

**VILLAGE OF ANTIOCH**

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**ORDINANCE NO. 17-02-03**

***AN ORDINANCE GRANTING A SPECIAL USE FOR AN ELECTRONIC MESSAGE  
BOARD AT CULVERS  
(PZB-16-15 SU)***

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**ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES**

**OF THE**

**VILLAGE OF ANTIOCH, ILLINOIS**

**ON**

**February 6<sup>th</sup>, 2017**

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**Published in pamphlet form by authority of the Village Board  
of the Village of Antioch, Lake County, Illinois,  
this 10<sup>th</sup> day of February 2017**

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**ORDINANCE NO. 17-02-03**

***AN ORDINANCE GRANTING A SPECIAL USE FOR AN ELECTRONIC MESSAGE  
BOARD AT ANASTASIAS - (PZB-16-04)***

**WHEREAS**, pursuant to Chapter 15 of Title 10 of the Antioch Village Code, a public hearing was commenced by the Combined Planning Commission and Zoning Board on January 12, 2016 following notification as required by State Law and Village Ordinance to consider a petition for a Special Use allowing for an Electronic Message Board at Culvers after due notice by newspaper publication, pursuant to the application of Greg Landon and the subject property located at 451 E. Route 173, Antioch, IL 60002

**WHEREAS**, the Combined Planning Commission recommended denial to the Village Board to allow the EMB sign incorporating a total face of approximately 12 square feet and located on the northern elevation of the subject store.

**WHEREAS**, the Corporate Authorities have concluded and found that the Special Use, subject to and in conformance with the terms and conditions of this Ordinance, conform to a majority of the required standards as required by ordinance, including; a) The compatibility of the proposed use with the existing and planned uses on abutting properties; b) Any increase in density or intensity of the proposed use that will affect the compatibility of the use with existing and planned uses in surrounding area; c) The proposed use will not change the predominant character of the surrounding area; d) The ability to mitigate adverse and understandable impact to the surrounding area, including, but not limited to the individual impacts, air emissions, noise, vibrations, glare, heat, odors, water pollution, electromagnetic interference and other nuisance effects; e) Amount of traffic generated and capacity and design of roadways and available parking facilities to handle anticipated traffic; f) The effect on infrastructure including water, wastewater, stormwater, utilities, and streets; g) The incorporation and integration of architectural and landscape features to mitigate impacts from the proposed use.

**WHEREAS**, the Corporate Authorities further acknowledge that a building permit was issued for this sign installation, albeit in error, and that the Petitioner relied in good faith on the grant of such permission in expending significant funds in purchasing, installing and activating the said sign. Which fact raises the potential for a claim of estoppel were the matter to come before a court with proper jurisdiction.

**WHEREAS**, the Corporate Authorities have concluded and found that the Special Use will further enhance economic development within the Village and promote the general welfare of the Village and the health, safety and welfare of the residents of the Village.

***NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND THE BOARD  
OF TRUSTEES OF THE VILLAGE OF ANTIOCH, LAKE COUNTY, ILLINOIS, AS  
FOLLOWS:***

**SECTION I:** The representations, recitations and findings set forth in the foregoing recitals are material to this Ordinance and such recitals are hereby incorporated into and made a part of this Ordinance as though they were fully set forth herein. This Ordinance shall be liberally construed so that the purpose and intent represented by the recitals shall be accomplished to the greatest extent permitted by law.

**SECTION II:** That the real estate which is the subject of this ordinance (Subject Property) is legally described as follows:

(See attached legal description)

**SECTION III:** That, subject to the conditions stated below, the Special Use shall be and is hereby approved and shall be binding upon the Village, Petitioner and Owner, and their respective owners successors, and assigns when a true execution copy of this Ordinance is tendered to the Village fully executed by the Petitioner and Owner, and when the Mayor has affixed his signature upon the Ordinance”

1. That the applicant agree to comply with the conditions as highlighted above, Sections a) through e) as incorporated in the Village’s new proposed sign ordinance, ie.:

- a) The EMB unit must be equipped with both a programmed dimming sequence as well as an additional overriding mechanical photocell that adjusts the brightness of the display to the ambient light at all times of the day. Such programming and mechanical equipment shall be set so that the EMD., at night or in overcast conditions, will be no more than 40% of the daytime brightness level.
- b) The EMB unit must be extinguished at the close of business for Culvers.
- c) The EMB unit must have the “flash” feature disabled and text messages shall have a 10 second “hold” time except for time and temperature messaging which may have a shorter duration, but no less than four (4) seconds. No single message may be repeated more than once every 40 seconds.
- d) The text messages only displayed on the EMB may only transition from one text message to another by either fading or dissolving to black with another text message appearing or dissolving in black with another text message immediately thereafter, without movement or other transitions effects between images and/or messages. All text messages must display a uniform solid color.
- e) Except as otherwise provided herein, all text messages displayed on the EMB must be static and may not reflect movement, flashing, scrolling or any images of any type. Streaming and/or live time video may not be displayed and this function of the EMB must be disabled.



**SECTION IV:** The following exhibits shall be attached to and made a part of this Special Use Ordinance and, except as expressly modified by this Ordinance, compliance with all standards, requirements, designs or specifications in such exhibits shall be a condition of the grant of this Special Use Ordinance:

A. Staff Reports, attached as Exhibit A;

**SECTION V:** Any person violating the terms and conditions of this Ordinance shall be subject to a penalty not exceeding Five Hundred Dollars (\$500.00) with each and every day that the violation of the Ordinance is allowed to remain in effect being deemed a complete and separate offense. In addition, the appropriate authorities of the Village may take such other action as they deem proper to enforce the terms and conditions of this Ordinance, including, without limitation, an action in equity to compel compliance with its terms. Any person violating the terms of this Ordinance shall be subject, in addition to the foregoing penalties, to the payment of court costs and reasonable attorneys' fees. This section shall not apply to the Village of Antioch, its officials, agents or employees.

**SECTION VI:** If any provision, clause, sentence, paragraph, section, or part of this ordinance or application thereof to any person, firm, corporation, public agency or circumstance, shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, said judgment shall not affect, impair or invalidate the remainder of this ordinance and the application of such provision to other persons, firms, corporation, or circumstances, but shall be confined in its operation to the provision, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered and to the person, firm, corporation, or circumstances involved. It is hereby declared to be the legislative intent of the corporate authorities that this ordinance would have been adopted had such unconstitutional or invalid provision, clause, sentence, paragraph, section, or part thereof not be included.

**SECTION VII:** That the Village Clerk is hereby directed and ordered to publish this Ordinance in pamphlet form as provided by law.

**SECTION IX:** That this Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

**Passed this 6<sup>th</sup> day of February 2017.**

	<b>Ayes:</b>	<b>Nays:</b>	<b>Absent/Abstain:</b>
Scott A. Pierce	X		
Jay Jozwiak	X		
Ted Poulos	X		
Ed Macek	X		
Mary Dominiak			Absent
Jerry Johnson	X		

**APPROVED:**

By: \_\_\_\_\_

Lawrence M. Hanson, Mayor

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_

Lori K. Romine, Village Clerk



Presented and read, or reading having been waived, at a duly convened meeting of the Corporate Authorities on February 6, 2017.

STATE OF ILLINOIS)

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SS

COUNTY OF LAKE )

# CERTIFICATE

I, Lori K. Romine, certify that I am the duly appointed Municipal Clerk of the Village of Antioch, Lake County, Illinois.

I certify that on February 6, 2017, the Corporate Authorities of such municipality passed and approved Ordinance 17-02-03 entitled the applicant to operate a Electronic Message Board at Culvers, on the northern façade of the existing store located on Route 173.

The pamphlet form of Ordinance No. 17-02-xx including the Ordinance and cover sheet thereof, was prepared and a copy of such Ordinance was posted in the municipal building, commencing on February 10, 2017 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Antioch, Illinois, this 10<sup>th</sup> day of February 2017.

John K. Romer

Lori K. Romine, Village Clerk



**REPORT TO:** VILLAGE PRESIDENT and BOARD OF TRUSTEES  
**FROM:** MICHAEL S. GARRIGAN, Esq, AICP, CNU-A, Community Development Director  
**DATE:** January 13, 2017  
**SUBJECT:** REPORT TO VILLAGE BOARD

**CASE:** Culvers  
16-15 SU

**REQUEST:** Special Use

**LOCATION:** 451 E. Route 173

**APPLICANT:** Greg Landon

**ZONING:** B-3

### **Background**

The applicant is proposing a Special Use for an Electronic Message Board that was installed on the rear of their existing restaurant store. All LED or message boards require a Special Use and the applicant's sign was installed last year as part of the remodeling without obtaining the required Special Use.

A permit for the existing sign was inadvertently approved by the Building Department in December 2015 as part of the re-modeling of the Culvers. Based on this improperly issued permit the applicant installed the message board on the northern elevation. Staff subsequently advised the applicant that the existing sign needed a Special Use and we have been working with the applicant since that date.

### **Special Use**

When reviewing any proposed Special Use, it is important to look at the surrounding uses and make sure that the proposed Special Use will not have any negative impact on the adjacent parcels. Therefore, it is necessary to look at the site's context, the nature of the surrounding uses and potential impact that the Special Use will have.



Below is a summary of the surrounding uses:

North:	Commercial (B-3)
East:	Commercial (B-3)
South:	Commercial-(B-3)
West:	Commercial (B-3)

In accordance with Section 10-15-5, any proposed Special Use must comply with certain findings of facts that are outlined in this section of the Zoning Ordinance. The required findings of facts are as follows:

#### **ANALYSIS**

*a) The compatibility of the proposed use with the existing and planned uses on abutting properties:*

The subject site already contains an existing message board that is incorporated in the monument sign along Route 173. Therefore, the existing message board which is approximately 12 square feet is generally consistent with the commercial character of the surrounding uses. The surrounding uses are all commercial and the message board currently faces the parking lot of the existing Wal Mart. There is nothing to indicate that the existing message board on the rear of this store is having any negative impact on the surrounding uses.

*b) Any increase in density or intensity of the proposed use that will affect the compatibility of the use with existing and planned uses in the surrounding area.*

The existing message board and requested Special Use will have no impact on increasing density and is compatible with the surrounding uses which are all commercial.

*c) The proposed use will not change the predominant character of the surrounding area.*

The proposed Special Use will have no impact on the existing commercial character of the area. The subject area contains a number of commercial outlots and an existing Wal Mart. As highlighted above, there is already an existing message board facing Route 173 which advertises for this store.

*d) The ability to mitigate adverse and understandable impact to the surrounding area, including, but not limited to individual impacts, air emissions, noise, vibrations, glare, heat, odors, water pollution, electromagnetic interference and other nuisance effects.*

There is nothing to indicate that the proposed EMG sign would have any direct impact on the neighboring properties as it relates to emissions, noise, heat, odor, water pollution, or electromagnetic interference.

The applicant is seeking relief as part of the proposed Special Use from these requirements in the Village's existing Sign Ordinance.

*e) ) Amount of traffic generated and capacity and design of roadways and available parking facilities to handle anticipated traffic.*

The proposed EMG sign will have no direct impact on the amount of traffic in the area.



*f) The effect on infrastructure including water, wastewater, stormwater, utilities, and streets;*

The proposed EMG sign will have no impact on stormwater, or the Village's utility capacity.

*g) The incorporation and integration of architectural and landscape features to mitigate impacts from the proposed use.*

The existing EMG sign successfully integrates into the overall design of the existing store.

In addition, the applicant would require relief from the following sections as part of this proposed Special Use to allow them the opportunity to install an LED sign on the subject property:

- An EMG sign shall be restricted to premises with an individual street frontage of an IDOT designated SRA greater than four hundred fifty (450) linear feet.
- No EMG shall be located within five hundred (500) linear feet of another EMG, nor shall it share the structure of any other reader board or changeable copy thereof.
- An EMG sign shall be restricted to premises with an individual street frontage of an IDOT designated strategic regional arterial route greater than four hundred fifty (450) linear feet.\
- All EMG signs shall be located in a minimum four hundred (400) square foot landscape area that ties into the overall site and incorporates a combination of berming, landscaping and decorative hardscape.

In addition, based on the Village's proposed sign ordinance, Staff is proposing that the following conditions be incorporated into the future operation of this EMG sign.

- a) The EMB unit must be equipped with both a programmed dimming sequence as well as an additional overriding mechanical photocell that adjusts the brightness of the display to the ambient light at all times of the day. Such programing and mechanical equipment shall be set so that the EMD., at night or in overcast conditions, will be no more than 40% of the daytime brightness level.
- b) The EMB unit must be extinguished at the close of business to which the EMB relates, or for any business to which the business hours extend beyond, the EMB unit must be extinguished by 3:00 a.m. This restriction shall apply regardless of the location of the EMB on the property.
- c) The EMB unit must have the "flash" feature disabled and messages shall have a 10 second "hold" time except for time and temperature messaging which may have a shorter duration, but no less than four (4) seconds. No single message may be repeated more than once every 40 seconds.
- d) The images and/or messages displayed on the EMB may only transition from one message and/or image to another by either fading or dissolving to black with another message or image appearing or dissolving in black with another message or image appearing immediately thereafter, without movement or other transitions effects between images and/or messages.

e) Except as otherwise provided herein, all images and/or messages displayed on the EMB must be static and may not reflect movement, flashing, scrolling or changes in shape or size of images or portions of images. Streaming and/or live time video may not be displayed and this function of the EMB must be disabled.

#### RECOMMENDATION

While Staff recommended approval, the PZB recommended denial of the proposed Special Use for the message board by a vote of 4-1. Based on this recommendation. Staff is taking this opportunity to include two alternative motions:

***We move that the Village Board direct the Village Attorney to draft a Special Use Ordinance for a EMG sign on the northern elevation of Culvers.***

*Or*

***We move that the Village Board deny the Special Use for the existing EMG sign at Culvers located on the northern elevation.***