

Ordinance No.: 19-37
Zoning Text Amendment No.: 22-09
Concerning: Accessory Structures –
Use Standards
Draft No. & Date: 2 – 9/23/2022
Introduced: July 26, 2022
Public Hearing: September 13, 2022
Adopted: October 11, 2022
Effective: October 31, 2022

**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.*

OPINION

Zoning Text Amendment (ZTA) 22-09, Accessory Structures – Use Standards, lead sponsor Councilmember Riemer and co-sponsor Councilmember Hucker, was introduced on July 26, 2022. ZTA 22-09 will create use standards for pool enclosures.

The Office of Legislative Oversight provided a Racial Equity and Social Justice (RESJ) Impact Statement on August 30, 2022. OLO found that ZTA 22-09 would have little or no impact on racial equity and social justice in the County because it would apply to all single-family detached residential developments.

A public hearing was held on September 13, 2022. Two speakers, including the Planning Board Chair, testified in support of ZTA 22-09 with amendments.

The Planning Board reviewed ZTA 22-09 at its meeting on September 8, 2022. The Planning Board recommended approval of ZTA 22-09 with an amendment that the new provisions would only apply to inground swimming pools.

The PHED Committee held a worksession on September 23, 2022. The PHED Committee recommended approval of ZTA 22-09 with two amendments: 1) limiting pool enclosures to inground swimming pools; and 2) increasing the maximum height from 7 feet to 8 feet.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 22-09 will be approved as amended.

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:
- i. the pool enclosure, not including the rafters, is translucent or transparent;
 - ii. the pool enclosure has a height of ~~[[7]]~~8 feet or less;
 - iii. the pool enclosure surrounds and covers an inground swimming pool;
 - ~~[[iii]]~~iv. 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
 - ~~[[iv]]~~v. 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)

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F. AR Zone, Standard Method Development Standards

	Detached House or a Building for a Cultural Institution, Religious
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	Assembly, Public Use, or a Conditional Use allowed in the zone
* * *	
3. Placement	
* * *	
Specification for Principal Building and Accessory Structure Setbacks	
* * *	
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.	
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>	
<u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u>	
<u>2. the pool enclosure has a height of [[7]] 8 feet or less;</u>	
<u>3. the pool enclosure surrounds and covers an inground swimming pool;</u>	
<u>[[3]] 4. 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]] 5. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.</u>	

* * *

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

Division 4.3. Rural Residential Zones

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

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56 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	
* * *	
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.	
<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>	
<u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u>	
<u>2. the pool enclosure has a height of [[7]]8 feet or less;</u>	
<u>3. the pool enclosure surrounds and covers an inground swimming pool;</u>	

[[3]]4. 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]]5. 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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58 **Section 4.3.4. Rural Cluster Zone (RC)**

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60 **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)	
* * *	
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.	
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>	

1. the pool enclosure, not including the rafters, is translucent or transparent;
2. the pool enclosure has a height of ~~[[7]]~~8 feet or less;
3. the pool enclosure surrounds and covers an inground swimming pool;
~~[[3]]~~4. 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]]~~5. 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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62 **Section 4.3.5. Rural Neighborhood Cluster Zone (RNC)**

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64 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		* * *
* * *		
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.		

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]]~~8 feet or less;

3. the pool enclosure surrounds and covers an inground swimming pool;

~~[[3]]~~4. 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]]~~5. 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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Sec. 4. Division 59-4.4 is amended as follows:

Division 4.4. Residential Zones

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

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B. RE-2 Zone, Standard Method Development Standards

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious
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	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]]8 feet or less;</u> <u>3. the pool enclosure surrounds and covers an inground swimming pool;</u> <u>[[3]]4. 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]]5. 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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73 **Section 4.4.5. Residential Estate – 2C Zone (RE-2C)**

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75 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.	
<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>	
<u>1. the pool enclosure, not including the rafters, is translucent or transparent;</u>	
<u>2. the pool enclosure has a height of [[7]]8 feet or less;</u>	
<u>3. the pool enclosure surrounds and covers an inground swimming pool;</u>	
<u>[[3]]4. 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>	

[[4]]5. 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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77 **Section 4.4.6. Residential Estate – 1 Zone (RE-1)**

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79 **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. <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>	
1. <u>the pool enclosure, not including the rafters, is translucent or transparent;</u>	
2. <u>the pool enclosure has a height of [[7]]8 feet or less;</u>	

3. the pool enclosure surrounds and covers an inground swimming pool;
[[3]]4. 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]]5. 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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81 **Section 4.4.7. Residential – 200 Zone (R-200)**

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83 **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.	
<u>c. Where the construction of a pool enclosure would cause the cumulative footprint of all accessory buildings, including the pool enclosure, to exceed 50%</u>	

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]]~~8 feet or less;
3. the pool enclosure surrounds and covers an inground swimming pool;
- ~~[[3]]~~4. 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]]~~5. 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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85 **Section 4.4.8. Residential – 90 Zone (R-90)**

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87 **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	
* * *	

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]]~~8 feet or less;
3. the pool enclosure surrounds and covers an inground swimming pool;
- ~~[[3]]~~4. 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]]~~5. 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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89 **Section 4.4.9. Residential – 60 Zone (R-60)**

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91 B. R-60 Zone, Standard Method Development Standards

1. Lot and Density	Detached House or a Building for a Cultural Institution, Religious
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	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]]8 feet or less;</u> <u>3. the pool enclosure surrounds and covers an inground swimming pool;</u> <u>[[3]]4. 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]]5. the cumulative footprint of the pool enclosure and all other accessory buildings on the property does not exceed 1,200 square feet.</u> 	

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

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95 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. <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</u>		

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]]~~8 feet or less;

3. the pool enclosure surrounds and covers an inground swimming pool;

~~[[3]]~~4. 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]]~~5. 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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97 **Sec. 5. Effective date.** This ordinance becomes effective 20 days after the
98 date of Council adoption.

This is a correct copy of Council action.

A handwritten signature in cursive script, reading "Judy Rupp", is written over a horizontal line.

Judy Rupp
Clerk of the Council