# Racial Equity and Social Justice (RESJ) Impact Statement

**Office of Legislative Oversight**

## ZTA 26-06: Accessory Residential Uses - Accessory Dwelling Unit

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that ZTA 26-06 could have a negative impact on racial equity and social justice (RESJ) in the County as aligning local policies to state laws for building accessory dwelling units would benefit higher-income homeowners and renters who are disproportionately White and Asian. OLO offers three policy options for Council consideration as potential companions to this ZTA to help improve its anticipated RESJ impact.

### PURPOSE OF RESJ STATEMENTS

RESJ impact statements (RESJIS) for zoning text amendments (ZTAs) evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other People of Color (BIPOC) and communities with low incomes. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is essential to achieve RESJ.[1] This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.[2]

### PURPOSE OF ZTA 26-06

Accessory Dwelling Units (ADUs) is a broad term used to describe a smaller, independent residential dwelling unit that shares the same lot as a detached single-family home. ADUs often go by other names such as granny flats, accessory apartments, and English basements.[3] ADUs can be a helpful tool to increase rental housing supply and affordability, particularly in space-constrained neighborhoods. ADUs offer flexibility that can be beneficial to homeowners, as they provide an option to bring in a source of rental income and may allow homeowners or their relatives to age in place. At the neighborhood level, ADUs can be a smaller-scale, gradual way to increase the number and variety of homes in existing single-family areas.[4] Figure 1 in the Appendix illustrates common ADU types.

The County has permitted 222 ADUs since 2019, when there was a significant change in the County's ADU policy. This change loosened restrictions and made it easier for homeowners to build ADUs. Figure 2 in the Appendix shows where these ADUs have been permitted. Many have been permitted Downcounty in the Bethesda-Chevy Chase area (over 30 ADUs) and the Kensington/Wheaton area (between 21 and 30 ADUs).[5]

In April 2025, the General Assembly passed House Bill 1466/Senate Bill 891. This law requires all counties in Maryland to adopt a local law authorizing development of ADUs by October 1, 2026. The law intends to promote and encourage the creation of ADUs on land with single-family homes to meet the state's housing needs.[6]

The County already has regulations allowing for ADUs.[7] However, several provisions are inconsistent with the new state law. The inconsistencies include the zones where ADUs are allowed, the minimum size requirement, density calculations, setback requirements, and off-street parking requirements.[8] The purpose of ZTA 26-06 is to align the County's zoning code with the new state law.[9] If enacted, the proposed changes would:

1. Define ADUs to be no greater than 75% of the size of the primary single-family detached dwelling unit;
2. Allow ADUs to be an attached addition to the principal dwelling or detached from the principal dwelling;

3. Expand the zones in which ADUs are allowed as a limited use to include all zones permitting single-family detached dwellings, which would exclude only industrial zones;
4. Require ADUs be excluded from density calculations; and
5. Prohibit rear and side setback requirements that exceed those applicable to accessory structures.[10]

Table 1 in the Appendix compares current ADU requirements to the changes proposed in ZTA 26-06. According to Montgomery Planning, these changes should make it easier and more economical for homeowners to build ADUs.[11]

The Council introduced ZTA 26-04 on April 21, 2026.[12]

This RESJIS builds on the one for ZTA 26-04, Mixed-Income Housing Community – Eligibility.[13] For additional background on land use, housing, and racial equity, please refer to this RESJIS and OLO Report 2024-11, Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development.[14]

## HOUSING ACCESS, ACCESSORY DWELLING UNITS, AND RACIAL EQUITY

Historically, government policies and practices have restricted housing access for BIPOC community members.[15] These include exclusionary zoning, restrictive covenants, redlining, racially biased New Deal housing policies, and the inequitable implementation of the G.I. Bill. Today, discriminatory practices such as predatory lending and racial discrimination in the housing market continue to lock out BIPOC community members from housing opportunities.[16] Collectively, racial inequities in housing perpetuate and sustain racial residential segregation and racial disparities in housing outcomes.[17] For example, in Montgomery County:

- Roughly three-quarters of White and Asian households own their home compared to 54 percent of Latinx households and 40 percent of Black households (Appendix Table 2).
- Latinx and Black households are more likely than White and Asian households to experience a housing cost burden, spending more than 30 percent of their household income on mortgage or rent (Appendix Table 2).

Due to racial inequities in housing and the racial wealth gap, BIPOC households disproportionately demand affordable housing in the County. Yet growth in demand for affordable rental housing has far exceeded supply. Montgomery Planning's 2020 Housing Needs Assessment Analysis found that:

- There is not enough supply of housing for households earning up to 60 percent Area Median Income (AMI).
- Areas with more relatively affordable housing have faced the most significant pricing pressure, leading to the loss of affordably priced units. [18]

**Accessory Dwelling Units and RESJ.** While ADUs can bring diversity in housing supply, there are significant limitations in their ability to advance racial equity in housing outcomes on their own. Issues with ADUs described in the literature and summarized in OLO's 2024 report on ADUs include:

- **ADU development can be inaccessible to lower-income property owners.** The average cost of building an ADU in Maryland is $200 to $300 per square foot. This means than building an ADU can cost homeowners anywhere between $20,000 to $70,000 for simple interior conversions, $50,000 to $150,000 for full interior units, $100,000 to $300,000 for attached additions, and $240,000 to $360,000 for a 1,200 square foot detached cottage.[19] In addition, homeowners must also pay for architectural and legal services, permits and licenses, and

be willing to bear future costs associated with maintaining the property as a rental unit. The high cost of ADU development frequently makes them inaccessible to lower-income property owners.[20]

- **ADUs can perpetuate preexisting racial inequities in housing policy.** Research shows that without legislation that accounts for racial disparities in housing, ADU policies mostly benefit wealthier, often White, homeowners. ADUs tend to be built in more affluent neighborhoods where owners with larger lots can more easily accommodate both local zoning conditions (setbacks and on-site parking requirements) and high construction costs. As a result, most rental ADUs build wealth for already affluent homeowners.[21] Moreover, because the country's history of racially discriminatory housing policies has resulted in disparately lower property values for BIPOC homeowners,[22] they have a harder time qualifying for the financing needed to build an ADU.[23]

- **ADUs are often unaffordable for lower-income renters in high-demand areas.** Property owners can often charge high rents for ADUs, especially if they are in sought-after markets. For example, in 2022, an ADU in Bethesda rented for an average of $2.90 per square foot.[24] At this rate, an average 800 sq. ft. one-bedroom unit would cost $2,320 per month and an average 1,100 sq. ft. two-bedroom unit would cost $3,190 per month. For comparison, the maximum rent allowed for DHCA-administered programs (such as HIF, Rental Agreements, PILOT, etc.) at 60% of AMI is $1,845 for a one-bedroom and $2,214 for a two-bedroom.[25]

## ANTICIPATED RESJ IMPACTS

To determine the anticipated impact of ZTA 26-06 on RESJ in the County, OLO considers two related questions:

- Who would primarily benefit or be burdened by this ZTA?
- What racial and social inequities could passage of this ZTA weaken or strengthen?

OLO identified the following groups who could be impacted by ZTA 26-06:

**Property Owners.** The intent of ZTA 26-06 is to loosen restrictions for owners to develop ADUs on their properties. According to Montgomery Planning, the current size requirements limit the potential for ADUs to be constructed in some parts of the County. Raising the limit on ADU size to 75 percent of the primary dwelling unit allows property owners with large houses and lot sizes to effectively construct two full-size homes on their lots, increasing the amount of potential revenue from developing an ADU rental.[26] In addition, the ZTA expands the locations in the County where ADUs are allowed as a limited use to everywhere except industrial zones.

OLO does not expect this ZTA to fundamentally change who is able to finance the construction of ADUs and where those ADUs are built. This is because the ZTA does not change the fact that it remains challenging to finance the development of an ADU. As such, OLO anticipates that higher-income property owners, who are disproportionately White and Asian in the County (Appendix Table 2), would primarily benefit from any ADU construction resulting from this ZTA. This could increase property values and provide an additional source of income for these homeowners. Furthermore, since ADUs can only be rented and not sold as separate units, an increase in the number ADUs will not result in an increase in the number of homes available to purchase.

**Community Members Who Demand Rental Housing.** OLO anticipates this ZTA could increase the number of market-rate rental units available in the County. Existing permitting data shown in Figure 2 suggests that additional ADUs would most likely be added to larger and more expensive lots Downcounty in areas such as Bethesda-Chevy Chase and Potomac. As such, the ZTA will likely benefit renters with higher incomes, who are disproportionately White and Asian in the County (Appendix Table 2).

Latinx and Black households experience higher levels of housing insecurity and housing cost burden in the County (Appendix Table 2). If ZTA 26-06 results in the production of ADUs that are rented to the public at below-market rates, BIPOC community members could disproportionately benefit. However, OLO does not anticipate this ZTA would meaningfully increase the availability of below market-rate rental units given the factors stated above.

There remain several unanswered questions in anticipating how ZTA 26-06 will impact the supply of rental units in the County. These include:

1. Will raising the limit on the size of ADUs result in increased construction of ADUs?
2. What proportion of ADUs will be rented out to the public, as opposed to being reserved for family, caregivers, or other off market uses?
3. To what extent will ADUs be rented below the market rate in areas where they are constructed?

Taken together, OLO anticipates ZTA 26-06 could have a negative impact on RESJ in the County. ZTA 26-06 would primarily benefit higher-income property owners and renters in the County who are disproportionately White and Asian. Furthermore, OLO does not anticipate this ZTA would meaningfully increase the availability of below market-rate rental units in the County.

## RECOMMENDED AMENDMENTS

The County's RESJ Act requires OLO to consider whether to recommend amendments to ZTAs that could reduce racial and social inequities and advance RESJ.[27] OLO anticipates ZTA 26-06 could have a negative impact on RESJ in the County. Since the County cannot alter state-level requirements for ADUs, OLO does not offer any recommended amendments to this ZTA. Instead, OLO offers three policy options for the Council's consideration as a companion to this ZTA to improve its potential RESJ impact:

- **Adopt incentives to help property owners with lower-incomes and property values receive low-interest loans to finance the construction of ADUs.** For example, the City of Boston offers support to income-eligible homeowners of 1-3 unit homes through its ADU Financial Assistance Program. Eligible homeowners can receive a grant of up to $7,500 to help with soft costs like design and permitting as well as a deferred loan up to $50,000 with 0% interest to help cover the cost of ADU construction. OLO anticipates that such incentives could enable more BIPOC homeowners to build ADUs and rental units that are affordable to households with low incomes.
- **Direct County departments to provide trainings and permit-ready designs to lower the logistical and design barriers to ADU construction.** For example, homeowners in Boston's ADU Financial Assistance Program are paired with a specialist who provides insight on costs and code requirements for building an ADU, and providers support through construction to monitor progress. OLO anticipates that trainings, easy-to-implement designs, and ongoing logistical support could encourage and support BIPOC homeowners in pursuing ADU construction as a mechanism to increase property values and build wealth.
- **Direct County departments to provide incentives to property owners who agree to long-term affordability covenants for their ADUs.** OLO anticipates that such incentives would increase the supply of ADU rental units affordable to households with low incomes, which are disproportionately Black and Latinx in the County.

## CAVEATS

Two caveats to this RESJIS should be noted. First, predicting the impact of ZTAs on RESJ is challenging due to data limitations, uncertainty, and other factors. Second, this RESJIS 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.

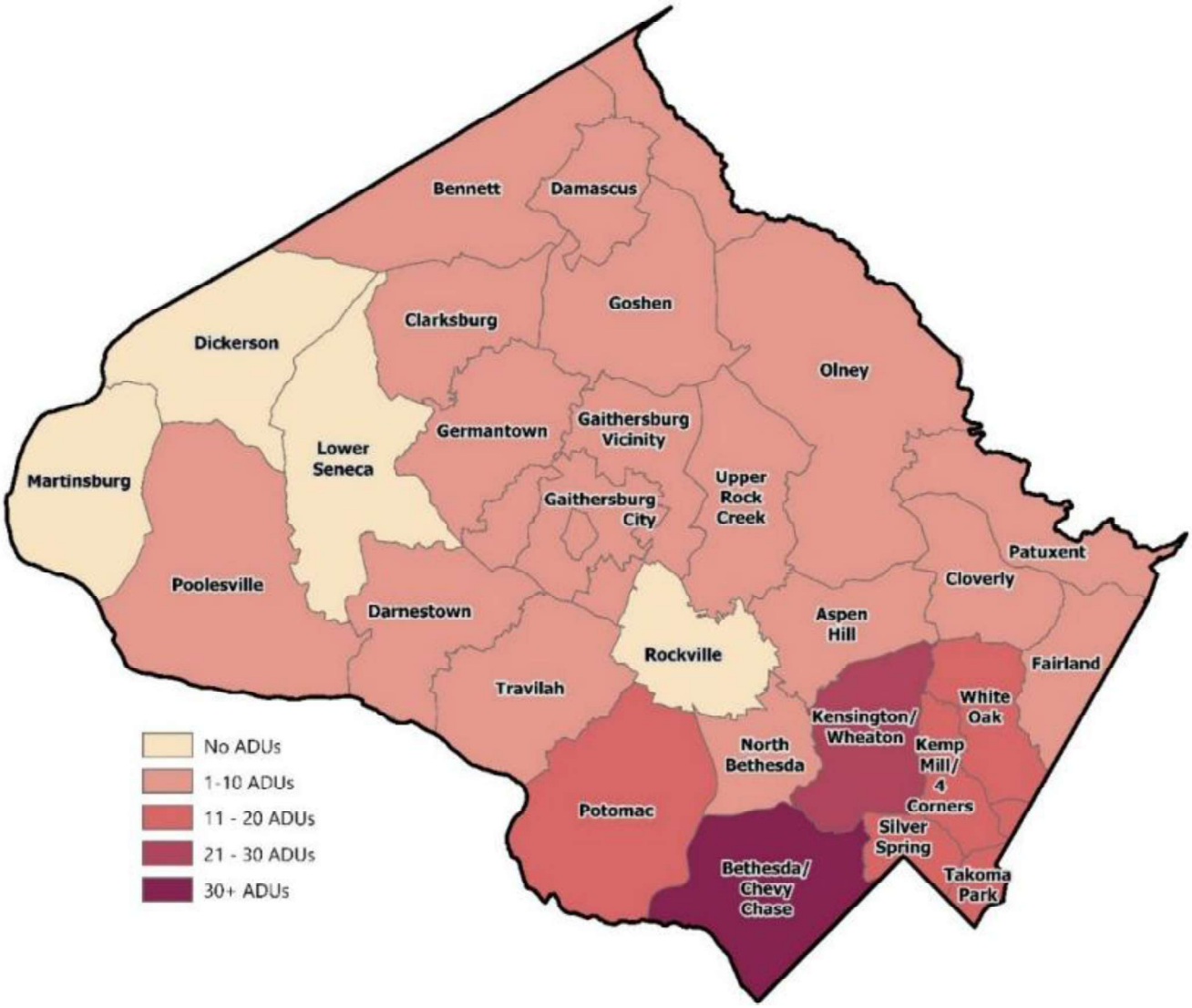
## APPENDIX

**Figure 1. Common Types of Accessory Dwelling Units (ADUs)**




Source: C. Kalyandurg, OLO Report 2024-4: Accessory Dwelling Units, February 6, 2024, page 3.

**Figure 2: ADU Permits in Montgomery County Since 2019**




Source: Montgomery Planning analysis of the Department of Permitting Services Permit Data. ADU ZTA Staff Report, page 3.

**Table 1: Changes Made Under ZTA 26-06 Compared to Current County ADU Policy**

| Category | Current County Law on ADUs | Changes Made Under ZTA 26-06 to Align with New State Law on ADUs |
|---|---|---|
| Definition | A second dwelling unit that is subordinate to the principal dwelling. | Can be no greater than 75% of the size of the primary single-family detached dwelling unit. |
| Square footage | • For attached ADUs, caps the maximum gross floor area at 1,200 square feet or the area of the basement if used for ADU.<br>• For detached ADUs, the maximum gross floor area must be the least of: A) 50% of the footprint of the principal dwelling, B) 10% of the lot area, or C) 1,200 square feet. | Removes cap on gross floor area, as long as the ADU is no greater than 75% of the size of the primary single-family detached dwelling unit. |
| Building type | Can be attached or detached from primary dwelling unit. | No changes. |
| Setbacks | A detached ADU must meet side setbacks equal to that of the principal structure and meet a rear setback of 12 feet. Additionally, if the structure is wider than 24 feet, there must be an additional one-foot setback for each one foot of additional width. | Require the detached ADU to have the same minimum side and rear setbacks as the accessory structure. |
| Parking | • Requires one off-street parking space unless ADU is within one mile of any Metrorail, Purple Line, or MARC Rail Station.<br>• A waiver of parking may be requested of and granted by the Hearing Examiner in the event of adequate on-street parking. | • If the principal dwelling has no existing on-site parking, the ADU only needs to provide the one parking space required for the ADU.<br>• Hearing Examiner can waive parking requirement if size or shape of lot precludes ability to provide additional on-site parking. |
| Allowable zones (use table) | Allows ADUs as a limited use in the Agricultural, Rural Residential, and Residential Detached zones (AR, R, RC, RNC, RE-2, RE-2C, RE-1, R-200, R-90, and R-60). | Allows ADUs as a limited use in all zones where a single-family detached unit is allowed. This is all zones except the Industrial zones (IL, IM, IH). |
| Density calculations | Only excludes ADUs from density calculations in the Agricultural and Rural Residential zones. | Excludes ADUs from density calculations in all Zones where ADUs are allowed. |
| Price controls | None | No change. |

Source: Introduction Staff Report for ZTA 26-06, Montgomery County Council, Introduced April 21, 2026.

**Table 2. Median Household Income, Homeownership Rate, and Cost Burden Rates in Montgomery County, 2024**

| Race and Ethnicity | Median Household Income | Homeownership Rate | Homeowner Cost Burden Rate | Renter Cost Burden Rate |
|---|---|---|---|---|
| White | $164,638 | 77% | 23% | 37% |
| Asian | $147,950 | 71% | 26% | 37% |
| Hispanic or Latino origin (of any race) | $98,644 | 54% | 27% | 56% |
| Black | $92,979 | 40% | 33% | 54% |

Source: Median Household Income: Table S1903, 2024 American Community Survey 5-Year Estimates, Census Bureau.
Homeownership and Cost Burden Rates: Table S0201, 2024 American Community Survey 1-Year Estimates, Census Bureau.

[1] Definition of racial equity and social justice adopted from Marlysa Gamblin et.al., "Applying a Racial Equity Lens into Federal Nutrition Programs," Bread for the World and from Racial Equity Tools.
[2] Ibid.
[3] C. Kalyandurg, OLO Report 2024-4: Accessory Dwelling Units, Office of Legislative Oversight, February 6, 2024.
[4] Montgomery Planning analysis of the Department of Permitting Services Permit Data. ADU ZTA Staff Report, page 3.
[5] Montgomery Planning, ADU ZTA Staff Report, March 19, 2026.
[6] Introduction Staff Report for ZTA 26-06, Montgomery County Council, Introduced April 21, 2026, page 14.
[7] Montgomery Planning, Accessory Dwelling Units (ADUs).
[8] Introduction Staff Report for ZTA 26-06, Montgomery County Council, Introduced April 21, 2026.
[9] Ibid.
[10] Ibid.
[11] OLO conversation with Montgomery Planning staff. April 10, 2026.
[12] Note, this ZTA will become effective 20 days after the date of Council adoption.
[13] RESJIS for ZTA 26-04, Office of Legislative Oversight, February 12, 2026.
[14] E. Bonner-Tompkins, J. Peña, & E. Tesfaye, OLO Report 2024-11: Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development, Office of Legislative Oversight, June 18, 2024.
[15] R. Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*, 2017.
[16] KY. Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*, 2019.
[17] E. Bonner-Tompkins, J. Peña, & E. Tesfaye, OLO Report 2024-11: Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development, Office of Legislative Oversight, June 18, 2024.
[18] Montgomery Planning, Montgomery County Housing Needs Assessment, July 2020.
[19] The Foley Group of Compass, Silver Spring ADU Rules, Costs, Permits and Uses, November 21, 2025.
UP Craftsmen, Building an ADU when interest rates are high in Montgomery County MD.
[20] Chicago Metropolitan Agency for Planning, What Your Community Needs to Know About Accessory Dwelling Units, May 12, 2023.
[21] S.R. King, Why ADUs Can't Solve the Nation's Housing Crisis, Shelterforce.com, May 17, 2022.
[22] Kijakazi, Kilolo, et al., The Color of Wealth in the Nation's Capital, Urban Institute, 2016; Rothstein, R., *The Color of Law*, 2017.
[23] King, Why ADUs Can't Solve the Nation's Housing Crisis.
[24] Montgomery Planning, Overview of Rental Housing in Montgomery County, MD, February 2023.
[25] Montgomery County Department of Housing and Community Affairs, 2025 Rent and Income Limits, effective June 15, 2025.
[26] OLO conversation with Montgomery Planning staff. April 30, 2026.
[27] Bill 44-20, Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments, Montgomery County Council.