

CITY COUNCIL

READ FILE COVER SHEET

Subject: **Ordinance 1220 concerning Establishing New Code Chapter 105
Titled "Leases"**

(Public Hearing)

Date: **5/5/2026**

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 18, 2026**
 - In Confidential File Drawer

Approve:

Johnny Boker Yes No No Comment
Comment: _____

Casi Boyer Yes No No Comment
Comment: _____

Matthew Ellis Yes No No Comment
Comment: _____

Vicki Jones Yes No No Comment
Comment: _____

Jim Ringsaker 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. 1220

Introduced by Council Member Jones

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 ESTABLISH A NEW CITY CODE CHAPTER 105 TITLED "LEASES"

On: May 4, 2026

at: 7:00 p.m.

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

PUBLIC HEARING

A public hearing will be held on May 18, 2026 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.

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32 **WHEREAS**, the Mayor and City Council of the City of Havre de Grace find that City-owned real
33 property, facilities, structures, and rights-of-way are public assets held in trust for the benefit of
34 the public and subject to the City’s continuing obligation to manage such assets so as to preserve
35 public use, fiscal responsibility, and municipal flexibility; and
36

37 **WHEREAS**, the Mayor and City Council further find that the City authorizes use of City property
38 through various legal instruments, each serving a distinct governmental purpose and carrying
39 materially different legal consequences; and
40

41 **WHEREAS**, the Administration has reviewed the practices and administrative policy for entering
42 leases for third party use of City-owned property, including City rights-of-way, streets and/or
43 sidewalks; and
44

45 **WHEREAS**, it has been determined that the City historically has recognized leases of City
46 Property for use by adjoining property owners, private companies, and/or non-profit charitable
47 organizations for various purposes, but the City has not developed a consistent policy with regard
48 to why, when, or how such leases are to be recognized; and
49

50 **WHEREAS**, in an effort to establish consistent policies and procedures for such leases of City
51 Property, the City Council previously approved Resolution 2020-21, Resolution 2007-10, and
52 Resolution 1998-7; and
53

54 **WHEREAS**, the Mayor and City Council find that the absence of clear distinctions among leases,
55 licenses, and permits may result in inconsistent administration, the unintended conveyance of
56 property interests, the creation of vested rights, or impairment of the City’s police powers; and
57

58 **WHEREAS**, the Mayor and City Council further find that certain limited or routine uses of City
59 property are appropriately governed through separate administrative programs, including Minor
60 Privileges and uses governed by the City’s Sidewalk Policy, which are intended to operate
61 independently of this Chapter; and
62

63 **WHEREAS**, it is the intent of this new Chapter 105 to establish a clear hierarchy of authorization,
64 whereby leases grant limited-term possessory use subject to express constraints and Council
65 approval, licenses provide revocable and non-vested permissions that do not create property
66 interests, and permits provide regulatory authorization only; and
67

68 **WHEREAS**, it is further the intent of this Chapter to preserve the City’s discretion, public-trust
69 responsibilities, and police powers, and to ensure that no authorization is construed to create a
70 vested right, property interest, or entitlement beyond that expressly granted pursuant to this
71 Ordinance.
72

73 **NOW, THEREFORE, BE IT ENACTED AND ORDAINED**, the Mayor and City Council of
74 Havre de Grace, in accordance with the authority vested in the Mayor and City Council of Havre
75 de Grace, by law and the Charter of the City of Havre de Grace hereby adopts new Chapter 105:
76 Leases as set forth below:
77

78 **CHAPTER 105: Leases; Encroachments onto City Property.**

79

80 **Article I. Definitions.**

81

82 **§105-1.1 City Property.**

83 City Property includes without limitation all City lots, parcels, rights-of-way, streets,
84 sidewalks, and easements as shown on deeds, rights of way or easements, boundary line
85 surveys, or plats recorded among the Land Records for Harford County, including any
86 structures on such property. City Property shall also presumptively include all original City
87 streets, rights-of-way, lanes, and alleys shown as part of the original historic grid laid out
88 by Robert Stokes and approved by the Maryland State Legislature, 1785 Maryland Laws
89 LV (subsequently surveyed by French engineer C.P. Haudercoeur 1799), and also shown
90 City Maps known as “Hopper’s Maps”, unless the presumption is rebutted by
91 documentation showing by a preponderance of evidence abandonment by the City.

92

93 **§105-1.2 Easement.**

94 A nonpossessory right or interest in real property that authorizes the holder to use, enter
95 upon, cross, maintain, install facilities within, or impose limitations upon land owned by
96 another for a defined purpose, without transferring title to the land. Easements may be
97 granted to public or private entities, may be exclusive or nonexclusive, temporary or
98 permanent, and may run with the land or be limited in duration, as set forth in the
99 instrument creating the easement.

100

101 **§105-1.3 Lease.**

102 A written contractual agreement by which the City grants to another party, for a specified
103 term not to exceed forty-nine (49) years, the right to possess or use City-owned real
104 property, facilities, structures, or a defined portion thereof, in exchange for rent or other
105 lawful consideration and subject to express terms. A lease may provide for exclusive or
106 non-exclusive use, as expressly stated. No lease shall be renewable or extendable by option,
107 automatic renewal, holdover, or otherwise, and no lease shall convey fee ownership or
108 permanent property rights beyond the stated term. Continued use after expiration requires
109 approval of a new lease or other lawful authorization.

110

111 **§105-1.4 License.**

112 A revocable and non-vested authorization allowing limited use of City Property for a
113 specific purpose and duration, without conferring possession, exclusive control, or any
114 interest in real property. A license does not run with the land and may be modified or
115 terminated by the City without entitlement to renewal or compensation unless expressly
116 stated.

117

118 **§105-1.5 Permit.**

119 A regulatory authorization allowing a specified activity or work, subject to conditions
120 imposed by law. A permit does not convey possession, use rights, or property interests and
121 shall not be construed as a lease, license, or easement unless expressly stated.

122

123 **§105-1.6 Right-of-Way.**

124 A strip or area of land, whether fee-owned or subject to an easement, that is dedicated,
125 reserved, granted, or otherwise legally established for public use or for use by authorized
126 parties for streets, roads, alleys, sidewalks, trails, utilities, drainage facilities, or similar

127 public purposes. The term includes the full width of the area subject to the right-of-way
128 interest, including any subsurface or aerial rights necessary to serve its intended function,
129 regardless of whether the area is improved or currently in active use.

130
131 **Article II. Application; Exclusions.**

132
133 **§105-2.1 Application.**

134 This Chapter applies to all City Property. No lease shall be entered unless approved by the
135 City Council by Ordinance and consistent with the City Charter and this Chapter.

136
137 **§105-2.2 Existing Improvements/Occupation of City Property.**

138
139 **A. Findings.**

140 The Mayor and City Council find that, in certain instances, existing fences, porches, decks,
141 sheds, building structures, or other improvements have been constructed upon or extend
142 into City Property without a duly authorized lease, license, or other lawful authorization,
143 and that such improvements may impede or prevent reasonable access by City personnel
144 for maintenance, inspection, public safety, or other municipal purposes. The City's
145 Director of Planning or the Director of the Department of Public Works may jointly certify
146 that an encroachment exists and that a lease is required.

147
148 **B. Requirement to Enter Lease.**

149 Where any private property owner or occupant maintains a fence, porch, building structure,
150 or other improvement located in whole or in part upon City Property that may interfere
151 with or restrict access by City personnel and/or the public, and where no valid lease or
152 other authorization exists, the City shall require the owner or occupant to enter into a
153 municipal lease approved in accordance with this Chapter as a condition of continued
154 occupation or use. Notice of the requirement to enter a lease after the certification under
155 Paragraph A above is made shall be mailed by the Department of Planning by certified
156 mail, return receipt requested, and by regular mail, to the owner of record.

157
158 **C. No Vested Rights.**

159 The existence of such improvements, whether longstanding or not, shall not be construed
160 to create a vested right, prescriptive right, easement, or ownership interest in City Property,
161 nor shall delay in enforcement constitute a waiver of the City's rights or authority.

162
163 **§105-2.3 Exclusions.**

164 This Chapter shall not apply to:

- 165 1. Licenses; Minor Privileges authorized or regulated by City Code Chapter 106; or
- 166 2. Uses governed by the City's Sidewalk Policy under City Code Chapter 150, as
167 amended, or
- 168 3. The Special Events approved by City Council; or
- 169 4. Leases of City Facilities such as the Star Centre, the Opera House, the City Yacht
170 Basin, the Community Center, or such other facilities whose rental fees are set forth
171 in City Code Chapter 70.

172 Nothing herein shall be construed to amend or supersede those programs.

173 **Article III. Required Provisions of Municipal Leases**

174

175 **§105-3.1 Mandatory Lease Terms.**

176 Every municipal lease entered under this Chapter shall include, at a minimum:

- 177 1. Public-Trust Acknowledgment
- 178 2. Fixed Term; Non-Renewability (≤ 49 years) per City Charter 76
- 179 3. Indemnification and Hold Harmless of the City
- 180 4. Insurance and Risk Allocation, including additional insured status
- 181 5. Compliance With All Laws
- 182 6. Maintenance and Surrender Obligations
- 183 7. Restrictions on Assignment/Sublease
- 184 8. Termination for Public Purpose
- 185 9. Default and Enforcement Remedies
- 186 10. No Waiver; Preservation of Governmental Immunities
- 187 11. Maryland Governing Law; Lease Severability
- 188 12. Good Standing Certificate if lessee is a business entity
- 189 13. Consideration pursuant to 105-3.3 below
- 190 14. Legal description of property with metes and bounds description or boundary line
- 191 survey prepared by a Maryland licensed surveyor.

192

193 **§105-3.2 Administrative Authority; Standard Forms.**

- 194 A. The City may adopt and periodically update standard lease forms or administrative
- 195 guidelines consistent with this Chapter. Use of a standard form shall not limit the City’s
- 196 authority to require additional or more restrictive provisions necessary to protect the
- 197 public interest, the public trust, or City Property.
- 198
- 199 B. All leases must be approved for legal sufficiency by the City Attorney and
- 200 recommended for approval by the Director of the Department of Public Works before
- 201 being signed by the Mayor.
- 202

203

204 **§105-3.3 Lease Payment Calculation for Existing Improvements or New Leases.**

205

206 **A. Valuation Method.**

207 For leases required under this Chapter the annual lease payment shall be calculated based upon:

208

209 The most recent tax-assessed value of the adjoining privately owned property as
210 determined by the Maryland State Department of Assessments and Taxation or successor
211 agency; multiplied by the proportionate area of City Property occupied by the encroaching
212 improvement, measured in square feet or such other reasonable unit of measurement as
213 determined by the City.

214

215 **B. Administrative Determination.**

216 The City may require a survey, site plan, or other documentation, at the applicant’s
217 expense, to determine the precise area of City Property occupied for purposes of calculating
the lease payment.

218 **C. Minimum Lease Terms; Adjustments.**

219 The lease shall comply with all mandatory provisions of Article III of this Chapter. Lease
220 payments may be adjusted upon reassessment of the underlying property, modification of
221 the occupied area, or upon execution of a new lease following expiration.

222
223 **D. Failure to Enter Lease.**

224 Failure or refusal to enter into a required lease may result in enforcement action, including
225 removal of the encroaching improvement, denial of permits, or other remedies available at
226 law or equity. The City reserves the right to place a notation on the property’s tax record
227 such that any property transfer would require entry of lease or removal of the encroachment
228 prior to a tax clearance certificate being issued.

229
230 **Article IV. Severability; Statutory Construction.**

231
232 **§105-4.1 Severability.**

233 If any provision or application of this Chapter is held invalid or unenforceable, such
234 invalidity shall not affect the remaining provisions or applications, which shall remain in
235 full force. This Chapter is declared severable and would have been adopted irrespective of
236 the invalid portion.

237
238 **§105-4.2 Statutory Construction**

239 This Chapter shall be liberally construed to effectuate its purposes. No provision of this
240 Chapter shall be construed to convey title, permanent property interests, vested rights, or
241 rights by implication, prescription, or estoppel. In the event of a conflict between this
242 Chapter and another provision of the City Code or City policy, the provision that most fully
243 preserves municipal control and the public interest shall govern, unless a contrary intent is
244 expressly stated by ordinance.

245
246 **Article V. Petition for Declaration of Surplus City Property and Boundary Line Agreement**

247
248 **§105-5.1 Petition for Declaration of Surplus Property.**

249 A property owner whose improvement, fence, porch, building structure, or other
250 encroachment occupies City Property may petition the City Council for a declaration that
251 the affected City Property is no longer needed for a public purpose.

252
253 **§105-5.2 Procedural Requirements.**

254
255 **A. Written Petition.**

256 The property owner shall submit a written petition to the City Council describing the
257 affected City Property, the nature of the encroachment, and the reasons for requesting a
258 surplus declaration.

259
260 **B. Notice.**

261 Upon receipt of the petition, the City shall provide written notice to adjoining property
262 owners, relevant municipal departments, and any other parties deemed necessary by the
263 City Council. Notice shall also be posted on the City’s official website and at City Hall.

264

265 **C. Public Hearing.**

266 The City Council shall schedule a public hearing within sixty (60) days of receipt of a
267 complete petition. The petitioner and all interested parties shall be afforded an opportunity
268 to present evidence and testimony.

270 **D. Decision Timeline.**

271 The City Council shall issue a written decision within thirty (30) days following the close
272 of the public hearing, unless extended for good cause shown.

274 **§105-5.3 Minimum Standards for Surplus Determination.**

275
276 A. The City Council may declare City Property surplus only upon a finding, supported by
277 clear and convincing evidence, that:

278
279 (1) The City Property is not required for any current or reasonably foreseeable
280 public purpose, including but not limited to access, utilities, drainage, public safety,
281 transportation, recreation, or other municipal operations;

282
283 (2) The proposed declaration will not impair the City’s ability to exercise its police
284 powers, maintain public assets, or satisfy its public-trust obligations;

285
286 (3) The proposed boundary adjustment will not adversely affect adjoining
287 properties, public infrastructure, or City operations; and

288
289 (4) The proposed boundary line agreement complies with all applicable federal,
290 State, and local laws, regulations, and policies.

291
292 B. The City Council may impose reasonable conditions or require additional
293 documentation as necessary to protect the public interest, including recordation of
294 public utility or access easements.

295
296 **§105-5.4 Boundary Line Agreement.**

297 If the City Council declares the affected City Property surplus, the City and the property
298 owner may enter into a boundary line agreement as authorized by City Charter 75
299 establishing new property boundaries. Any such agreement shall be approved by the City
300 Council by ordinance and such boundary line agreement is to be recorded among the Land
301 Records of Harford County in accordance with law at the property owner’s expense.

302
303 **§105-5.5 Recalculation of Real Property Taxes.**

304 Upon execution and recording of the boundary line agreement, the revised property
305 boundaries shall be submitted to the Maryland State Department of Assessments and
306 Taxation, or its successor agency, for recalculation of real property taxes due.

307
308 **§105-5.6 Costs and Expenses.**

309 All costs and expenses associated with the petition, notice, public hearing, surveys, legal
310 review, boundary line agreement, recording, and tax reassessment shall be borne solely by
311 the property owner.

312

313 **Article VI Appeal Rights**

314

315 **§105-6.1 Appeal of City Council Determination.**

316

317 A. Any petitioner or affected party aggrieved by a final decision of the City Council under
318 Article V may appeal such decision to the Circuit Court for Harford County in
319 accordance with Maryland law.

320

321 B. Notice of appeal shall be filed within thirty (30) days of the issuance of the City
322 Council’s written decision.

323

324 C. Upon request, the City shall transmit a certified record of the proceedings to the
325 reviewing court.

326

327 D. The filing of an appeal shall stay the effectiveness of the City Council’s decision unless
328 otherwise ordered by the court.

329

330 E. All costs associated with the appeal, including preparation of the record, shall be borne
331 by the appellant.

332

333 **§105-6.2 Appeal of Administrative Decision.**

334

335 A. Any petitioner or affected party aggrieved by a final decision of the City Administration
336 under Article III of this Chapter may appeal such decision to the Circuit Court for
337 Harford County in accordance with Maryland law.

338

339 B. Notice of appeal shall be filed within thirty (30) days of the issuance of the City’s
340 written decision. A final decision under Article III must be in writing and signed by the
341 Director of the Department of Planning or their designee.

342

343 C. Upon request, the City shall transmit a certified record of the proceedings to the
344 reviewing court.

345

346 D. The filing of an appeal shall stay the effectiveness of the City’s decision unless
347 otherwise ordered by the court.

348

349 ADOPTED by the City Council of Havre de Grace, Maryland this ___ day of _____, 2026.

350 SIGNED by the Mayor and attested by the Director of Administration this ___ day of _____,
351 2026.

352 ATTEST:

MAYOR AND CITY COUNCIL
OF HAVRE DE GRACE

353

354

355

356 _____
Christopher Ricci

357 Director of Administration

William T. Martin

Mayor

358

359 Introduced/First Reading: 5/4/2026
360 Public Hearing:
361 Second Reading:
362 Effective Date:
363

Public Hearing