

CITY COUNCIL

READ FILE COVER SHEET

Subject: **Ordinance 1133 concerning Amending Chapter 2 Adequate Public Facilities and Chapter 198 Water and Sewers (Public Hearing)**

Date: **11/22/2023**

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 December 4, 2023**
 - In Confidential File Drawer

Approve:

Johnny Boker Yes No No Comment
Comment: _____

Casi Boyer Yes No No Comment
Comment: _____

Vicki Jones Yes No No Comment
Comment: _____

Jim Ringsaker Yes No No Comment
Comment: _____

Jason Robertson Yes No No Comment
Comment: _____

Tammy Lynn Schneegas Yes No No Comment
Comment: _____

Note: N/A

CITY COUNCIL
OF
HAVRE DE GRACE, MARYLAND

ORDINANCE NO. 1133

Introduced by _____ Council Member Boker

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL OF HAVRE DE GRACE, MARYLAND, 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 TO AMEND CHAPTER 2 ADEQUATE PUBLIC FACILITIES AND CHAPTER 198 WATER AND SEWERS OF THE CITY CODE

On: 11/20/2023

at: 7:00 p.m.

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

PUBLIC HEARING

A Public Hearing is scheduled for December 4, 2023 at 7:00 p.m.

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

33 **WHEREAS**, the Mayor and City Council want to promote the health, welfare, and safety of the
34 residents of the City of Havre de Grace by ensuring access to adequate public facilities, including
35 water and sewer; and
36

37 **WHEREAS**, the City desires to amend City Code Chapter 2 Adequate Public Facilities, and
38 Chapter 198 Water and Sewers to clarify application of those provisions; and
39

40 **WHEREAS**, the following amendments are recommended after consultation with the respective
41 Directors of Planning and Department of Public Works:
42

43 1. Chapter 2 of the City Code shall be amended by adding the following to 2.3 “Definitions”:
44

45 **§ 2-3 Definitions.**
46

47 As used in this chapter, the following terms shall have the meanings indicated:
48

49 **ADEQUATE PUBLIC FACILITIES**

50 Those facilities relating to schools, public roads, water supply and distribution systems, and
51 sewage disposal systems meeting standards established in this chapter.
52

53 **CITY**

54 The City of Havre de Grace.
55

56 **DEVELOPER**

57 An entity (including but not limited to a person, business, corporation, partnership, limited
58 liability company, or unincorporated association) responsible for the development of a piece
59 of land.
60

61 **TRAFFIC IMPACT ANALYSIS (TIA)**

62 A technical appraisal or study that identifies the impacts of a new or expanded development
63 on the public road system; identifies potential traffic operational problems or concerns and
64 recommends appropriate actions to address such problems or concerns; and assists in
65 determining the degree of financial responsibility of the developer in mitigating such impacts.
66

67 **WATER CAPACITY**

68 The ability to provide adequate water supply to a site considering the number of housing
69 or commercial units to be served and the water treatment plant’s ability to process the
70 volume of water needed for such site together with the City’s ability to distribute the water
71 through existing distribution and transmission lines from a public, off-site, or on-site source
72 of supply in a manner consistent with all applicable regulations and standards for water
73 pressure (measured by psi), including but not limited to the National Fire Protection
74 Association minimum standards for fire suppression and other state and federal laws.
75

76 § 2-6 Standards enumerated.

77
78 A. Preliminary subdivision plans and site plans shall not be approved unless adequate public
79 facilities are available to serve the development based on the standards set forth in this section.
80 The Director of Public Works may waive certain submission requirements for projects with
81 minimal impact to the water and sewer system or roads; such as minor subdivisions of less than
82 three lots and redevelopment projects that do not significantly increase demand on the water and
83 sewer system or roads.

84
85 B. Approval of a subdivision or site plan does not guarantee water or sewer capacity. In a case
86 where public facilities become inadequate following the approval of a subdivision or site plan but
87 prior to the issuance of a permit, the Administration pursuant to the authority granted by the City
88 Charter and under the supervision of the Mayor, may deny any and all permits pending a review
89 of capacity needs. Anyone who is denied a permit under this provision of the City Code may appeal
90 the Administration’s decision to the City Council.

91
92 2. Chapter 198 of the City Code shall be amended and added to as follows:

93
94 § 198-1 Abbreviations and definitions.

95
96 **ACT or THE ACT**

97 The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended,
98 33 U.S.C. § 1251 et seq.

99
100 **APPROVAL AUTHORITY**

101 Maryland Department of the Environment (MDE).

102
103 **AUTHORIZED REPRESENTATIVE:**

104 (1) A responsible corporate officer such as a president, secretary, treasurer, or vice president
105 of the corporation in charge of a principal business function, or any other person who
106 performs similar policy- or decisionmaking functions for the corporation, or the manager
107 of one or more manufacturing, production, or operation facilities employing more than 250
108 persons or having gross annual sales or expenditures exceeding \$25,000,000, if authority
109 to sign documents has been assigned or delegated to the manager in accordance with
110 corporate procedures; or

111
112 (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship
113 respectively; or

114
115 (3) A duly authorized representative of the individual designated in Subsection (1) or (2) above
116 if:

117
118 (a) The authorization is made in writing by the individual described in Subsection (1) or
119 (2); and

120

121 (b) The authorization specifies either an individual or a position having responsibility for
122 the overall operation of the facility from which the industrial discharge originates, such
123 as the position of plant manager, operator of a well, or a position of equivalent
124 responsibility, or having overall responsibility for environmental matters for the
125 company; and

126
127 (c) The written authorization is submitted to the control authority.

128
129 (4) If authorization under Subsection (3) is no longer accurate because a different individual
130 or position has responsibility, a new authorization must be submitted to the POTW prior to
131 or together with any reports to be signed by an authorized representative.

132
133 **BIOCHEMICAL OXYGEN DEMAND (BOD)**

134 The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard
135 laboratory procedures in five days at 20° C., expressed in terms of weight or concentrations
136 (milligrams per liter).

137
138 **BYPASS**

139 The intentional diversion of waste streams from any portion of an industrial user's treatment
140 facility.

141
142 **CONTROL AUTHORITY**

143 The City of Havre de Grace.

144
145 **COOLING WATER**

146 Water discharged from any use such as air conditioning, cooling or refrigeration, during
147 which the only pollutant added to the water is heat.

148
149 **DIRECTOR**

150 The Director of Public Works of this City or his duly appointed deputy, agent or
151 representative.

152
153 **DOMESTIC WASTEWATER**

154 Liquid wastes originating from private residences and containing those pollutants and
155 pollutant concentrations that are normally associated with household activities. See the
156 definition of "nondomestic wastewater."

157
158 **GARBAGE**

159 Solid wastes from the domestic and commercial preparation, cooking and dispensing of food,
160 and from the handling, storage and sale of food.

161
162 **INDIRECT DISCHARGE**

163 The introduction of nondomestic pollutants into the POTW from any nondomestic source
164 regulated under Section 307(b), (c) or (d) of the Act.

165

166 **INDUSTRIAL USER**

167 A source of indirect discharge resulting from the processes employed in industrial,
168 manufacturing, trade or business establishments, as distinct from domestic wastewaters.

169
170 **INTERFERENCE**

171 A discharge which alone or in conjunction with a discharge or discharges from other sources:

172
173 (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge
174 processes, use or disposal; and

175
176 (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit
177 (including an increase in the magnitude or duration of an violation) or of the prevention
178 of sewage sludge use or disposal in compliance with the following statutory provisions
179 and regulations issued thereunder (or more stringent state or local regulations): Section
180 405 of the Clean Water Act, the SWDA (including Title II, more commonly referred
181 to as "RCRA"), and including state regulations contained in any state sludge
182 management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the
183 Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries
184 Act.

185
186 **NATIONAL CATEGORICAL PRETREATMENT STANDARD**

187 Any regulation containing pollutant discharge limits which applies to a specific category of
188 industrial users promulgated by the EPA in accordance with Section 307(b) and (c) of the Act
189 (33 U.S.C. § 1347).

190
191 **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**

192 The program for issuing, conditioning and denying permits for the discharge of pollutants
193 from point sources into the navigable waters, the contiguous zone and the oceans pursuant to
194 Section 1342 of the Act.

195
196 **NEW SOURCE:**

197
198 (1) Any building, structure, facility or installation from which there is or may be a
199 discharge of pollutants, the construction of which commenced after the publication of
200 proposed pretreatment standards under Section 307(c) of the Act which will be
201 applicable to such source if such standards are thereafter promulgated in accordance
202 with that section, provided that:

203
204 (a) The building, structure, facility or installation is constructed at a site at which no
205 other source is located; or

206
207 (b) The building, structure, facility, or installation totally replaces the process or
208 production equipment that causes the discharge of pollutants at an existing source;
209 or

210

211 (c) The production or wastewater-generating processes of the building, structure,
212 facility or installation are substantially independent of an existing source at the
213 same site. In determining whether these are substantially independent, factors such
214 as the extent to which the new facility is integrated with the existing plant and the
215 extent to which the new facility is engaged in the same general type of activity as
216 the existing source should be considered.

217
218 (2) Construction on a site at which an existing source is located results in a modification
219 rather than a new source if the construction does not create a new building, structure,
220 facility or installation meeting the criteria of Subsection (1)(b) or (1)(c) of this section
221 but otherwise alters, replaces, or adds to existing process or production equipment.
222

223 (3) Construction of a new source as defined under this section had commenced if the owner
224 or operator has:

225 (a) Begun or caused to begin as part of a continuous on-site construction program;

226 [1] Any placement, assembly, or installation of facilities or equipment; or
227

228 [2] Significant site preparation work including clearing, excavation, or removal
229 of existing buildings, structures, or facilities which is necessary for the
230 placement, assembly, or installation of new source facilities or equipment; or
231
232

233 (b) Entered into a binding contractual obligation for the purchase of facilities or
234 equipment which are intended to be used in its operation within a reasonable time.
235 Options to purchase or contracts which can be terminated or modified without
236 substantial loss, and contracts for feasibility, engineering, and design studies do not
237 constitute a contractual obligation under this subsection.
238
239

240 **NONDOMESTIC WASTEWATER**

241 The liquid wastes originating from establishments engaged in some form of business,
242 commercial or industrial activity. See the definition of "domestic wastewater."
243

244 **NPDES or STATE DISCHARGE PERMIT**

245 A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33
246 U.S.C. § 1342) or Title 9, §§ 9-323 and 9-324 of the Health-Environmental Article of the
247 Annotated Code of Maryland.
248

249 **PASS THROUGH**

250 A discharge which exits the POTW into waters of the United States in quantities or
251 concentrations which, alone or in conjunction with a discharge of discharges from other
252 sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including
253 an increase in the magnitude or duration of a violation).
254

255 **PERSON**

256 Any individual, partnership, firm, company, corporation, association, joint-stock company,
257 trust, estate, governmental entity or any other legal entity, or their legal representatives, agents
258 or assigns. The masculine gender shall include the feminine, the singular shall include the
259 plural, where indicated by the context.

260

261 **pH**

262 The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in
263 grams per liter of solution.

264

265 **POLLUTANT**

266 Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge,
267 munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or
268 discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial and
269 agricultural waste or any other contaminate.

270

271 **PRETREATMENT or TREATMENT**

272 The reduction, elimination or alteration of pollutant properties to a less harmful state prior to
273 or in lieu of discharge or introduction into a POTW. This can be accomplished by physical,
274 chemical or biological processes, process changes or other means, except as prohibited by 40
275 CFR 403.6(d).

276

277 **PRETREATMENT COORDINATOR**

278 The person appointed by the Director of Public Works to supervise the pretreatment program,
279 and who is charged with certain duties and responsibilities by this chapter or his duly
280 authorized representative.

281

282 **PRETREATMENT REQUIREMENTS**

283 Any substantive or procedural requirement related to pretreatment imposed on an industrial
284 user, other than a pretreatment standard.

285

286 **PRETREATMENT STANDARDS or NATIONAL CATEGORICAL PRETREATMENT**
287 **STANDARDS**

288 Any regulation containing pollutant discharge limits promulgated by the EPA in accordance
289 with Section 307(b) and (c) of the Act which applies to a specific category of industrial users.

290

291 **SEVERE PROPERTY DAMAGE**

292 Substantial physical damage to property, damage to the treatment facilities which causes them
293 to become inoperable, or substantial and permanent loss of natural resources which can
294 reasonably be expected to occur in the absence of a bypass. "Severe property damage" does
295 not mean economic loss caused by delays in production.

296

297 **SIGNIFICANT INDUSTRIAL USER:**

298 (1) Any industrial user who is subject to categorical pretreatment standards; or

299

300 (2) Any other user that:

- 301 (a) Discharges an average of 25,000 gallons per day or more of process wastewater
302 (excluding sanitary, noncontact cooling and blowdown wastewater); or
303
- 304 (b) Contributes a process waste stream that makes up 5% or more of the hydraulic or
305 organic capacity of the POTW; or
306
- 307 (c) Is found by the City, State or EPA to have reasonable potential for adversely
308 affecting the POTW's operation, the quality of the sludge, the POTW's effluent
309 quality, or air emissions generated by the system, or air emissions generated by the
310 system, or for violating any pretreatment standard or requirement.
311

312 Upon finding that an industrial user meeting the criteria of Subsection (2)(a),
313 (b) and (c) of this definition has no reasonable potential for adversely affecting
314 the POTW's operation or for violating any pretreatment standard or
315 requirement, the City may at any time, on its own initiative or in response to a
316 petition received from an industrial user, and in accordance with 40 CFR
317 403.8(f)(6), determine that such industrial user is not a significant industrial
318 user.
319

320 **SLUG**

321 Any discharge of significant quantities of water, sewage, industrial waste which in
322 concentration of any given constituent or quantity of flow could cause interference of the
323 treatment works, pass through the POTW treatment plant, endanger sewer worker safety,
324 contaminate the sludge, or cause a violation of any permit issued the POTW.
325

326 **STORMWATER**

327 Any flow occurring during or immediately following any form of natural precipitation and
328 resulting therefrom.
329

330 **SUPERINTENDENT**

331 The person appointed by the Director of Public Works to supervise the operation of the
332 POTW, and who is charged with certain duties and responsibilities by this chapter, or his duly
333 authorized representative.
334

335 **SUSPENDED SOLIDS**

336 The total suspended matter that floats on the surface of or is suspended in water, wastewater
337 or other liquids, and which is removable by laboratory filtering.
338

339 **TOXIC POLLUTANT**

340 Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the
341 EPA under Section 307(a) of the Federal Water Pollution Control Act or other federal statutes
342 or in regulations promulgated by the Maryland Office of Environmental Programs under state
343 law.
344

345 **UNPOLLUTED WATER**

346 Water not containing any pollutants limited or prohibited by the effluent standards in effect,
347 or water whose discharge will not cause any violation of receiving water quality standards.
348

349 **USER**

350 Any person who contributes, causes or permits the contribution of wastewater into the City
351 of Havre de Grace POTW.
352

353 **USER CLASSIFICATION**

354 A classification of use based on the 1972 (or subsequent) Edition of the Standard Industrial
355 Classification (SIC) Manual prepared by the Office of Management and Budget.
356

357 **WATER CAPACITY**

358 Has the meaning stated in §2-3 of the Adequate Public Facilities Ordinance Chapter 2 of the City
359 Code.
360

361 **WASTEWATER**

362 The liquid and water-carried industrial or domestic wastes from dwellings, commercial
363 buildings, industrial facilities and institutions, together with any groundwater, surface water
364 and stormwater that may be present, whether treated or untreated, which is discharged into or
365 permitted to enter the City's treatment works.
366

367 **WASTEWATER TREATMENT SYSTEM or SYSTEM**

368 Any devices, facilities, structures, equipment or works owned or used by the City for the
369 purpose of transmission, storage, treatment, recycling and reclamation of industrial and
370 domestic wastes, or necessary to recycle or reuse water at the most economical cost over the
371 estimated life of the system, including intercepting sewers, outfall sewers, sewage collection
372 systems, pumping, power and other equipment, and their appurtenances; extensions,
373 improvements, remodeling, additions and alterations thereof; elements essential to provide a
374 reliable recycled supply such as standby treatment units and clear well facilities; and any
375 works, including site acquisition of the land that will be an integral part of the treatment
376 process or is used for ultimate disposal of residues resulting from such treatment.
377

378 **WATERS OF THE STATE**

379 Includes:

380 (1) Both surface and underground waters within the boundaries of this state subject to its
381 jurisdiction, including that part of the Atlantic Ocean within the boundaries of this state,
382 the Chesapeake Bay and its tributaries and all ponds, lakes, rivers, streams, public
383 ditches, tax ditches and public drainage systems within this state, other than those
384 designed and used to collect, convey or dispose of sanitary sewage; and
385

386 (2) The floodplain of free-flowing waters determined by the Department of Natural
387 Resources on the basis of one-hundred-year flood frequency.
388

389 **NOW, THEREFORE**, it is determined, decided, and ordained by the City Council that the
390 foregoing amendments to the City Code are hereby approved.

391
392 ADOPTED by the City Council of Havre de Grace, Maryland this __ day of _____, 2023.

393
394 SIGNED by the Mayor and attested by the Director of Administration this _____ day of _____,
395 2023.

396
397
398 ATTEST: MAYOR AND CITY COUNCIL
399 OF HAVRE DE GRACE

400
401 _____
402 Stephen J. Gamatoria
403 Director of Administration

400
401 _____
402 William T. Martin
403 Mayor

404
405
406 Introduced/First Reading: 11/20/2023
407 Public Hearing:
408 Second Reading/Adopted:
409
410 Effective Date:
411
412

