

# Racial Equity and Social Justice (RESJ) Impact Statement

## Office of Legislative Oversight

### ZTA 25-14: Optional Method Public Benefits – Overlay Zones

#### SUMMARY

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The Office of Legislative Oversight (OLO) finds the anticipated racial equity and social justice (RESJ) impact of ZTA 25-14 is indeterminate. There is not enough information for OLO to estimate how ZTA 25-14 will affect housing outcomes and access to public benefits among community members by race and ethnicity in impacted overlay zones.

#### PURPOSE OF RESJ STATEMENTS

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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.<sup>1</sup> This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.<sup>2</sup>

#### PURPOSE OF ZTA 25-14

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In the County, Optional Method Development<sup>3</sup> allows developers to increase the density<sup>4</sup> of development projects if they incorporate certain public benefits<sup>5</sup> into the projects. In July 2025, the Council adopted ZTA 25-05, which updated the County's public benefits policy for development projects.<sup>6</sup> The updated policy, called the [Incentive Density Zoning policy](#), became effective starting January 2026.

Table 1 in the Appendix summarizes the public benefits under the County's Incentive Density Zoning policy. The policy includes a total of 14 public benefits across four categories. Through the policy, developers are able to earn more density for development projects by providing public benefits on a tiered scale. This includes public benefits such as:

- Development projects with more Moderately Priced Dwelling Units (MPDUs) than the required minimum;
- Development projects that exceed the County's required energy efficiency standards;
- Space or construction for public facilities such as bus stops/stations, public parking, and major facilities like schools and libraries; and
- Art and placemaking amenities such as installing public art, organizing public programming, and providing affordable housing for artists.

The purpose of ZTA 25-14 is to amend the public benefits standards in overlay zones<sup>7</sup> to make them consistent with the Incentive Density Zoning policy. If enacted, ZTA 25-14 would apply the new Incentive Density Zoning policy adopted in ZTA 25-05 to the following overlay zones:<sup>8</sup>

- Bethesda (B) Overlay Zone;
- Downtown Silver Spring (DSS) Overlay Zone;
- Germantown Transit Mixed Use (GTMU) Overlay Zone;

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- Great Seneca Life Sciences (GSLs) Overlay Zone; and
- Transferable Development Rights (TDR) Overlay Zone.

The intent of ZTA 25-14 is to update the language of how the public benefit system applies to overlay zones, which prioritize certain public benefits based on area master plans. According to Montgomery Planning, ZTA 25-14 is intended to be a technical update that does not change public benefit policy or underlying incentives in overlay zones.<sup>9</sup>

The Council introduced ZTA 25-14 on December 2, 2025.<sup>10</sup>

This RESJIS builds on the one for ZTA 25-05, Development Standards – Optional Method Public Benefits.<sup>11</sup> 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.<sup>12</sup>

### ANTICIPATED RESJ IMPACTS

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To determine the anticipated impact of ZTA 25-14 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 25-14:

- **Developers and Construction Firms.** Developers and construction firms operating in one or more impacted overlay zones would be subject to the new Optional Method Public Benefits System (Incentive Density Zoning) if ZTA 25-14 is enacted. ZTA 25-14, however, does not create new public benefits or development density incentives in overlay zones. Montgomery Planning’s intent is for developers to choose more impactful public benefits that align with Countywide priorities and local needs.<sup>13</sup> OLO, however, cannot discern whether developers will change the mix of public benefits they offer or the densities they seek based on ZTA 25-14. Nor can OLO assess what potential impact these changes would have on RESJ in the County.
- **Current and Future Community Members of Overlay Zone Areas.** Community members residing in five overlay zones could experience greater densities and more public benefits if ZTA 25-14 is enacted. ZTA 25-14 would continue to allow developers to build at higher densities in overlay zones in exchange for creating public benefits for community members in those areas. As previously noted, developers could provide a range of public benefits such as additional MPDUs, energy efficient buildings, new public facilities, and art and placemaking amenities. OLO, however, cannot discern whether developers will change the densities they seek or the mix of public benefits they provide based on ZTA 25-14. Nor can OLO assess what potential impact these changes would have on community members overall or by race and ethnicity.

Taken together, OLO finds the anticipated RESJ impact of ZTA 25-14 is indeterminate.

### RECOMMENDED AMENDMENTS

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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.<sup>14</sup> OLO finds the anticipated RESJ impact of ZTA 25-14 is indeterminate. As such, OLO does not offer recommended amendments. However, should the Council seek to improve the RESJ impact of this ZTA, OLO offers one policy option for Council consideration:

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- **Require Montgomery Planning to provide an annual RESJ report on Incentive Density Zoning policy.** The Council could require Montgomery Planning to provide an annual report that monitors how the Incentive Density Zoning policy is impacting RESJ in the County. This report could include a summary of public benefits provided throughout the County and how the geographic distribution of benefits relates to community member demographics by race and ethnicity. In collaboration with Montgomery Planning, the Council can use this data to monitor progress, evaluate how public benefits are supporting or detracting from RESJ in the County, and inform future amendments to the Incentive Density Zoning policy.

### 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

**Table 1. New Optional Method Public Benefits System: Categories, Benefits, and Intent**

| Category   | Benefit                                 | Intent  |
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| <b>Housing for All</b><br>(Countywide Priority)          | <b>Moderately Priced Dwelling Units</b> | Incentivize development applications to deliver more MPDUs than the County or master plan required minimum.   |
| <b>Housing for All</b><br>(Countywide Priority)          | <b>Family Sized Units</b>               | Incentivize developments that accommodate larger families and intergenerational households.   |
| <b>Housing for All</b><br>(Countywide Priority)          | <b>Deeper Levels of Affordability</b>   | Incentivize developments that have a lower MPDU target Area Median Income (AMI) than set forth by the County MDPU law.  |
| <b>Environmental Resilience</b><br>(Countywide Priority) | <b>Energy Efficiency</b>                | Incentivize development applications that exceed Montgomery County's required energy efficiency standards.  |
| <b>Environmental Resilience</b><br>(Countywide Priority) | <b>Renewable Energy</b>                 | Incentivize developments that generate renewable energy on site or utilize renewable energy sourced from the regional catchment areas to help achieve the County's Climate Action Plan goals. |
| <b>Environmental Resilience</b><br>(Countywide Priority) | <b>Green Buildings</b>                  | Incentivize developments with sustainably constructed buildings that pursue and achieve the Alternative Compliance Path for Green Buildings through LEED or an                                |

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|  |   | alternative certification program approved by the County.   |
| <b>Environmental Resilience</b><br>(Countywide Priority)                   | <b>Sustainable Site Design</b>                | Incentivize developments that incorporate sustainable design elements into their site layout and buildings. Includes elements such as green roofs, bird deterrence, pervious pavement, and retaining existing trees.  |
| <b>Infrastructure for Compact Growth</b><br>(Local Needs Per Master Plans) | <b>Off-site Improvements</b>                  | Incentivize developments that enhance connectivity by creating an infrastructure framework that supports compact growth. Incentivized public benefits include new streets, new or upgraded sidewalks, bikeways, transit access improvements, and streetscape improvements such as seating, tree canopy, and lighting. |
| <b>Infrastructure for Compact Growth</b><br>(Local Needs Per Master Plans) | <b>Public Facilities</b>                      | Incentivize providing space or construction for single-point facilities such as bus stops/stations, bicycle parking and storage, burying transformers and utility boxes, public parking, and major facilities such as police or fire stations.  |
| <b>Infrastructure for Compact Growth</b><br>(Local Needs Per Master Plans) | <b>Street Grid and Multi-Modal Extensions</b> | Incentivize developments that enhance the transportation network by building new streets and completing missing segments of pedestrian and bicycle infrastructure.  |
| <b>Complete Communities</b><br>(Local Needs Per Master Plans)              | <b>Art and Placemaking</b>                    | Provide artistic elements in projects, install public art, organize publicly accessible programming, provide affordable housing for artists, or construct art facilities.   |
| <b>Complete Communities</b><br>(Local Needs Per Master Plans)              | <b>Neighborhood Services and Mixed Use</b>    | Provide neighborhood serving uses, space for community meeting rooms and events, or construct a major public facility like a library or a recreation center.  |
| <b>Complete Communities</b><br>(Local Needs Per Master Plans)              | <b>Great Public Realm</b>                     | Improve an existing park or provide a new park or privately owned public open space (POPS) with high quality features and amenities.  |
| <b>Complete Communities</b><br>(Local Needs Per Master Plans)              | <b>Design Excellence</b>                      | Substantially conform to Design Guidelines and implement design excellence strategies related to building footprint, massing, architecture, parking, or achieve WELL or a Living Building Challenge certification.  |

Source: Montgomery Planning, [Incentive Density Implementation Guidelines for CR and CRT Zones](#), Draft 2025.

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<sup>1</sup> 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](#).

<sup>2</sup> Ibid.

<sup>3</sup> Optional Method Development is a planning tool that enables developers to satisfy specific development standards through alternative strategies or approaches, such as lot size, setback, density, and height requirements. This method allows developers to achieve higher densities, create more innovative designs, or address site constraints while still conforming to the overall objectives of the development plan. The public benefits system applies under the Optional Method Development, when a project proposes to develop with more density than allowed under the Standard Method (0.5 FAR). Optional method projects require a Sketch Plan and Site Plan approval from the Planning Board and the provision of public benefits.

Montgomery Planning, [Incentive Density Implementation Guidelines for CR and CRT Zones](#), Draft 2025.

<sup>4</sup> The Montgomery County Planning Department defines density as a “measure of the amount of development on a property. Density is often expressed as the number of residential units per acre of land (or another unit of measure), or the total amount of residential or commercial square footage on a property.” When expressed as the ratio of residential or commercial square footage to square footage of lot area, it is called Floor Area Ratio (FAR). For example, if a 2,500-square-foot lot has a FAR of 2.0, the developer can build a structure with a total of 5,000 square feet of floor space. This could take the form of a two-story building that covers the entire lot or a four-story building that covers half the lot.

[Planning Glossary - Terms Explained | Montgomery Planning](#). Housing Affordability Institute, [FAR Housing Policy Explainer](#), 2024.

<sup>5</sup> The Montgomery County Planning Department defines public benefits as a “broad range of amenities or features that are provided through the development review process that enhance or contribute to the objectives of a zone or a master plan.” The zoning regulations uses a public benefit system to incentivize developers to provide amenities that benefit the community allowing them to build at greater density and height in exchange for these public benefits.

[Planning Glossary - Terms Explained | Montgomery Planning](#)

<sup>6</sup> [Action Staff Report for Zoning Text Amendment \(ZTA\) 25-05, Development Standards - Optional Method Public Benefits](#).

Montgomery County Council, July 29, 2025.

<sup>7</sup> Overlay zones establish requirements and standards in addition to those of the underlying zone that are necessary to achieve the planning goals and objectives for development or redevelopment of an area. Overlay zones are created in areas of critical public interest and provide uniform comprehensive development regulations for an area.

[Planning Glossary - Terms Explained | Montgomery Planning](#)

<sup>8</sup> [Introduction Staff Report for Zoning Text Amendment \(ZTA\) 25-14, Optional Method Public Benefits – Overlay Zones](#), Montgomery County, Introduced December 2, 2025.

<sup>9</sup> OLO conversation with Montgomery Planning staff. December 5, 2025.

<sup>10</sup> Of note, development applications submitted before ZTA 25-14's effective date would be reviewed under the previous public benefits policy. However, applicants may choose to have it reviewed under the new Incentive Density Zoning policy. Additionally, for any applications submitted within 12 months of the ZTA's effective date, applicants may choose to have it reviewed under the previous policy or the new policy.

[Introduction Staff Report for Zoning Text Amendment \(ZTA\) 25-14, Optional Method Public Benefits – Overlay Zones](#), Montgomery County, Introduced December 2, 2025.

<sup>11</sup> OLO RESJIS. [ZTA 25-05: Development Standards – Optional Method Public Benefits](#). May 21, 2025.

<sup>12</sup> Elaine Bonner-Tompkins, Janmarie Peña, Elsabet Tsfaye. [Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development](#). Report Number 2024-11. June 18, 2024.

<sup>13</sup> OLO conversation with Montgomery Planning staff. December 12, 2025.

<sup>14</sup> [Bill 44-20, Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments, Montgomery County Council](#).