

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF HAVRE DE GRACE PURSUANT TO THE AUTHORITY GRANTED BY THE MARYLAND CONSTITUTION ARTICLE XI-E, THE LOCAL GOVERNMENT ARTICLE OF THE MARYLAND ANNOTATED CODE, AND CITY CHARTER SECTION 33 AND 34, AMENDING THE CITY CODE SECTION 67: ETHICS

WHEREAS, the Mayor and City Council of Havre de Grace (“Council”) has by Resolution 2018-13 adopted an Anti-Harassment, Anti-Discrimination, and Anti-Intimidation Policy (“Policy”) applicable to members of City Council, City Commissions, Committees and Boards; and

WHEREAS, the Council held a public work session on August 29, 2018 to amend Ordinance 1008, dealing with a similar amendment to the Ethics Code; and

WHEREAS, due to the additional time needed to amend Ordinance 1008, and receive the State Ethics Commission approval to amend the Ethics Code, Ordinance 1008 was not enacted within 180 days and was deemed to have failed pursuant to Charter Section 19D;

WHEREAS, the Council seeks to amend the Ethics Code to permit enforcement of the Policy as permitted by the State Ethics Commission letter dated February 24, 2019; therefore

BE IT ORDAINED that City Code Chapter 67: Ethics (“Ethics Code”) shall be amended with new language added as shown below in **bold underscore** and shall otherwise remain unchanged.

Add new subsection “P” under Section 67-3 titled “Prohibited Conduct; Conflicts of Interest,” as follows:

P. Anti-Harassment, Anti-Discrimination, Anti-Intimidation Policy.

It is the policy of the City of Havre de Grace, Maryland, to maintain a

1 work and meeting environment in which all individuals are treated with
2 respect and dignity. Harassment, whether verbal or non-verbal, physical,
3 or environmental, is unacceptable and will not be tolerated by the City of
4 Havre de Grace. The Mayor and City Council of Havre de Grace has
5 adopted by Resolution an Anti-harassment, Anti-discrimination, and
6 Anti-intimidation Policy, as recommended by the Ethics Commission
7 which more specifically enumerates the prohibited conduct. Any
8 violations of the Policy shall be subject to enforcement and potential
9 penalties as set forth in Section 67-7G of the Ethics Code.

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11 Add a new subsection “G” to Section 67-7 titled “Enforcement; violations and
12 penalties”:

13 G. The Anti-Harassment, Anti-Discrimination, Anti-Intimidation Policy
14 (“Policy”) shall be enforced in the following manner:

15 (1) A complaint regarding a violation of the Code of Conduct may
16 be filed with the Mayor, the Ethics Commission Chair or Member,
17 Human Resources Officer, the Director of Administration, or the
18 City Attorney.

1 **(2) Upon receiving a complaint, the person receiving the complaint**
2 **must forward the complaint to the Director of Administration for**
3 **safe keeping. The Director of Administration will notify The**
4 **Chairman of Ethics Commission to schedule an Ethics Commission**
5 **meeting and review. The Ethics Commission may take one of the**
6 **following actions depending on the circumstances of the alleged**
7 **violations of law or policy:**

8 **(a) Take no action; or**

9 **(b) Initiate an investigation of the allegations before**
10 **considering any discipline identified in this Ordinance; or**

11 **(c) Based upon substantive evidence, take one of the**
12 **disciplinary actions identified in this Ordinance after finding**
13 **a violation of this Ordinance occurred:**

14 **(i) Admonition. A warning or reminder that the**
15 **conduct is in violation of the Policy Admonition may be**
16 **issued by the Ethics Commission subsequent to a**
17 **review for legal sufficiency by the City Attorney**
18 **(subject to recusal) before any findings of fact**
19 **regarding allegations, and because it is a warning or**

1 reminder, would not necessarily require an
2 investigation or separate hearings. This form of action
3 may be applied to all elected and/or appointed City
4 Officials, reminding them that a particular type of
5 behavior is in violation of the Policy.

6
7 (ii) Sanction. A sanction is defined as a penalty or
8 punishment provided as a means of enforcing
9 obedience to the Policy. Sanction may be directed to a
10 particular elected and/or appointed City Official based
11 on a particular action (or set of actions) that is
12 determined to be in violation of the Policy. A sanction
13 may be issued based upon an Ethics Commission
14 review subject to a legal review for sufficiency by the
15 City Attorney (subject to recusal) and consideration of
16 a written allegation of a Policy violation. The member
17 accused of a violation will have an opportunity to
18 provide a written response to the allegation.

1 (iii) Censure. Censure is an official reprimand,
2 condemnation or rebuke. It is a formal disciplinary
3 procedure and is a drastic step reserved for a serious
4 situation. The Ethics Commission may recommend
5 Censure to the City Council after consideration of a
6 written allegation of a Policy violation. The
7 recommendation is subject to a review for legal
8 sufficiency by the City Attorney (subject to recusal). It
9 may be applied to the elected and/or appointed City
10 Officials. Censure is a punitive action, which serves as
11 a penalty imposed for wrongdoing, but it carries no
12 fine or suspension of the rights of the member as an
13 elected and/or appointed official. To protect the
14 overriding right to freedom of speech, the Ethics
15 Commission cannot recommend censure of elected
16 and/or appointed City Officials solely for the exercise
17 of his or her First Amendment rights.

18 However, nothing can be construed to prohibit the
19 Ethics Commission from collectively condemning and

1 expressing their strong disapprobation of such
2 remarks.

3 i. Because of the severity of censure, a decision to
4 censure requires the adoption of a Resolution
5 stating the findings with regard to the specific
6 charges, based on substantial evidence, and
7 approved by the eligible voting City Council
8 Members in the affirmative with no more than
9 one negative vote or abstention.

10 ii. In the event the complaint is against a City
11 Council Member, a decision to censure requires
12 the adoption of a Resolution stating the findings
13 with regard to the specific charges, based on
14 substantial evidence, and unanimous approval
15 by the City Council voting members with the
16 accused City Council Member abstaining from
17 the vote.

18 iii. The recommendation to censure by the Ethics
19 Commission shall be voted upon by the City

1 Council within 30 days of the date of the
2 Commission's decision. In the event that either
3 party has additional pertinent facts, the Ethics
4 Commission may reconsider its
5 recommendation prior to the City Council vote.
6 If an additional or amended recommendation is
7 issued by the Ethics Commission, then the 30 day
8 period shall commence from the date of the
9 additional or amended recommendation.

10 (3) If the City Council censures one of its members, elected and/or
11 appointed City Officials it can also take the following actions:

12 (a) Remove the Council Member, elected and/or appointed
13 City Official from a City board or commission; or

14 (b) Remove the Council Member, elected and/or appointed
15 City Official from an independent board or commission
16 other than the City if allowed by the by-laws of that board or
17 commission (e.g., regional boards); or

18 (c) Request for an apology to the Mayor, City Council and/or
19 the appointed official, the complainant, or all the above;

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(d) Remove access privileges to City Hall other than for areas that are publicly accessible; and
(e) Such additional actions that may be available through judicial intervention.

ATTEST:

MAYOR AND CITY COUNCIL OF
HAVRE DE GRACE, MARYLAND

Patrick D. Sypolt,
Director of Administration

William T. Martin, Mayor

First Reading: _____
Public Hearing: _____
Second Reading/Adoption: _____

Legislative History: Resolution 2018-13; Ordinance 1008.