

VILLAGE OF GILBERTS

KANE COUNTY

STATE OF ILLINOIS

ORDINANCE NUMBER 04-2018

**An Ordinance approving a Special Use Permit to allow for the Keeping of Bee Hives
at 698 Tipperary Street**

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF GILBERTS
KANE COUNTY
STATE OF ILLINOIS**

April 3, 2018

**Published in pamphlet form by authority of the President and Board of Trustees of
the Village of Gilberts, Kane County, Illinois this 3rd day of April, 2018.**

ORDINANCE NO. 04-2018

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT
TO ALLOW FOR THE KEEPING OF BEE HIVES AT 698 TIPPERARY STREET**

WHEREAS, David Varvara (“*Applicant*”), the owner of the property consisting of approximately 1.5 acres located at 698 Tipperary Street, Gilberts, Illinois, and described on **Exhibit A** (“*Property*”), desires to keep and maintain bee hives on the Property; and

WHEREAS, the Property is currently zoned in the R-2 Rural Residential District, which allows for agricultural uses as a special use; and

WHEREAS, Section 10-13-13 of the Gilberts Unified Development Ordinance (“UDO”) defines “agricultural” to include the production, keeping, or maintenance of bees and apiary products; and

WHEREAS, the Applicant has filed an application for a special use permit to keep and maintain bee hives on the Property; and

WHEREAS, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing and reviewed the Applicant’s request on March 14, 2018, and at the conclusion of the public hearing voted to recommend approval of the special use permit to allow for the Applicant to keep and maintain bee hives on the Property, subject to certain conditions; and

WHEREAS, the Village Board makes the following findings of fact in reference to the application for approval of the special use permit to allow the Applicant to keep and maintain bee hives on the Property:

1. The proposed special use complies with all provisions of the applicable district regulations.
2. The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or to the public welfare at large.
3. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations.
4. Adequate utility, drainage, and other necessary facilities have been or will be provided.
5. The proposed special use, where such developments and uses are deemed consistent with good planning practice, can be operated in a manner that is not detrimental to the permitted developments and uses in the district, can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; shall conform to the applicable regulations of the

district; and is deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the Village.

WHEREAS, based on the findings of fact detailed above, the Village Board has determined that the Applicant's request meets the standards of both state statute and the UDO for approval of the special use permit for the Property, subject to the conditions set forth in this Ordinance.

THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois as follows:

Section 1. Recitals. The recitals are incorporated into this Section 1 as if fully set forth.

Section 2. Special Use Permit. Subject to the conditions set forth in Section 3 of this Ordinance, the Village Board of Trustees hereby approves a special use permit pursuant to Section 10-3-3(9) of the UDO to allow for the Applicant to keep and maintain bee hives on the Property.

Section 3. Conditions. The approval granted pursuant to Sections 2 of this Ordinance is conditioned upon and limited by the following conditions, the violation of any of which shall, in the discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approval granted by this Ordinance in accordance with applicable law. In addition, any violation of this Ordinance will be deemed a violation of the UDO and subject the Owner to enforcement proceedings accordingly.

- A. **Limitation on the Number of Bee Hive Boxes.** The Applicant will be permitted to have no more than six (6) bee hive boxes on the Property.
- B. **Location Restriction.** The bee hive boxes on the Property may not be located any further north than the northwest corner of the house on the Property.
- C. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind may be commenced on the Property pursuant to the approval granted in this Ordinance unless and until all conditions of this Ordinance precedent to that work have been fulfilled and after all permits, approvals, and other authorizations for the work have been properly applied for, paid for, and granted in accordance with applicable law, including, without limitation, approval of final engineering plans and issuance of required permits.
- D. **Compliance with Laws.** The UDO, the Building Code, and all other applicable Village ordinances and regulations shall continue to apply to the Property, and the development and use of the Property must comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.
- E. **No Transfer of Special Use Permit.** The special use permit granted by this Ordinance is specifically granted to the Applicant for use on the Property. The special use permit may not be transferred, sold, used by, or otherwise conveyed to any party other than the Applicant without an amendment to the special use permit approved by the Village of Gilberts.

Section 4. Severability. In the event a court of competent jurisdiction finds this Ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

Section 5. Repeal and Saving Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

Section 6. Effective Date. Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form; provided, however, that this Ordinance shall be of no force or effect unless and until the Applicant has executed and filed with the Village its unconditional agreement and consent, in the form attached to this Ordinance as **Exhibit B**, within 30 days following the passage of this Ordinance.

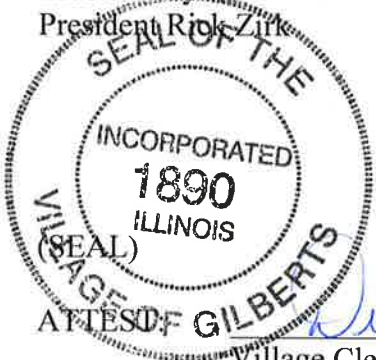
PASSED BY ROLL CALL VOTE OF THE BOARD OF TRUSTEES of the Village of Gilberts, Kane County, Illinois, this 3rd day of April 2018.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Dan Corbett	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Elissa Kojzarek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Nancy Farrell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Jeanne Allen	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Lou Hacker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trustee Guy Zambetti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
President Rick Zirk	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED THIS _____ DAY OF _____, 2018



 Village President, Rick Zirk



ATTEST: 

 Village Clerk, Debra Meadows

Published: April 4, 2018

Exhibit A
Property Description

Permanent Index Number (PIN): 02-25-476-003

Commonly known as: 698 Tipperary Street, Gilberts, IL 60136

Exhibit B

Unconditional Agreement and Consent

Pursuant to Section 6 of Ordinance No. _____, and to induce the Village to grant the approvals provided for in that Ordinance, the undersigned acknowledges for itself and its successors and assigns in title to the Property that it:

1. has read and understand all of the terms and provisions of Ordinance No. _____;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the UDO, and all other applicable codes, ordinances, rules, and regulations;
3. 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 issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the owner or lessee against damage or injury of any kind and at any time;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right; and
5. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Applicant.

David Varvara

By: _____

Its _____