



## *Village of Gilberts*

Village Hall: 87 Galligan Road, Gilberts, Illinois 60136

Ph. 847-428-2861 Fax: 847-428-2955

[www.villageofgilberts.com](http://www.villageofgilberts.com)

### **SPECIAL VILLAGE BOARD MEETING AGENDA**

**Tuesday, June 9, 2020 - 7:00 p.m. - Village Hall Board Room**

Please be advised that some of the Village Board members may be attending this meeting by electronic means, in compliance with the Governor's Executive Order 2020-07, as amended and extended, that suspended the requirement of a physical quorum of a public body in attendance at a meeting.

In order to comply with the Governor's executive order regarding limitations on gatherings and to ensure social distancing, members of the public can attend the meeting remotely via video or audio as follows:

Zoom (video and/or audio): <https://zoom.us/j/99475974598>

Meeting ID: 994 7597 4598

Dial-In (audio): (312) 626-6799

Alternatively, members of the public can submit written comments via email at [info@villageofgilberts.com](mailto:info@villageofgilberts.com). Any comments received by 5 pm on June 9, 2020 will be submitted into the record of the meeting.

#### **ORDER OF BUSINESS**

##### **1. CALL TO ORDER / PLEDGE OF ALLEGIANCE**

##### **2. ROLL CALL / ESTABLISH QUORUM**

##### **3. PUBLIC COMMENT\***

Intended for public comment on issues not otherwise on this agenda, those comments offered when individual issues are discussed

##### **4. ITEMS FOR APPROVAL**

- A. A Motion to Approve a Request by Pub 72 to Allow Live Entertainment as part of its Outdoor Dining use at 38 E. Higgins Road on June 13, 2020, June 20, 2020, June 27, 2020 and July 4, 2020
- B. A Motion to Reconsider the Village Board's June 2, 2020 Approval of Ordinance 06-2020, an Ordinance Approving a Temporary Policy Authorizing and Regulating Outdoor Dining
- C. A Motion to Approve Ordinance 06-2020, An Ordinance Approving a Temporary Policy Authorizing and Regulating Outdoor Dining

##### **5. ITEMS FOR DISCUSSION**

##### **6. STAFF REPORTS**

##### **7. TRUSTEES' REPORTS**

##### **8. PRESIDENT'S REPORT**

##### **9. EXECUTIVE SESSION\***

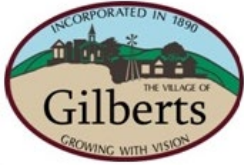
##### **10. ADJOURNMENT**

**\*Public Comment Policy**

Anyone indicating a desire to speak during Public Comments portion of the Village Board Meeting will be acknowledged by the Village President. All remarks are to be addressed to the Village President and Board of Trustees as a whole, not to any specific person(s). To ensure that everyone who wishes to speak has the opportunity to do so, please limit your comments to five minutes. Additional time may be granted at the discretion of the Village President. If you have written comments, please provide a copy to the Village President. If there are a number of individuals present to speak on the same topic, please designate a spokesperson that can summarize the issue. During Public Comments, the Village President, Trustees and Staff will listen to comments and will not engage in discussion. The Village President or Trustees may ask questions to better understand your concern, suggestion or request. Please direct any personnel concerns to the Village Administrator before or after the meeting. The Village of Gilberts complies with the Americans Disabilities Act (ADA). For accessibility Assistance, please contact the Village Clerk at the Village Hall, telephone number is 847-428-2861". Assistive services will be provided upon request.

**\*Executive Session Information**

A portion of the meeting will be closed to the Public, effective immediately as Permitted by 5 ILCS 120/2( c ) (1) to discuss the appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Village, and as permitted by 5 ILCS 120/2 ( c ) (11) to discuss litigation against, affecting, or on behalf of the Village which has been filed and is pending in a court or administrative tribunal of which is imminent and as permitted by 5 ILCS 120/2( c ) (21) to review and approve closed session minutes and as permitted by 5 ILCS 120/2 ( c ) 2 Collective negotiating matters.



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**To:** President Zirk and the Board of Trustees  
**From:** Brian Bourdeau, Village Administrator  
**Date:** June 9, 2020 Special Village Board Meeting  
**Re:** Item 4.A: A Motion to approve a request by Pub 72 to Allow Live Entertainment as part of its Outdoor Dining use at 38 E. Higgins Road on June 13, 2020, June 20, 2020, June 27, 2020 and July 4, 2020

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On June 3, 2020, Pub 72 submitted an application for live music as part of their temporary outdoor dining use as allowed under the Governor's Executive Order and Phase 3 guidance.

Pub 72 is requesting live music on the following days and times:

- Saturday, June 13, 2020, 7:00 – 10:00 p.m.
- Saturday, June 20, 2020, 4:00 – 7:00 p.m.
- Saturday, June 27, 2020, 6:00 – 9:00 p.m.
- Saturday, July 4, 2020, 4:00 – 7:00 p.m. and 7:00 – 10:00 p.m.

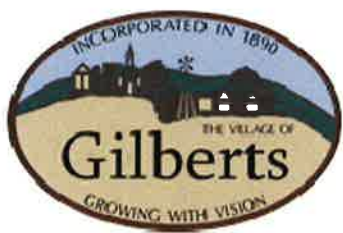
### Review Comments

- As submitted, the requested times comply with the Village's sound regulations. Compliance with the Village' sound regulations is required by Ordinance 06-2020.
- Alcohol will be served. In this instance a Class C license is not required. Alcohol service is provided through the Governor's Executive Orders and Phase 3 guidance related to temporary outdoor dining, and Ordinance 06-2020.
- Limitations on the performance and attendees are provided by the State's Phase 3 guidance. It is a requirement of Ordinance 06-2020, that the applicant follow those guidelines.
- No use of Village right of ways or streets are requested.
- The requested June 27 and July 4 dates may be subject to revised/modified Executive Order and phase guidance from the state. Under the Governor's current Restore Illinois Plan, June 26, 2020 represents the next point at which Illinois may consider moving to Phase 4.

The special event permit is covered by conditions imposed by Ordinance 06-2020. No additional conditions are recommended at this time.

A copy of the special event license application is attached.

**FOR OFFICE USE ONLY**  
 Date: \_\_\_\_\_  
 Reviewed by: \_\_\_\_\_  
 Approval: \_\_\_\_\_  
 License #: \_\_\_\_\_



VILLAGE OF GILBERTS  
 Courtney Baker, Village Clerk  
 87 Galligan Road  
 Gilberts, Illinois 60136  
 (847) 428-2861 Fax (847) 428-2955  
 cbaker@villageofgilberts.com

**APPLICATION FOR SPECIAL EVENT LICENSE**

**Please submit the completed application no less than 30 days prior to the date of the event.**  
 If the event changes due to an unforeseen circumstance, please advise Village Hall at least 48 hours prior to the rescheduled date.

Applicant Name: Pub 72		Phone: 224-465-3753	
<b>EVENT DETAILS</b>			
Date(s): 6/13 7-10, 6/20 4-7, 6/27, 6-9, 7/4 JSQ 4-7, Rebel Souls 7-10	Time Begin:	Time End:	
Name of Event: Live Music			
Organizer of Event: Michael Trier			
Phone Number of Organizer: (224) 465-3753			
Event Name/Description: Live Music			
Estimate Number of Attendees: State Guidance			
Will Alcohol be Served? <input checked="" type="radio"/> Yes* <input type="radio"/> No *If yes, complete page 3 of application for Class C Liquor License			
Are you requesting use of Village right-of-ways or streets? <input type="radio"/> Yes* <input checked="" type="radio"/> No *If yes, which street(s)?			
<b>ADDITIONAL EVENT DETAILS</b>			
June 13 <sup>th</sup> - Smokin Gunz 7-10 June 20 <sup>th</sup> - BOCCO Live Country 4-7 June 27 <sup>th</sup> - Bella - 6-9 July 4 <sup>th</sup> - JSQ 4-7, Rebel Souls. 7-10			



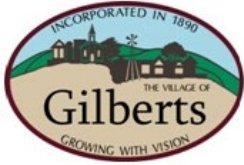
**ASSUMPTION OF LIABILITY AND INDEMNIFICATION**

I have read and understand the rules and regulations listed in this document and I agree to abide by them. I understand that the violation of any rule or regulation by me or by any member in my party may subject the violator to fines as provided by the Village Code.

I do hereby agree to defend, indemnify, and hold harmless the Village of Gilberts, its officers, employees, agents, and volunteers from any loss, damage, expense, claim, and cost of every nature and kind whatsoever, including attorneys' fees, arising out of or in connection with applicant's and its invitees' use of the Village property at, during, or in conjunction with the activity or event described in this application.

  
Applicant Signature

Date 6/3/2020



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**To:** President Zirk and the Board of Trustees  
**From:** Brian Bourdeau, Village Administrator  
**Date:** June 9, 2020 Special Village Board Meeting  
**Re:** Item 4.B and 4C: A Motion to Reconsider the Village Board's June 2, 2020 Approval of Ordinance 06-2020, an Ordinance Approving a Temporary Policy Authorizing and Regulating Outdoor Dining

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A request was received from a Trustee to reconsider the Village Board's approval of Ordinance 06-2020 on June 2, 2020.

Item 4.B is the procedural motion to reconsider. If that motion to reconsider passes, the Village Board would move to Item 4.C, which puts Ordinance 06-2020 back to the Board for reconsideration and discussion.

The Village Attorney will be available on Tuesday explain the procedural process and answer any questions about the motions themselves.

**VILLAGE OF GILBERTS**

**ORDINANCE NO. 06-2020**

**AN ORDINANCE APPROVING A TEMPORARY POLICY  
AUTHORIZING AND REGULATING OUTDOOR DINING**

**WHEREAS**, the Village of Gilberts, is a municipal corporation organized and existing under the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

**WHEREAS**, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and that protect the public health, safety, and welfare of its citizens; and

**WHEREAS**, the Village is authorized to generally regulate the sale of beverages and food for human consumption (65 ILCS 5/11-20-2); and

**WHEREAS**, the Village may regulate the use of streets and other municipal property (65 ILCS 5/11-80-2); and

**WHEREAS**, the Village is authorized to license retail sales of alcoholic liquor (235 ILCS 5/4-1, 4-2); and

**WHEREAS**, on March 9, 2020, April 2, 2020 and April 30, 2020, Illinois Governor Pritzker declared all counties in the State of Illinois as a disaster area; and

**WHEREAS**, on March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic; and

**WHEREAS**, on March 13, 2020, President Donald J. Trump declared a national emergency concerning the novel COVID-19 pandemic; and

**WHEREAS**, beginning on March 16, 2020, Governor Pritzker suspended on-premises consumption of food and alcohol at restaurants in Illinois (Exec. Order 2020-07, 2020-33); and

**WHEREAS**, on May 5, 2020, Governor Pritzker announced “Restore Illinois: A Public Health Approach to Safely Reopen Our State”; and

**WHEREAS**, on May 20, 2020, Governor Pritzker announced that outdoor dining at bars and restaurants would be authorized to permit outdoor dining consistent with forthcoming state guidance under Phase 3 of the Restore Illinois plan, expected to begin on May 29, 2020, and encouraged local governments to assist restaurants and bars to expand outdoor seating; and

**WHEREAS**, the COVID-19 pandemic and the necessary public health response has created an economic challenge to local businesses including bars and restaurants; and

**WHEREAS**, the Village desires to temporarily authorize outdoor dining at bars and restaurants, consistent with state guidelines and the terms of this Ordinance, in order to provide economic relief while protecting the health and safety of its residents; and

**WHEREAS**, the Village desires to ratify all actions taken by the Village President or Staff to-date in order to implement the necessary local authorizations with the announced state authorizations for outdoor dining at bars and restaurants beginning May 29, 2020; and

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT VILLAGE BOARD OF THE VILLAGE OF GILBERTS, ILLINOIS, AS FOLLOWS:**

**Section 1. Recitals.** The recitals set forth above are hereby incorporated into and made a part of this Resolution as though set forth in this Section 1.

**Section 2. Approval.** Notwithstanding any contrary provision of Village ordinance, regulation, or policy concerning outdoor dining and minimum parking, permits for outdoor dining areas may be approved for restaurants consistent with the terms of this Ordinance during the pandemic and until the State of Illinois authorizes indoor on-premises consumption of food and beverages at restaurants.

**Section 3. Authorization.**

A. **Outdoor Dining Permit.** Any restaurant that desires to provide outdoor dining consistent with this Ordinance and state orders and regulations must submit to the Village for review and approval a plan for the use of outdoor space for food and beverage service, including amenities, barriers, tables, spacing, restroom use, and any other requirements deemed necessary by the Village. The applicant must also submit with its plan an executed copy of the Unconditional Agreement and Consent form attached to this Ordinance as **Exhibit A**. The request will be reviewed by the Village President, who has the authority to approve the plan, and impose any conditions on the approval.

B. **Use of Right of Way or Other Public Property for Outdoor Seating is Prohibited.** The use of the right of way or other public property for outdoor seating or outdoor dining is prohibited.

C. **Use of Parking Lots for Outdoor Seating.** Any restaurant that desires to use a parking lot for outdoor seating must request approval as part of its outdoor dining permit. No use will be allowed to block access or fire lanes. The request to use the parking lot for outdoor seating will be reviewed by the Village President, who has the authority to approve the request, and impose any conditions on the approval.

D. **Conditions on Approvals.** Any approval granted by the Village President under this Ordinance is subject to the following conditions:

1. The applicant must comply with all conditions imposed by the Village for use of the outdoor dining area.



2. The applicant must comply with all plans approved by the Village governing the operation and maintenance of the outdoor dining area.
3. The applicant must comply with all laws governing the operation and maintenance of the outdoor dining area, including all applicable Executive Orders and state guidance.
4. The applicant must submit the signed unconditional agreement and consent substantially in the form attached as Exhibit A.

E. Outdoor Dining Roof Coverings. Notwithstanding any provision of the Village Code to the contrary, the applicant may install or use an outdoor covering over the outdoor dining area (i.e., awning, canopy, or other roof covering) provided it complies with the State guidelines for coverings. The applicant must submit a plan depicting the type of roof covering proposed to be installed or used and the location where it will be placed at the time it submits its application for the outdoor dining permit.

F. Outdoor Music. Outdoor music will be permitted as part of an outdoor dining use; provided, however, that live entertainment is restricted to Fridays and Saturdays only and must first be approved by the Village Board. All outdoor music must comply with the Village's sound regulations.

G. Village Discretion. The authority to grant the various approvals described above, and the imposition of conditions on those approvals, will be an exercise of the Village's sole discretion.

**Section 4. Ratification.** To the extent that the Village President made any outdoor dining area approvals between May 29, 2020 and the date of this Ordinance, the Village Board hereby affirms and ratifies those approvals, except that any live entertainment that will take place as part of an outdoor dining use after June 2, 2020 must be approved by the Village Board.

**Section 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**Section 6. Conflict.** All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

**Section 7. Effective Date.** This Ordinance shall be in full force and effect upon passage, approval and publication in pamphlet form as provided by law.

**PASSED BY THE BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois, this \_\_\_\_ day of \_\_\_\_\_ 2020.

Ordinance No. 06-2020

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	_____	_____	_____	_____
Trustee Elissa Kojzarek	_____	_____	_____	_____
Trustee Nancy Farrell	_____	_____	_____	_____
Trustee Jeanne Allen	_____	_____	_____	_____
Trustee Lou Hacker	_____	_____	_____	_____
Trustee Guy Zambetti	_____	_____	_____	_____
President Rick Zirk	_____	_____	_____	_____

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2020

\_\_\_\_\_  
Village President, Rick Zirk

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Courtney Baker

Published: \_\_\_\_\_

**EXHIBIT A**  
**Unconditional Agreement and Consent**

**WHEREAS**, \_\_\_\_\_ (“*Applicant*”) sought approval of a temporary outdoor dining area (“*Temporary Use*”) located at \_\_\_\_\_, Gilberts, IL (“*Property*”);

**WHEREAS**, the permit dated \_\_\_\_\_, 2020, grants approval of such Temporary Use, subject to certain conditions (“*Permit*”); 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 in the Permit.

**NOW THEREFORE**, the Applicant agrees and covenants as follows:

1. The Applicant unconditionally agrees to accept, consent to and abide by all terms, conditions, restrictions, and provisions of the Permit.

2. The Applicant acknowledges and agrees that the Village will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village’s approval of the Permit by the Applicant, and that the Village’s approval does not, and will not, in any way, be deemed to insure the Applicant against any damage or injury of any kind and at any time.

3. The Applicant acknowledges and has considered the possibility of penalties provided for noncompliance with Permit conditions, and agrees not to challenge any such penalties on the grounds of any procedural infirmity or any denial of any procedural right.

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 approval of the Permit, (b) the procedures followed in connection with the approval of the Permit, and (c) the performance of the Applicant of its obligations under this Unconditional Agreement and Consent;

5. The Applicant agrees to pay all expenses incurred by the Village in defending itself with regard to any and all claims mentioned in this Unconditional Agreement and Consent. These expenses will include all out of pocket expenses, such as attorneys’ and experts’ fees, and will also include the reasonable value of any services rendered by any employee of the Village.

Agreed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

APPLICANT

\_\_\_\_\_