

ZTA 22-09 – ACCESSORY STRUCTURES – USE STANDARDS

Description

ZTA 22-09 would create special accessory structure use standards for pool enclosures located in residential zones.

ZTA 22-09

COMPLETED: 9-1-2022

MCPB

Item No. 11

9-8-2022

2425 Reedie Drive

Floor 14

Wheaton, MD 20902



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Summary

- This ZTA would create special provisions for properties with accessory structures that include pool enclosures, allowing the cumulative footprint of accessory structures to exceed current limits under certain conditions.
- The ZTA would modify the Development Standards table for each residential zone to create a new standard under Specification for Principal Building and Accessory Structure Setbacks allowing the additional flexibility for certain pool enclosures.
- Planning staff does not support this ZTA as it seems too specific, creates policy conflicts and loopholes, and would require substantial additional clarity and amendments to mitigate these concerns.

LEAD SPONSORS

Councilmember Riemer

Co-Sponsored by Councilmember Hucker

INTRODUCTION DATE:

July 26, 2022

REVIEW BASIS:

Chapter 59

SECTION ONE

BACKGROUND

Rationale for ZTA 22-09

ZTA 22-09 was introduced on July 26, 2022 by Councilmember Riemer, and cosponsored by Councilmember Hucker. The ZTA is scheduled for a Council Public Hearing on Tuesday, September 13, 2022. The intent of ZTA 22-09 is to create an exception to the current accessory structure footprint limitations, if a homeowner installs certain pool enclosures as an accessory structure. The current footprint limit on accessory structures is 600 square feet or 50% of the principal building footprint, whichever is greater. The ZTA was introduced because the existing footprint limits on accessory structures can be too limiting to enclose a pool under certain circumstances.

SECTION TWO

ANALYSIS

ZTA 22-09 as introduced

ZTA 22-09 creates new provisions for accessory structures by modifying the code in two similar ways in separate locations. The first modification is under use Section 3.7.4.A. Accessory Structure. Within the Use Standards, a new section c. is added as shown on lines 27-41 of Attachment A. This new subsection establishes separate provisions for properties that construct pool enclosures that are 7 feet or less in height and are made of a translucent or transparent material. If the construction of such a pool enclosure causes a property's cumulative accessory structure footprint to exceed 50% of the principal building footprint or 600 square feet (whichever is greater), the cumulative footprint of all accessory structures is allowed to be up to 1,200 square feet, so long as the footprint of all non-pool enclosure accessory structures continues to remain less than 50% of the principal building footprint or 600 square feet (whichever is greater).

The other series of changes this ZTA would make is to every standard method development standard table for the Agricultural, Rural Residential, and Residential Detached zones in Sections 4.2., 4.3., and 4.4. In each of these tables, there is a Specifications for Accessory Structure Setbacks section, which among other specifications includes the standard currently limiting the footprint of all accessory structures, stating "the cumulative footprint of all accessory buildings on a lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater." This ZTA adds a new specification, similar to the language discussed in the paragraph above, stating:

Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:

1. the pool enclosure, not including the rafters, is translucent or transparent;
2. the pool enclosure has a height of 7 feet or less;
3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

A Racial Equity and Social Justice (RESJ) impact statement was prepared for ZTA 22-09 (Attachment B). It anticipates little to no impact on RESJ issues within the County. The impact statement says while white and Asian groups own houses at a higher rate than other racial and ethnic communities, the predicted impact is low because few residents would take advantage of these zoning changes.

Analysis of ZTA 22-09

This ZTA intends to provide flexibility to residential property owners that desire to have a seasonal or permanent enclosure over their pools, and have pools located on a property in a way that a cover cannot be attached to the principal building, making it an accessory structure. Many pool enclosures would likely be at or more than the size limit currently for accessory structures, or would not enable any additional structures such as detached garages or sheds to be permitted on the property, especially where the principal building is smaller in size. The problem created by the existing accessory structure rules is clear, however Planning staff has many concerns with this ZTA from a logistical and a policy standpoint, which are discussed further below.

Practicality

This ZTA is a major policy change in allowing additional footprint for accessory structures but the restrictions, particularly on height, seem overly restrictive, unrealistic and possibly intended for very limited situations. The ZTA would cap the height of a qualifying pool enclosure at 7 feet. Presumably this was to minimize the visual impact from adjacent properties. In practicality it becomes very limiting in the type of enclosure that can be erected, and how useful it will be to an end user. For an A-framed enclosure to be constructed at 7 feet or less in height, the actual height of the side walls would be substantially shorter since building height on pitched roofs is typically measured as the mid-point between the eaves and the ridges. A domed enclosure would have a similar problem where only the very center would actually be 7 feet high with the sides curving downward. This could make it impractical to walk around the pool or otherwise use the pool deck. The limitations on height also presume the pool enclosure is built over an in-ground pool. A 7-foot tall pool enclosure is not practical over an above ground pool with sides that are three to five feet in height.

Definitions

There are no definitions in Chapter 59 for either pool or pool enclosure. When reviewing this ZTA, the term pool enclosure generated an image in the mind of many Planning staff of a fence, rather than a structural component that fully covers and encloses the pool area. Without defining what constitutes a pool enclosure it could leave open the possibility for future confusion and misinterpretation at the time of permit review. Additionally, the lack of a working definition for pool can further complicate interpretation of the proposed changes, as discussed in the loopholes section below.

Loopholes

Without definitions for pool or pool enclosure, Planning staff is concerned this ZTA has unintentional loopholes that would effectively increase the area on properties available for general storage. There is nothing that requires the ‘pool enclosure’ to be placed over a pool, so presumably someone could apply for a permit to construct a pool enclosure type structure but intend to place and use it as a shed. There is also nothing guiding how much bigger the enclosure can be compared to the pool or pool decking area. Further, without a working definition of pool, it is also plausible someone who is looking for additional on-site storage options could use an inflatable or temporary pool as the pool and use most of the actual square footage as general storage. This loophole is concerning, considering that just six months ago the Council passed ZTA 21-10, which was specifically intended to close loopholes on interpreting the rule limiting the cumulative footprint of accessory structures to 50% of the footprint of the principal building or 600 square feet (whichever is greater). There was a clear expressed policy intent by the Council to continue limiting the size of accessory structures on residential properties at that time.

Additionally, while not directly a concern Planning Staff has regarding the implementation of this ZTA, pool enclosures are not exempted from counting toward lot coverage limits for the respective residential zones. Pools currently do not count toward lot coverage as they do not meet the structural definition for coverage as defined in Section 4.1.7.B.4. By placing a pool enclosure over the pool and pool deck area, this new structure would meet the requirements of counting toward lot coverage.

These unanswered concerns raised above reinforce Planning staff’s recommendation not to support this ZTA, or at a minimum seek substantial amendments to define pool and pool enclosure, place limits on how much larger an enclosure can be compared to the pool, and possibly consider more practical height limits to ensure practicality of the enclosure.

SECTION THREE

CONCLUSION

Planning staff does not support ZTA 22-09 as introduced and recommends the Planning Board transmit comments to the District Council expressing a similar lack of support.

Attachment A – ZTA 22-09 introduction packet

Attachment B – RESJ Statement for ZTA 22-09



Committee: PHED

Committee Review: At a future date

Staff: Livhu Ndou, Legislative Attorney

Purpose: To introduce agenda item – no vote expected

Keywords: #PoolEnclosure #AccessoryStructure
#AccessoryBuilding

AGENDA ITEM #7C

July 26, 2022

Introduction

SUBJECT

Zoning Text Amendment (ZTA) 22-09, Accessory Structures – Use Standards

Lead Sponsor: Councilmember Riemer

Co-Sponsor: Councilmember Hucker

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

ZTA 22-09 will create use standards for pool enclosures.

SUMMARY OF KEY DISCUSSION POINTS

- In the current zoning ordinance, the cumulative footprint of all accessory buildings on a lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater.
- ZTA 22-09 will allow a cumulative footprint of up to 1,200 square feet if the property contains a pool enclosure. If the cumulative footprint of accessory buildings is increased because of a pool enclosure, ZTA 22-09 also contains provisions limiting the size of the other accessory buildings.
- The pool enclosure must be transparent or translucent and have a maximum height of 7 feet or less.
- A public hearing is tentatively scheduled for September 20, 2022.

This report contains:

ZTA 22-09

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Ordinance No.:
Zoning Text Amendment No.: 22-09
Concerning: Accessory Structures –
Use Standards
Draft No. & Date: 1 – 7/14/2022
Introduced: July 26, 2022
Public Hearing:
Adopted:
Effective:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: Councilmember Riemer
Co-Sponsor: Councilmember Hucker

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- create use standards for pool enclosures; and
- generally amend the provisions for accessory structures.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 3.7.	“Miscellaneous Uses”
Section 3.7.4.	“Accessory Miscellaneous Uses”
Division 4.2.	“Agricultural Zone”
Section 4.2.1.	“Agricultural Reserve Zone (AR)”
Division 4.3.	“Rural Residential Zones”
Section 4.3.3.	“Rural Zone (R)”
Section 4.3.4.	“Rural Cluster Zone (RC)”
Section 4.3.5.	“Rural Neighborhood Cluster Zone (RNC)”
Division 4.4.	“Residential Zones”
Section 4.4.4.	“Residential Estate – 2 Zone (RE-2)”
Section 4.4.5.	“Residential Estate – 2C Zone (RE-2C)”
Section 4.4.6.	“Residential Estate – 1 Zone (RE-1)”
Section 4.4.7.	“Residential – 200 Zone (R-200)”
Section 4.4.8.	“Residential – 90 Zone (R-90)”
Section 4.4.9.	“Residential – 60 Zone (R-60)”

Section 4.4.10. “Residential – 40 Zone (R-40)”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. Division 59-3.7 is amended as follows:

Division 3.7. Miscellaneous Uses

* * *

Section 3.7.4. Accessory Miscellaneous Uses

A. Accessory Structure

1. Defined

Accessory Structure means a structure subordinate to and located on the same lot as a principal building, the use of which is incidental to the use of the principal building or to the use of the land. An Accessory Structure is not attached by any part of a common wall or common roof to the principal building.

2. Use Standards

Where an Accessory Structure is allowed as a limited use, it must satisfy the following standards:

- a. In Agricultural and Rural Residential zones, where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building. Buildings for an agricultural use are exempt from this size restriction.
- b. In Residential Detached zones, where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.

- c. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:
1. the pool enclosure, not including the rafters, is translucent or transparent;
 2. the pool enclosure has a height of 7 feet or less;
 3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
 4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

* * *

Sec. 2. Division 59-4.2 is amended as follows:

Division 4.2. Agricultural Zone

Section 4.2.1. Agricultural Reserve Zone (AR)

* * *

F. AR Zone, Standard Method Development Standards

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	

3. Placement
* * *
Specification for Principal Building and Accessory Structure Setbacks
* * *
<p>c. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building. Buildings for an agricultural use are exempt from this size restriction.</p> <p>d. <u>Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:</u></p> <ol style="list-style-type: none"> <u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u> <u>2. the pool enclosure has a height of 7 feet or less;</u> <u>3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and</u> <u>4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.</u>

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49 **Sec. 3. Division 59-4.3 is amended as follows:**

50 **Division 4.3. Rural Residential Zones**

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52 **Section 4.3.3. Rural Zone (R)**

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54 B. R Zone, Standard Method Development Standards

	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	
Specifications for Accessory Structure Setbacks	
* * *	
<p>d. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building. Buildings for an agricultural use are exempt from this size restriction.</p> <p>e. <u>Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:</u></p> <ol style="list-style-type: none"> <u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u> <u>2. the pool enclosure has a height of 7 feet or less;</u> <u>3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and</u> <u>4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.</u> 	

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56 **Section 4.3.4. Rural Cluster Zone (RC)**

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58 B. RC Zone, Standard Method Development Standards

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	
Specifications for Principal Building and Accessory Structure Setbacks (min)	
* * *	
<p>e. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building. Buildings for an agricultural use are exempt from this size restriction.</p> <p>f. <u>Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:</u></p> <ol style="list-style-type: none"> <u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u> <u>2. the pool enclosure has a height of 7 feet or less;</u> <u>3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and</u> <u>4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.</u> 	

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60 **Section 4.3.5. Rural Neighborhood Cluster Zone (RNC)**

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62 C. RNC Zone, Standard Method Development Standards

1. Site	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	
* * *		
3. Placement		
* * *		
Specifications for Principal Building and Accessory Structure Setbacks		
* * *		
<p>d. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building. Buildings for an agricultural use are exempt from this size restriction.</p> <p>e. <u>Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:</u></p> <ol style="list-style-type: none"> <u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u> <u>2. the pool enclosure has a height of 7 feet or less;</u> <u>3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and</u> 		* * *

<p><u>4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.</u></p>	
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* * *

Sec. 4. Division 59-4.4 is amended as follows:

Division 4.4. Residential Zones

* * *

Section 4.4.4. Residential Estate – 2 Zone (RE-2)

* * *

B. RE-2 Zone, Standard Method Development Standards

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	
Specifications for Accessory Structure Setbacks	
* * *	
<p>d. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.</p> <p><u>e. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the</u></p>	

footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:

1. the pool enclosure, not including the rafters, is translucent or transparent;
2. the pool enclosure has a height of 7 feet or less;
3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

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71 **Section 4.4.5. Residential Estate – 2C Zone (RE-2C)**

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73 B. RE-2C Zone, Standard Method Development Standards

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	
Specifications for Accessory Structure Setbacks	
* * *	
d. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings	

for an agricultural use are exempt from this size restriction.

e. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:

1. the pool enclosure, not including the rafters, is translucent or transparent;
2. the pool enclosure has a height of 7 feet or less;
3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

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75 **Section 4.4.6. Residential Estate – 1 Zone (RE-1)**

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77 **B. RE-1 Zone, Standard Method Development Standards**

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	
Specifications for Accessory Structure Setbacks	
* * *	
d. Where the principal building on a lot is a detached house, the cumulative	

footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.

e. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:

1. the pool enclosure, not including the rafters, is translucent or transparent;
2. the pool enclosure has a height of 7 feet or less;
3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

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79 **Section 4.4.7. Residential – 200 Zone (R-200)**

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81 **B. R-200 Zone, Standard Method Development Standards**

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	

Specification for Accessory Structure Setbacks

* * *

b. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.

c. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:

1. the pool enclosure, not including the rafters, is translucent or transparent;
2. the pool enclosure has a height of 7 feet or less;
3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

[c]d. Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be a minimum of 25' from a lot line and a minimum of 100' from a dwelling on another lot.

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Section 4.4.8. Residential – 90 Zone (R-90)

* * *

B. R-90 Zone, Standard Method Development Standards

1. Lot and Density

Detached House or a Building for a

	Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	
Specifications for Accessory Structure Setbacks	
* * *	
<p>d. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.</p> <p>e. <u>Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:</u></p> <ol style="list-style-type: none"> <u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u> <u>2. the pool enclosure has a height of 7 feet or less;</u> <u>3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and</u> <u>4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.</u> <p>[e]f. Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be a minimum of 25' from a lot</p>	

line and a minimum of 100' from a dwelling on another lot.

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87 **Section 4.4.9. Residential – 60 Zone (R-60)**

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89 **B. R-60 Zone, Standard Method Development Standards**

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
2. Placement	
* * *	
Specifications for Accessory Structure Setbacks	
* * *	
<p>d. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.</p> <p><u>e. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:</u></p> <ol style="list-style-type: none"> <u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u> <u>2. the pool enclosure has a height of 7 feet or less;</u> <u>3. the cumulative footprint of all other accessory buildings on the property is</u> 	

less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and

4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

[e]f. Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be a minimum of 25' from a lot line and a minimum of 100' from a dwelling on another lot.

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91 **Section 4.4.10. Residential – 40 Zone (R-40)**

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93 B. R-40 Zone, Standard Method Development Standards

1. Site	Detached House or a Building for a Cultural Institution, Religious Assembly, Public Use, or a Conditional Use allowed in the zone	
* * *		
3. Placement		
* * *		
Specifications for Accessory Structure Setbacks		* * *
* * *		
d. Where the principal building on a lot is a detached house, the cumulative footprint of all accessory buildings on that lot may not exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater. This Subsection does not apply to Section 3.3.3.C, Detached Accessory Dwelling Unit. Buildings for an agricultural use are exempt from this size restriction.		

e. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50% of the footprint of the principal building or 600 square feet, whichever is greater, the pool enclosure may be allowed, provided:

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3. the cumulative footprint of all other accessory buildings on the property is less than 50% of the footprint of the principal building or 600 square feet, whichever is greater; and
4. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.

[e]f. Any accessory building or structure used for the housing, shelter, or sale of animals or fowl other than a household pet must be a minimum of 25' from a lot line and a minimum of 100' from a dwelling on another lot.

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95 **Sec. 5. Effective date.** This ordinance becomes effective 20 days after the
 96 date of Council adoption.

Racial Equity and Social Justice (RESJ) Zoning Text Amendment Statement

Office of Legislative Oversight

Attachment B

ZTA 22-09 ACCESSORY STRUCTURES — USE STANDARDS

SUMMARY

The Office of Legislative Oversight anticipates that Zoning Text Amendment 22-09 would have little or no impact on racial equity and social justice (RESJ) in the County.

PURPOSE OF RESJ STATEMENTS

The purpose of RESJ impact statements for zoning text amendments (ZTAs) is to evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. Racial equity and social justice refer to a process that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a goal of eliminating racial and social inequities.¹ Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.²

PURPOSE OF ZTA 22-09

The purpose of Zoning Text Amendment 22-09 is to allow a cumulative footprint of up to 1,200 square feet for a “pool enclosure” on a detached single-family property.³ ZTA 22-09 amends provisions for accessory structures under the use group Section 3.7.4 “Accessory Miscellaneous Uses” of the Zoning Ordinance and other sections in the Agricultural, Rural Residential, and Residential zones.⁴ ZTA 22-09 also requires that pool enclosures be transparent or translucent and have a maximum height of seven feet or less.⁵ However, the existing accessory building requirement which specifies “...the cumulative footprint of all accessory buildings on that lot may not exceed 50 percent of the footprint of the principal building or 600 square feet, whichever is greater” remains unchanged for accessory buildings that do not include a pool enclosure.⁶ ZTA 22-09 was introduced on July 26, 2022.⁷

ANTICIPATED RESJ IMPACTS

OLO anticipates that ZTA 22-09 will have little to no impact on RESJ in the County. The modifications proposed in this ZTA apply to all single-family detached residential developments in the County. While homeownership rates in the County vary by race and ethnicity with three-quarters of White and Asian households residing in owner-occupied units compared to half of Latinx residents, 43 percent of Black residents, and 47 percent of Indigenous residents and other groups,⁸ OLO anticipates that few homeowners will take advantage of this proposed change in the Zoning Ordinance. Thus, ZTA 22-09 will have little to no impact on existing disparities in homeownership by race and ethnicity locally.

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of zoning text amendments on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement on the proposed zoning text amendment is intended to inform the Council’s decision-making process rather than determine it. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the ZTA under consideration.

RESJ Impact Statement

Zoning Text Amendment 22-09

CONTRIBUTIONS

Elsabett Tesfaye, Performance Management and Data Analyst, drafted this RESJ impact statement.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.racialequitytools.org/glossary>

² Ibid

³ Montgomery County, Maryland Council: Zoning Text Amendment No. 22-09, Concerning: Accessory Structures – Use Standards. Introduced: July 26, 2022

[Zoning Text Amendment No: 10-xx \(montgomerycountymd.gov\)](https://montgomerycountymd.gov/ZoningTextAmendmentNo10-xx)

⁴ Ibid

⁵ Ibid

⁶ Ibid

⁷ Montgomery County, Maryland Council: Zoning Text Amendment No. 22-09.

⁸ Racial Equity Profile Montgomery County. Report Number Report Number 2019-7. July 15, 2019

<https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/RevisedOLO2019-7.pdf>