of the licensed establishment**, including without limitation a Class V Village liquor license, may be subject to suspension or revocation as provided by the Village Code or by law.

. . .

B. The local liquor control commissioner may treat any violations of the provisions of Article 30 of this Code as a violation of the ~~operator's~~ Village liquor license **pertaining to the licensed establishment** and proceed accordingly with respect to **exercising** ~~the~~ enforcement authority over the ~~operator's~~ **liquor licensee's** liquor license. In addition to all penalties authorized in this section, should the liquor license of the establishment be suspended or revoked, then, and in that event, the video gaming license of the establishment shall likewise be suspended or revoked concurrently. In the event of a revocation or denial of any license or registration under this section, such person shall not be issued any license provided for in this section for one calendar year following the revocation or any appeal thereof.

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. 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 7. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

VOTES

AYES: Trustee Schuepfer, Steiner, Brzezniak-Volpe, Brzozowski-Wegrecki, Zerillo, Lewandowski

NAYS:

ABSENT:

ABSTAIN:

Passed and Approved this 10th day of October, 2019.

Mayor Arlene Jezierny

ATTEST:

Marcia L. Pollowy, Village Clerk

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 19-17 entitled:

AN ORDINANCE AMENDING TITLE 4 ("BUSINESS LICENSES AND REGULATIONS"), CHAPTER 4.28 ("OTHER BUSINESSES"), ARTICLE 30 ("VIDEO GAMING") OF THE VILLAGE CODE REGARDING VIDEO GAMING TERMINALS

Is true and correct copy of a Ordinance adopted by the Board of Trustees of the Village of Harwood Heights at a meeting held on the 10th day of October, 2019.

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 11th day of October, 2019.

Marcia L. Pollowy
Village Clerk

Corporate Seal