

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

Office of Legislative Oversight

ZTA 25-06: VEHICLE SERVICE - FILLING STATION

SUMMARY

The Office of Legislative Oversight (OLO) cannot anticipate the racial equity and social justice impact (RESJ) of ZTA 25-06: Vehicle Service - Filling Station with available data. While OLO anticipates that ZTA 25-06 could benefit gas station owners and potentially harm households and organizations located near gas stations that could be expanded, racial demographic data on the specific residents that could be impacted by this ZTA are not available. OLO offers two options for the Council's consideration to improve the potential RESJ impact of ZTA 25-06.

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 with 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 25-06

The Zoning Ordinance allows filling stations (i.e. gas stations) in Commercial Residential and Commercial Residential Town zones, all four of the employment zones, and in the Light and Medium Industrial zones through the approval of a conditional use application by the Hearing Examiner.³ For filling stations that dispense at least 3.6 million gallons per year, the Zoning Ordinance also requires a setback of:

“(A)t least 500 feet from the lot line of any land with a dwelling unit; public or private school; park; playground; day care center; any outdoor use categorized as a Civic and Institutional use or a Recreation and Entertainment use; or any wetland, stream, river, flood plain, or environmentally sensitive area.”⁴

ZTA 25-06, if enacted, would clarify this existing setback policy to use the location of a filling station's fuel dispenser for the required setback rather than the nearest structure from the above listed uses.⁵ ZTA 25-06 would also remove the applicability of a nonconforming use to filling stations if they were built before any structures or functions that require the 500-foot setback. Currently, the Zoning Ordinance specifies that nonconforming uses including filling stations may continue to operate but may not expand.⁶ By amending the nonconforming use applicability ZTA 25-06 would allow gas stations to expand and abut adjacent residential communities, parks, and schools if the gas station was built before these other structures.⁷

RESJ Impact Statement

Zoning Text Amendment 25-06

ZTA 25-06 was introduced on May 6, 2025. This RESJ impact statement builds on the OLO RESJIS completed for ZTA 25-05, Development Standards - Optional Method Public Benefits.⁸ For additional background on residential segregation and racial inequities in housing, property ownership, and housing affordability, please refer to this RESJIS and OLO Report 2024-11, Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development.⁹

RACIAL INEQUITY AND POLLUTANTS

Communities of color at every income level are exposed to higher levels of air pollution in the United States. Due to systemic racism in land use policies and planning, the current spatial distribution of pollution sources (factories, landfills, highways, etc.) are overwhelmingly located in neighborhoods with mostly BIPOC residents compared to neighborhoods with mostly White residents. Neighborhoods with mostly Black residents also tend to experience worse air quality due to historic policies that explicitly targeted Black people and neighborhoods, such as redlining.¹⁰

A report co-written by the National Association for the Advancement of Colored People (NAACP) and the Clean Air Task Force found that Black people were 75 percent more likely than White people to live in “fence-line” communities, meaning areas near commercial facilities that produce noise, odor, traffic, or emissions that directly affect the population.¹¹ Exposure to poor air quality can cause numerous health problems, especially for younger and older people, and this inequitable exposure to poor air quality has created racial health disparities such as:

- Data show that approximately 13.4 percent of Black children are diagnosed with asthma compared to 7.3 percent of White children;¹²
- Studies looking at mortality rates in Medicaid data found that those who live in predominately Black communities face higher rates of premature death from air pollution than those who live in predominately White communities;¹³ and
- One study found that Asian, Black, and Latino people are susceptible to higher rates of premature death from air pollution compared to White people, and income did not drive these differences.¹⁴

A review of available research did not yield information on whether the health impacts of living near gas stations varies by race or ethnicity. However, there is research describing the adverse health impacts of gas stations as follows:

- Several studies show an association between residential proximity to a gas station during childhood and an increased risk of childhood leukemia;¹⁵
- Living near a gas station increases your risk of exposure to benzene, a well-known human carcinogen. Exposure to benzene can come from eating or drinking food contaminated by a gas leak or spill where the benzene enters the groundwater supply or through the air;¹⁶ and
- Gas stations can contribute to noise pollution through increased traffic and long periods of cars and gas tankers idling. Long term exposure to noise pollution can impact human health by impacting sleep which increases risk of heart disease and causes hearing loss.¹⁷

RESJ Impact Statement

Zoning Text Amendment 25-06

Setbacks for filling stations from residential areas can alleviate risk and Montgomery County's current regulation is a 500-foot setback for stations that dispense at least 3.6 million gallons per year.¹⁸ However, setbacks are only based on cancer risk and they do not account for other health impacts such as asthma, other respiratory illnesses, or health impacts from noise pollution.¹⁹ Therefore, the County's setback regulations for filling stations do not account for air pollution exposure or the health disparities that would especially impact Black residents.²⁰

ANTICIPATED RESJ IMPACT

To consider the anticipated impact of ZTA 25-06 on racial equity and social justice, OLO considers two related questions:

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

OLO considered the potential benefits and burdens of ZTA 25-06 for two sets of stakeholders:

- **Gas Station Owners and Related Businesses:** Gas station owners and related businesses such as food and convenience stores could benefit significantly from ZTA 25-06 as it reduces setback requirements and allows gas stations to expand. If ZTA 25-06 benefited White business owners more than BIPOC business owners, racial inequities in business revenue would likely widen (Appendix, Table 1). OLO, however, cannot discern whether White business owners would benefit disproportionately from this ZTA.
- **Households Residing Near Gas Stations:** Households living in areas where nonconforming gas stations would be allowed to expand may face negative health impacts from ZTA 25-06. BIPOC communities are especially vulnerable to harmful effects of pollutants emanating from gas stations and other pollutant sources. Conversely, households residing near expanded gas stations may experience economic benefits from being proximate to these and related businesses. These economic benefits, however, could be more than offset by the heightened health risks associated with gas stations. If BIPOC households are more likely to be located near nonconforming gas stations that are allowed to expand, health disparities exacerbated by pollutants are likely to expand. OLO, however, cannot discern whether BIPOC residents would be disproportionately harmed by this ZTA.

In sum, OLO anticipates that ZTA 25-06 could benefit gas station owners and potentially harm households and organizations located near gas stations that could be expanded. OLO, however, cannot anticipate the RESJ impact of ZTA 25-06 with existing data.

RECOMMENDED AMENDMENTS

Bill 44-20 requires OLO to consider whether recommended amendments to zoning text amendments aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.²¹ OLO cannot discern the anticipated impact of ZTA 25-06 on RESJ in the County. Therefore, OLO does not offer recommended amendments for ZTA 25-06. To improve the potential RESJ impact of ZTA 25-06, OLO offers two policy options for consideration:

RESJ Impact Statement

Zoning Text Amendment 25-06

- **Require 500-foot Setback from Schools, Daycares, and Parks for Nonconforming Filling Stations.** If schools, daycares, parks, and other public institutions and uses are located on adjacent or nearby properties, require nonconforming gas stations that expand to maintain 500-foot setback from their property line from their conditional use approval. This additional setback requirement would ensure adequate buffering to protect the health and safety of area residents and visitors.
- **Require 500-foot Setback from Environmentally Sensitive Elements for Nonconforming Filling Stations.** If environmentally sensitive elements (e.g. wetland, stream, river, floodplain) are located on adjacent or nearby properties, require nonconforming filling stations that expand to position all underground storage tanks at least 500 feet away from any environmental elements. This 500-foot set back requirement could help mitigate the risks to area residents and visitors associated with gasoline leaks that can pollute groundwater. While leaking underground storage tanks can be found in nearly every town across the United States, residents living closest to these sites often belong to communities with lower incomes and a higher proportion of BIPOC, according to the Environmental Protection Agency.²²

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.

Appendix

Table 1: Revenues per Firm by Race/Ethnicity: Montgomery, MD; Firms with Paid employees - 2022

Race and Ethnicity ²³	Average Annual Receipts Per Firm (in millions)
Asian	\$1.71
Black	\$1.44
Latinx	\$1.29
Native American	\$1.64
Pacific Islander	\$4.65
White	\$4.13
All	\$3.10

Data source: Annual Business Survey and Nonemployer Statistics by Demographics series; Survey of Business Owners; American Community Survey National Equity Atlas. 2022

RESJ Impact Statement

Zoning Text Amendment 25-06

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 Gas stations are not allowed as a conditional use in Commercial Residential Neighborhood or Heavy Industrial zones. There are also additional restrictions for filling stations within the Takoma Park/East Silver Spring Commercial Revitalization Overlay Zone, the Sandy Spring/Ashton Rural Village Overlay Zone, and Burtonsville Employment Area Overlay Zone.

⁴ American Legal Publishing. Montgomery County Zoning Ordinance (2014)

https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-2044

⁵ Montgomery County Council. Introduction Zoning Text Amendment (ZTA) 25-06, Vehicle Service - Filling Station. Staff Report. May 6, 2025

⁶ If the nonconforming filling station ceases to operate for more than six months, the operation may not resume.

⁷ As observed in the Zoning Ordinance, the lawful nonconforming use of a structure or lot must not be expanded unless in the Agricultural Reserve zone, a federal or state health or safety law, regulation, or agency requires or recommends the expansion for safety purposes. Before expanding the use or structures, the property owner must provide to the Director of the Department of Permitting Services a certification from the applicable federal or state entity that the expansion or enlargement is necessary. Section 7.72.A, Chapter 59, Montgomery County Zoning Ordinance (2014). May 21, 2025

⁸ Office of Legislative Oversight. Racial Equity Social Justice Impact Statement. ZTA 25-05 Development Standards, Optional Method Public Benefits.

<https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/ZTA/2025/ZTA25-05.pdf>

⁹ Bonner-Tompkins, Elaine, Janmarie Peña, Elsabett Tesfaye. Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development. Report Number 2024-11. June 18, 2024.

https://www.montgomerycountymd.gov/OLO/Resources/Files/2024_reports/OLReport%202024-11.pdf

¹⁰ Lane, H., et. al., "Historical Redlining is Associated with Present-Day Air Pollution Disparities in U.S. Cities", *Environmental Science & Technology Letters*, 3/9/22.; American Lung Association, "Air Pollution and Health Equity: A Closer Look at How Redlining and E-Commerce Affect the Air We Breathe", 6/14/22.

¹¹ [CATF Pub FumesAcrossTheFenceLine.pdf](#)

¹² Princeton Student Climate Initiative, "Racial Disparities and Climate Change", 8/15/23.

¹³ Zeger, S., et. al., "Mortality in the Medicare Population and Chronic Exposure to Fine Particulate Air Pollution in Urban Centers", *Environmental Health Perspectives*, 8/12/08.

¹⁴ [United States Environmental Protection Agency, "Study Finds Exposure to Air Pollution Higher for People of Color Regardless of Region or Income", 11/20/21.](#)

¹⁵ [Residential Proximity to Environmental Hazards and Adverse Health Outcomes; Childhood Leukemia and Traffic Air Pollution in Taiwan: Petrol Station Density as an Indicator; Acute childhood leukemia and environmental exposure to potential sources of benzene and other hydrocarbons; a case-control study - PubMed; Analysis of incidence of childhood cancer in the West Midlands of the United Kingdom in relation to proximity to main roads and petrol stations. | Occupational & Environmental Medicine](#)

¹⁶ [en-RSP-v047n002-AO4381-p3.indd](#)

¹⁷ [Environmental Noise Pollution in the United States: Developing an Effective Public Health Response | Environmental Health Perspectives | Vol. 122, No. 2; JHE-16-3-181-187-2004-Singh-N-libre.pdf](#)

¹⁸ [Vent pipe emissions from storage tanks at gas stations: Implications for setback distances - ScienceDirect; Zoning Text Amendment No: 10-xx](#)

¹⁹ [Vent pipe emissions from storage tanks at gas stations: Implications for setback distances - ScienceDirect](#)

²⁰ Princeton Student Climate Initiative, "Racial Disparities and Climate Change", 8/15/23.; Zeger, S., et. al., "Mortality in the Medicare Population and Chronic Exposure to Fine Particulate Air Pollution in Urban Centers", *Environmental Health Perspectives*, 8/12/08.; Liu, J., et. al., "Disparities in Air Pollution Exposure in the United States by Race/Ethnicity and Income, 1990-2010", *Environmental Health Perspectives*, 12/15/21.

RESJ Impact Statement

Zoning Text Amendment 25-06

²¹ Bill 44-20, Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments, Montgomery County, Maryland, December 1, 2020.

https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2682_1_12149_Bill_44-20_Signed_20201211.pdf

²²Gass-Pooré, Jordan. The Uproot Project. Beneath the surface: Leaky storage tanks pose unseen environmental threats. The Christian science Monitor. May 30, 2024.

<https://www.csmonitor.com/Environment/2024/0530/gasoline-leaks-underground-tanks-EPA>