

CITY COUNCIL

READ FILE COVER SHEET

Subject: **Ordinance 1051 – Moratorium on Issuance of Permits & Other Administrative Action during the Pendency of Litigation (Public Hearing)**

Date: **4/20/2021**

Notice: Any comments made after 5:00 p.m. on the Thursday before the Council Meeting will not be seen in the agenda packet.

Purpose:

- FYI
- Read and Comment as Needed**
- Action Required by May 3, 2021**
- In Confidential File Drawer

Approve:

Casi Boyer Yes No No Comment

Comment: _____

David Glenn Yes No No Comment

Comment: _____

Dave Martin Yes No No Comment

Comment: _____

Jim Ringsaker Yes No No Comment

Comment: _____

Jason Robertson Yes No No Comment

Comment: _____

Carolyn Zinner Yes No No Comment

Comment: _____

Note: N/A

CITY COUNCIL
OF
HAVRE DE GRACE, MARYLAND

ORDINANCE NO. 1051

Introduced by _____ Council President Glenn

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF HAVRE DE GRACE ADOPTED PURSUANT TO THE AUTHORITY OF ARTICLE XI-E OF THE MARYLAND CONSTITUTION, THE LOCAL GOVERNMENT ARTICLE OF THE ANNOTATED CODE OF MARYLAND, AND SECTIONS 33 AND 34 OF THE HAVRE DE GRACE CITY CHARTER, FOR THE PURPOSE OF ESTABLISHING A MORATORIUM ON THE ISSUANCE OF PERMITS AND OTHER ADMINISTRATIVE ACTION DURING THE PENDENCY OF LITIGATION

On: 4/19/2021

at: 7:00 PM

Ordinance introduced, read first time, ordered posted and public hearing scheduled.

PUBLIC HEARING

A Public Hearing is scheduled for 5/3/2021 at 7:00 PM

EXPLANATION

Underlining indicates matter added to existing law.

[Bold Brackets] indicate matter deleted from existing law.

Amendments proposed prior to final adoption will be noted on a separate page with line references or by handwritten changes on the draft legislation.

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33 **WHEREAS**, from time to time, the Mayor and City Council of Havre de Grace, Maryland
34 (“City”) has been a party to lawsuits relating to the interpretation of the City Charter, the City
35 Code, City Ordinances, Council Resolutions, and/or rights and obligations under contracts or
36 other agreements; and

37
38 **WHEREAS**, the time period from when a lawsuit is commenced until the time a lawsuit is final,
39 after all appeals have been taken or where the time for filing an appeal has expired, can extend
40 for more than two years, and can result in conflicting Court opinions pending finality; and

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42 **WHEREAS**, for the purpose of maintaining consistency with City processes and accuracy of
43 City records across administrations, the City desires to amend the City Code to provide for a
44 moratorium on matters in litigation pending final resolution of interpretation and application of
45 relevant City Charter, City Code, City Ordinances, Council Resolutions and/or rights and
46 obligations under contracts or other agreements.

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48 **NOW THEREFORE**, it is determined, decided, and ordained by the City Council that City
49 Code Chapter 1, General Provisions be amended by adding new Article III as follows:

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51 Article III Moratorium

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53 §1-1 Whenever the Mayor and City Council of Havre de Grace, as a legislative body,
54 or the Mayor of the City of Havre de Grace in his capacity as chief executive of the City, are
55 parties to a lawsuit which involves the interpretation or construction of a City Charter provision,
56 a City Code provision, a City Ordinance, Council Resolution, or a contract or other agreement,
57 then all future acts that would ordinarily occur under such Charter or Code provision, Ordinance
58 Resolution or contract shall be stayed and no new permits shall be issued or further City
59 approvals shall be granted with regard to the specific Charter or Code provision, or Ordinance,
60 Resolution or contract which is the subject to the lawsuit, until such time as the lawsuit is finally
61 concluded and after all appeals have been taken or the time for appeal has expired. This
62 moratorium shall act as a temporary stay of the issuance of any permits or granting of City
63 approvals (including those that might be granted by the Planning Commission or Board of
64 Appeals) and is self-executing and does not require the City to file a motion to stay in any Court.

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66 §1-2 The permits or City approvals which are subject to this moratorium include those
67 which would issue under the City Code including but not limited to grading permits, building
68 permits, use and occupancy permits, and any Planning Commission, Board of Appeals,
69 Department of Planning or Department of Public Works approvals, as well as any executory acts
70 by the Mayor under City Ordinances, Council Resolutions and contracts or other agreements that
71 anticipate future performance by the City.

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73 §1-3 The moratorium shall end upon the expiration of the time-period for the filing of a
74 final appeal.

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76 §1-4 Notwithstanding the moratorium set forth in §1-1 of this Article III, the City
77 Council, by resolution and for good cause shown, may grant a waiver from such a moratorium
78 provided the matter has been set forth as an item on the Council meeting agenda.

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§1-5 To the extent that a Court or administrative body enters a final order confirming or approving the City's interpretation or construction of the City Charter, City Code, City Ordinance, Council Resolution, or contract or other agreement, then the City, as prevailing party, may request reimbursement of the City's attorneys' fees and out of pocket costs incurred by the City in such lawsuit subject to an order by a Court of competent jurisdiction.

The foregoing amendment is hereby approved by the City Council.

ADOPTED by the City Council of Havre de Grace, Maryland this ___ day of May, 2021.

SIGNED by the Mayor and attested by the Director of Administration this ___ day of May, 2021.

ATTEST:

MAYOR AND CITY COUNCIL
OF HAVRE DE GRACE

Patrick D. Sypolt
Director of Administration

William T. Martin
Mayor

Introduced/First Reading: 04/19/2021
Public Hearing: 05/03/2021
Second Reading/Adopted: 05/17/2021
Effective Date: 05/18/2021

