

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

Having been posted and notice of time and place of hearing and title of Ordinance having been published according to the Charter, a public hearing was held on December 4, 2023 at 7:05 p.m., and concluded on December 4, 2023 at 7:07 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.

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

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

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

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

§ 2-3 Definitions.

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

ADEQUATE PUBLIC FACILITIES

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

CITY

The City of Havre de Grace.

DEVELOPER

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

TRAFFIC IMPACT ANALYSIS (TIA)

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

WATER CAPACITY

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

§ 2-6 Standards enumerated.

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

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

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

§ 198-1 Abbreviations and definitions.

ACT or THE ACT

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

APPROVAL AUTHORITY

Maryland Department of the Environment (MDE).

AUTHORIZED REPRESENTATIVE:

- (1) A responsible corporate officer such as a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decisionmaking functions for the corporation, or the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or
- (2) A general partner or proprietor if the industrial user is a partnership or sole proprietorship respectively; or
- (3) A duly authorized representative of the individual designated in Subsection (1) or (2) above if:
 - (a) The authorization is made in writing by the individual described in Subsection (1) or (2); and

- (b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (c) The written authorization is submitted to the control authority.
- (4) If authorization under Subsection (3) is no longer accurate because a different individual or position has responsibility, a new authorization must be submitted to the POTW prior to or together with any reports to be signed by an authorized representative.

BIOCHEMICAL OXYGEN DEMAND (BOD)

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

BYPASS

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

CONTROL AUTHORITY

The City of Havre de Grace.

COOLING WATER

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

DIRECTOR

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

DOMESTIC WASTEWATER

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

GARBAGE

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

INDIRECT DISCHARGE

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

INDUSTRIAL USER

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

INTERFERENCE

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

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of an violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the SWDA (including Title II, more commonly referred to as "RCRA"), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

NATIONAL CATEGORICAL PRETREATMENT STANDARD

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

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

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

NEW SOURCE:

- (1) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

- (c) The production or wastewater-generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection **(1)(b)** or **(1)(c)** of this section but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this section had commenced if the owner or operator has:
 - (a) Begun or caused to begin as part of a continuous on-site construction program;
 - [1] Any placement, assembly, or installation of facilities or equipment; or
 - [2] Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

NONDOMESTIC WASTEWATER

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

NPDES or STATE DISCHARGE PERMIT

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

PASS THROUGH

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

PERSON

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

pH

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

POLLUTANT

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

PRETREATMENT or TREATMENT

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

PRETREATMENT COORDINATOR

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

PRETREATMENT REQUIREMENTS

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

PRETREATMENT STANDARDS or NATIONAL CATEGORICAL PRETREATMENT STANDARDS

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

SEVERE PROPERTY DAMAGE

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

SIGNIFICANT INDUSTRIAL USER:

- (1) Any industrial user who is subject to categorical pretreatment standards; or
- (2) Any other user that:

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

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

SLUG

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

STORMWATER

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

SUPERINTENDENT

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

SUSPENDED SOLIDS

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

TOXIC POLLUTANT

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

UNPOLLUTED WATER

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

USER

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

USER CLASSIFICATION

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

WATER CAPACITY

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

WASTEWATER

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

WASTEWATER TREATMENT SYSTEM or SYSTEM

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

WATERS OF THE STATE

Includes:

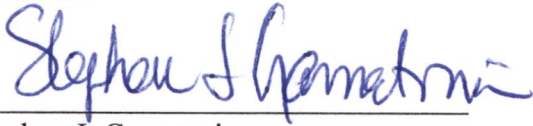
- (1) Both surface and underground waters within the boundaries of this state subject to its jurisdiction, including that part of the Atlantic Ocean within the boundaries of this state, the Chesapeake Bay and its tributaries and all ponds, lakes, rivers, streams, public ditches, tax ditches and public drainage systems within this state, other than those designed and used to collect, convey or dispose of sanitary sewage; and
- (2) The floodplain of free-flowing waters determined by the Department of Natural Resources on the basis of one-hundred-year flood frequency.

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

ADOPTED by the City Council of Havre de Grace, Maryland this 18th day of December, 2023.

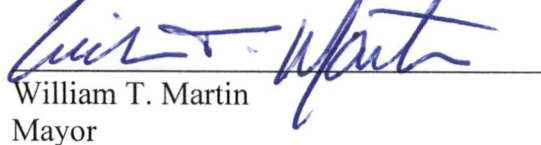
SIGNED by the Mayor and attested by the Director of Administration this 19th day of December, 2023.

ATTEST:



Stephen J. Gamatoria
Director of Administration

MAYOR AND CITY COUNCIL
OF HAVRE DE GRACE



William T. Martin
Mayor

Introduced/First Reading: 11/20/2023
Public Hearing: 12/4/2023
Second Reading/Adopted: 12/18/2023

Effective Date: 12/19/2023