File #: DC-O-0043-24, **Version:** 1

T-1-24 (a) PROPOSED TEXT AMENDMENTS TO THE DUPAGE COUNTY ZONING ORDINANCE RELATIVE TO PLACES OF ASSEMBLY, RESTAURANTS, FENCES, PASSENGER AND COMMERCIAL VEHICLES, VIDEO GAMING REGULATIONS, ACCESSORY STRUCTURES AND BUILDINGS, AND HISTORIC LOTS OF RECORD
(Waive First Reading)

WHEREAS, a public hearing was held on May 14, 2024, in the DuPage County Administration Building, 421 North County Farm Road, Wheaton, Illinois at 6:00 P.M. before the DuPage County Zoning Board of Appeals and notice of said hearing was duly given; and

WHEREAS, a petition was presented at this hearing requesting the following text amendment:

Text Amendments to the DuPage County Zoning Ordinance:
T-1-24 (a) to the DuPage County Zoning Ordinance Chapter 37 relative to places of assembly, restaurants, fences, passenger and commercial vehicles, video gaming regulations, accessory structures and buildings, and historic lots of record, presented on May 14, 2024, and attached hereto as Exhibit A; and

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above requested text amendment presented at the above hearing and at the recommendation meeting held on June 6, 2024 does find as follows:

FINDINGS OF FACT:

1. That the Zoning Board of Appeals finds that over the last several months, County Board members have requested staff to research various land use topics that are of importance to their constituents. Staff has completed its research and developed several proposed amendments to the County Zoning Ordinance that would address the concerns of the County Board members relative to the following:

    - Restaurants and Video Gaming.
    - Convenience stores and Gas Station relative to Video Gaming.
    - Fencing regulations.
    - Places of Assembly.
    - Passenger and commercial vehicle regulations.
    - New regulations for accessory structures and buildings.
    - New residential guidelines that will allow for existing platted residential lots to be available for development as

of right.

2. That the Zoning Board of Appeals finds that on Tuesday April 16, 2024, the Development Committee voted to request staff to have the proposed text amendment considered at public hearing before the Zoning Board of Appeals

3. That the Zoning Board of Appeals finds that the proposed text amendments to the DuPage County Zoning Ordinance are important to the County in the furtherance of its goals to protect and enhance the health, welfare, and safety of its residents.

WHEREAS, the Zoning Board of Appeals, having considered in relation to the above and at the recommendation meeting held on June 6, 2024, recommends to approve the following text amendment:

Text Amendments to the DuPage County Zoning Ordinance:
The Zoning Board of Appeals recommended to approve the proposed text amendments T-1-24 (a) to the DuPage County Zoning Ordinance Chapter 37 relative to places of assembly, restaurants, fences, passenger and commercial vehicles, video gaming regulations, accessory structures and buildings, and historic lots of record, presented on May 14, 2024, and attached hereto as Exhibit A:

ZBA VOTE (to Approve): 7 Ayes, 0 Nays, 0 Absent

WHEREAS, the County Board Development Committee on June 18, 2024, considered the above findings and recommendations of the Zoning Board of Appeals and recommends to concur with the findings and recommends to approve the following text amendment:

Text Amendments to the DuPage County Zoning Ordinance:
The DuPage County Development Committee recommended to approve the proposed text amendments T-1-24 (a) to the DuPage County Zoning Ordinance Chapter 37 relative to places of assembly, restaurants, fences, passenger and commercial vehicles, video gaming regulations, accessory structures and buildings, and historic lots of record, presented on May 14, 2024, and attached hereto as Exhibit A.

Development Committee VOTE (to Approve): 4 Ayes, 0 Nays, 2 Absent

NOW, THEREFORE, BE IT ORDAINED by the County Board of DuPage County, Illinois that the following text amendment be granted:

Text Amendments to the DuPage County Zoning Ordinance:
T-1-24 (a) to the DuPage County Zoning Ordinance Chapter 37 relative to places of assembly, restaurants, fences, passenger and commercial vehicles, video gaming regulations, accessory structures and buildings, and historic lots of record, presented on May 14, 2024, and attached hereto as Exhibit A; and

BE IT FURTHER ORDAINED by the County Board of DuPage County, Illinois that should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declared to be invalid; and

BE IT FURTHER ORDAINED that a certified copy of this Ordinance be transmitted by the County Clerk to the DuPage County Finance Department; DuPage County Auditor; DuPage County Treasurer; Paul J. Hoss, Zoning; State's Attorney's Office; DuPage County Health Department; and DuPage County Division of Transportation.

Enacted and approved this 25th day of June, 2024 at Wheaton, Illinois.

_____

DEBORAH A. CONROY, CHAIR
DU PAGE COUNTY BOARD

Attest: _____

JEAN KACZMAREK, COUNTY CLERK

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EXHIBIT A:

Add to ARTICLE III. RULES AND DEFINITIONS, Section 37-302: DEFINITIONS to include the following:

FRATERNAL ESTABLISHMENT: A location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

GARAGE, PRIVATE: A private garage is an accessory building or an accessory portion of the principal building or both, which is intended and used to store motor vehicles of the first division or second division with a gross vehicle weight rating of ~~eight thousand (8,000~~**) ten thousand one pounds (10,001 lbs.)** or less.

PLACE OF ASSEMBLY: A premises where members or patrons gather together generally for common reason and generally at regular intervals including for, but not limited to, civic, cultural, **veterans' and** fraternal, political, religious, or social purpose. **(Including chapels, churches, synagogues, temples, mosques, and other religious institutions including parsonages and rectories).** It shall be permissible to serve food and meals on the premises, provided it is secondary and incidental to the promotion of some other common objective of the organization and provided adequate dining room space and kitchen facilities are available and is in compliance with applicable federal, state, and county laws, including, but not limited to the DuPage County Building Code and the DuPage County Health Department regulations. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objective of the organization, and further provided that the sale of alcoholic beverages is in compliance with applicable federal, state, and county laws.

RESTAURANT: An establishment ~~whose~~ **wherein the** principal business **use** is the dispensing of edible, prepared food and/or beverages for consumption on and/or off the premises **depending on the type of restaurant herein**. Restaurant is further defined by class as follows:

Carry Out Only Restaurant: An <https://www.lawinsider.com/dictionary/restaurant-carry-out> establishment wherein the principal business is the sale of food and may ancillary include the sale of non-alcoholic beverages only to the customer in the ready-to-consume state for consumption off the premises and generally includes the following characteristics:

1. **Sells prepared or prepackaged food for carryout only.**
2. **Has no seating for patrons on the premises.**
3. **Does not accept dining reservations.**
4. **Has no County liquor license.**
5. **Has no video gaming terminals.**

Class A Restaurant: An <https://www.lawinsider.com/dictionary/restaurant-carry-out> establishment wherein the principal business is the sale of food in the ready-to-consume state for consumption on/or off the premises and non-alcoholic beverages to the customer and generally includes the following characteristics:

1. **Sells prepared and/or prepackaged food ready to carry out and/or dine in and/or via drive through service.**
2. **Has on premises seating for patron's ancillary to the carry out and drive through services.**
3. **Typically franchised or chain owned businesses.**
4. **Has no meeting and/or banquet facilities.**
5. **Does not accept dining reservations.**

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6. Has no County liquor license.
7. Has no video gaming devices.

Class B Restaurant: An <https://www.lawinsider.com/dictionary/restaurant-carry-out> establishment wherein the principal business is the sale of food in the ready-to-consume state for consumption on the premises and beverages to the customer and generally includes the following characteristics:

1. Holds a County issued liquor license.
2. May accept dining reservations as a standard procedure.
3. May utilize a hostess to seat patrons.
4. Has meeting and/or banquet facilities incidental to the principal use.
5. Does not have carryout service on a regular basis.
6. May have video gaming terminals where video gaming terminals are ancillary to the principal business activity and holds a video gaming license from the State of Illinois and has secured a liquor license.

Class C Restaurant: An <https://www.lawinsider.com/dictionary/restaurant-carry-out> establishment wherein the principal business is the sale of food in the ready-to-consume state for consumption on the premises and beverages to the customer and generally includes the following characteristics:

1. Has a bar/lounge area separate from the restaurant which is utilized by non-eating customers.
2. Has, on a regular or semi-regular basis, entertainment facilities to include, but not be limited to, dance floors, disc jockeys, or live bands.
3. Has additional facilities other than the restaurant, to attract customers.
4. Holds a County issued liquor license.
5. Accepts dining reservations as a standard procedure.
6. Utilizes a hostess to seat patrons.
7. Has meeting and/or banquet facilities incidental to the principal use.
8. Does not have carryout service on a regular basis.
9. May have video gaming terminals where video gaming terminals are ancillary to the principal business activity and holds a video gaming license from the State of Illinois and has secured a liquor license.

Tavern/Bar: An establishment wherein the principal business use is the sale of beer, alcoholic, and non-alcoholic beverages to be consumed <https://www.google.com/search?sca_esv=6480816f92634337&rlz=1C1GCEA_enUS1014US1014&sxsrf=ACQVn08fJ4fuBBAsulKw-

Remove:

~~A. Class A Restaurant: A restaurant which exhibits any four (4) or more of the following characteristics:~~

~~1. Sells prepackaged food ready to carryout.~~

~~2. Could have little or no on premises seating for patrons.~~

~~3. Franchised or chain owned businesses.~~

~~4. Has no meeting and/or banquet facilities.~~

~~5. Has no county liquor license.~~

~~6. Does not accept dining reservations.~~

~~7. Little or no advertising on an individual establishment basis.~~

~~B. Class B Restaurant: A restaurant which exhibits any four (4) or more of the following characteristics:~~

~~1. Holds a county issued liquor license in the class B, C, or D.~~

~~2. Meeting and/or banquet facilities incidental to the principal use are available.~~

~~3. Normally accepts dining reservations as a standard procedure.~~

~~4. Does not have carryout service on a regular basis.~~

~~5. Advertises primarily on an individual establishment basis.~~

~~6. Utilizes a hostess to seat patrons.~~

~~C. Class C Restaurant: A class C restaurant is any class B restaurant that exhibits any one of the following characteristics:~~

~~1. Has a bar/lounge area separate from the restaurant which is utilized by non eating customers.~~

~~2. Has, on a regular or semi-regular basis, entertainment facilities to include, but not be limited to, dance floors, disc jockeys or live bands.~~

~~3. Has additional facilities other than the restaurant, to attract customers.~~

~~4. Has additional facilities, as established in subsections C1 through C3 of this section, and has been determined by the director, department of economic development and planning to severely impact the provision of off street parking spaces.~~

Truck stop, Small: A facility that is at least a 3-acre facility with a convenience store, has separate diesel islands for fueling commercial motor vehicles, that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and has parking spaces for commercial motor vehicles.

Truck stop, Large: A facility located within 3 road miles from a freeway interchange, as measured in accordance with the Department of Transportation's rules regarding the criteria for the installation of business signs, and is at least a 3-acre facility with a convenience store, has separate diesel islands for fueling commercial motor vehicles, sells at retail more than 50,000 gallons of diesel or biodiesel fuel per month, and has parking spaces for commercial motor vehicles.

VIDEO GAMING CAFÉ RESTAURANT: An establishment wherein the principal business use is video gaming where the proprietor holds a video gaming license from the State of Illinois and provides alcohol service and may serve prepared food or packaged food for consumption on the premises incidental to the operation of video gaming.

VEHICLE:

Commercial Vehicle: Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for hire or not for hire, but not including a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle being used commercially **or any vehicle that has a gross vehicle weight rating over ten thousand one pounds (10,001 lbs.).**

Veteran's establishment: A location where a qualified veteran's organization that derives its charter from a national veteran's organization regularly meets.

VIDEO GAMING:

VIDEO GAMING CAFÉ RESTAURANT: An establishment wherein the principal business use is video gaming where the proprietor holds a video gaming license from the State of Illinois and provides alcohol service per a liquor license from the County and may serve prepared food or packaged food for consumption on the premises incidental to the operation of video gaming. (See also definition of Restaurant)

VIDEO GAMING TERMINAL ESTABLISHMENT: A accessory use that is not a Video Gaming Cafe, where video gaming terminals are an accessory use to the principal business use on the premises, and where the proprietor of the principal business use holds a video gaming license from the State of Illinois and may hold a liquor license from the County.

VIDEO GAMING TERMINAL: Any electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Illinois Gaming Board, utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

VIDEO GAMING LICENSED ESTABLISHMENT: Any licensed retail establishment where alcoholic liquor may be drawn, poured, mixed, or otherwise served for consumption on the premises, whether the establishment operates on a nonprofit or for-profit basis.

- **A Video Gaming Licensed Establishment includes any such establishment that has a contractual relationship with an inter-track wagering location licensee licensed under the Illinois Horse Racing Act of 1975, provided any contractual relationship shall not include any transfer or offer of revenue from the operation of video gaming under this Act to any licensee licensed under the Illinois Horse Racing Act of 1975. Provided, however, that the licensed establishment that has such a contractual relationship with an inter-track wagering location licensee may not, itself, be (i) an inter-track wagering location licensee, (ii) the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975, or (iii) the corporate subsidiary of a corporation that is also the corporate parent or subsidiary of any licensee licensed under the Illinois Horse Racing Act of 1975.**

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Amend Section 37-407: FENCES, WALLS AND SHRUBBERY: 37-407.1: GENERAL REQUIREMENTS: **37-407.2: RESIDENCE DISTRICTS: (and re-number accordingly)**

C. ***CORNER SIDE YARDS:***

1. An open **or solid** fence may be erected at least three (3) inches from any lot line forming a part of the corner side yard to a height not to exceed **six feet six inches (6'6")** ~~four feet six inches (4'6")~~ above grade. The finished side or "good" side of any fence or gate shall face outward toward the adjacent property or right-of-way.

~~2. An open or solid fence or non retaining wall may be erected at least ten (10) feet from the property line adjacent to any lot line forming a part of the corner side yard to a height not to exceed six feet six inches (6'6") above grade. The finished side or "good" side of any fence or gate shall face outward toward the adjacent property or right-of-way.~~

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Amend Section 37-700.7: OFF STREET PARKING AND LOADING REQUIREMENTS:

A. Single-Family Residence Districts:

1. Parking of motor vehicles shall be permitted as follows:

a. Any motor vehicle parked on the lot shall be of the first division with a gross vehicle weight rating of ~~eight thousand (8,000)~~

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ten thousand one pounds (10,001 lbs.) or less.; and

B. General Residence Districts:

1. Parking of motor vehicles shall be permitted as follows:

a. Any motor vehicle parked on the lot shall be of the first division with a gross vehicle weight rating of ~~eight thousand (8,000)~~ **ten thousand one pounds (10,001 lbs.) or less**; and

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Amend Sections: **37-701.1: 37-702.1; 37-703.1; 37-704.1 PERMITTED USES:**

Accessory buildings, structures and uses:

Floor area requirement: Detached accessory building shall not exceed the maximum amount of floor area as hereinafter set forth:

On lots containing forty thousand (40,000) square feet or less of lot area, detached accessory building shall contain no more than ~~**six hundred fifty (650)**~~ **one thousand (1,000)** square feet of floor area **and in no instance shall all detached accessory buildings, either individually or combined, be larger in size than the principal building on the property.**

On lots containing more than forty thousand (40,000) square feet of lot area, permissible area for detached accessory buildings shall be based on a floor area ratio (FAR) of ~~0.01625~~ **.025** but shall in no case exceed two thousand six hundred (2,600) square feet of floor area **and in no instance shall all detached accessory buildings, either individually or combined, be larger in size than the principal building on the property.**

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Amend Section: 37-701.1: 37-702.1: 37-703.1: 37-704.1: PERMITTED USES

Place of Assembly ~~including the following: private club, lodge, and fraternal organization; religious institutions (including chapels, churches, synagogues, temples, mosques and other religious institutions including parsonages and rectories),~~ where the subject property meets the following criteria:

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Amend the table in Sections 37-701.3, 37-702.3, 37-703.3, 37-704.3: LOT REQUIREMENTS - SIZE, WIDTH AND DEPTH:

Historic Lot of Record Minimum Lot Size NA, Lot Width ~~66' when served with septic and well; 50' when served with sewer and well 44' when served with sewer and water.~~ **Fifty Feet (50')**

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Amend Section 37-801: B-1 LOCAL BUSINESS DISTRICT: 37-801.2: CONDITIONAL USES:

The following conditional uses require prior approval after a public hearing in accordance with the requirements of section 37-1413 of this chapter:

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Restaurants, class B and C, including open air dining~~.~~ **and including Video Gaming Terminal Establishments. Any Class B or C Restaurant Use that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Video Gaming Café or Class B or C restaurant that also has a Video Gaming Terminal Establishment.**

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Amend Section 37-802: B-2 GENERAL BUSINESS DISTRICT: 37-802.1: PERMITTED USES:

The following uses are permitted:

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Automobile service stations ~~shall not be eligible for yard reductions by conditional use.~~ **including Video Gaming Terminal Establishments. Any automobile service station that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another automobile service station that also has a Video Gaming Terminal Establishment.**

~~Open sales lots, need not be enclosed~~

Convenience Store: Establishment where pre-packaged foods and beverages are sold for off premises consumption, including Video Gaming Terminal Establishments. Any automobile service station that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another automobile service station that also has a Video Gaming Terminal Establishment

Restaurants - carryout, class A, B, ~~and~~ C **Including Video Gaming Establishments and Video Gaming Café. Any Video Café or any Class B or C Restaurant Use that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Video Gaming Café or Class B or C restaurant that also has a Video Gaming Terminal Establishment.**

Taverns **including Video Gaming Terminal Establishments**

Any Tavern Use that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Tavern Use that also has a Video Gaming Terminal Establishment.

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Amend Section 37-1001: I-1 LIGHT INDUSTRIAL DISTRICT: 37-1001.1: PERMITTED USES:

Automobile service stations ~~shall not be eligible for yard reductions by conditional use.~~ **and may include Video Gaming Establishments. Any automobile service station that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another automobile service station that also has a Video Gaming Terminal Establishment.**

Convenience Store: Establishment where pre-packaged foods and beverages are sold for off premises consumption and may include Video Gaming Terminal Establishments. Any convenience store that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another convenience store that also has a Video Gaming Terminal Establishment

Restaurants - carryout, class A, B, ~~and~~ C **and may include Video Gaming Establishments and Video Gaming Café. Video Gaming Café or any Class B or C Restaurant Use that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Video Gaming Café or Class B or C restaurant that also has a Video Gaming Terminal Establishment.**

Truck stop, Large: May include Video Gaming Terminals. Any Large Truck facility that also has Video Gaming terminals must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Large Truck facility that also has a Video Gaming Terminals

Truck stop, Small: May include Video Gaming Terminals. Any Small Truck facility that also has Video Gaming terminals must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Small Truck facility that also has a Video Gaming Terminals

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Amend Section 37-1002: I-2 GENERAL INDUSTRIAL DISTRICT: 37-1002.1: PERMITTED USES:

Automobile service stations ~~shall not be eligible for yard reductions by conditional use.~~ **and may include Video Gaming Terminal Establishments. Any automobile service station that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another automobile service station that also has a Video Gaming Terminal Establishment.**

Convenience Store: Establishment where pre-packaged foods and beverages are sold for off premises consumption and may include Video Gaming Terminal Establishments. Any Convenience Store that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Convenience Store that also has a Video Gaming Terminal Establishment.

Restaurants - carryout, class A, B, ~~and~~ C **and may include Video Gaming Establishments and Video Gaming Café. Video Gaming Café or any Class B or C Restaurant Use that also has a Video Gaming terminal establishment must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Video Gaming Café or Class B or C restaurant that also has a Video Gaming Terminal Establishment.**

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Truck stop, Large: May include Video Gaming Terminals. Any Large Truck facility that also has Video Gaming terminals must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Large Truck facility that also has a Video Gaming Terminals

Truck stop, Small: May include Video Gaming Terminals. Any Small Truck facility that also has Video Gaming terminals must be located at least 1,000 feet from a place of assembly use, school or day care facility and another Small Truck facility that also has a Video Gaming Terminals

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Amend Section 37-1203: SCHEDULE OF OFF-STREET PARKING REQUIREMENTS/ **6-6 RESTAURANT, TAVERN, AND BANQUET FACILITY**

Tavern: Four (4) parking spaces per each 1,000 square feet of gross floor area.

Video Gaming Café Restaurant: Four (4) parking spaces per each 1,000 square feet of gross floor ar

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