



The City of Huron, Ohio
417 Main St.
Huron, OH 44839
www.cityofhuron.org
Office (419) 433-5000
Fax (419) 433-5120

Agenda for the regular session of City Council
January 8, 2019 at 6:30p.m.

- I. **Call to order** Moment of Silence followed by the Pledge of Allegiance to the Flag
- II. **Roll Call of City Council**
- III. **Approval of Minutes** Regular meeting of November 27, 2018
- IV. **Audience Comments** Citizens may address their concerns to City Council. Please state your name and address for the recorded journal. (3 minute time limit)
- V. **Old Business**
 - Ordinance 2018-32 An ordinance amending Sections 189.02-Definitions, 189.03-Imposition of Tax, 189.07-Statement and Charge of Tax, and 189.08-Registration within Chapter 189 -Lodging Tax, to incorporate transient accommodations. (3rd/Final Reading)
 - Ordinance 2018-33 An ordinance repealing Chapter 1369-Rooming Houses, within the Building Code, and replacing same with Chapter 1369- Transient Rental Property. (3rd/Final Reading)
 - Ordinance 2018-34 An ordinance amending Chapter 905-Culverts, Drains, Ditches within the Streets, Utilities, and Public Services Code. (3rd/Final Reading)
- VI. **New Business**
 - Resolution 2019-1 An annual resolution requesting an advance payment of taxes due the City.
- VII. **City Manager's Discussion**
- VIII. **Mayor's Discussion**
- IX. **For the Good of the Order**
- X. **Executive Session**
- XI. **Adjournment**



TO: Mayor Hartung and City Council
FROM: Andrew D. White, City Manager
RE: Ordinance No. 2018-32
DATE: December 3, 2018

Subject Matter/Background

Ordinance No. 2018-32 will be on the January 8th agenda for its third and final reading. Administration has not received any comments / amendments relative to the proposed legislation as drafted.

Summary

Ordinance No. 2018-32 amends four sections of Chapter 189-Lodging Tax of the Codified Ordinances. Exhibit A of the ordinance is the Lodging Tax as it currently exists with Exhibit B representing the proposed modifications.

Under current legislation, the lodging tax is applicable to hotels. A hotel by definition has five or more rooms for accommodating guests. Under the proposed legislation, the new category of transient accommodation is created. Transient accommodations contain less than five rooms for accommodating guests and would incorporate short term weekly/weekend rental houses. By definition, a transient accommodation is available for less than thirty days rental. These properties are not currently subject to the 3% lodging tax. Additionally, the legislation will require owner/operators of all transient rental properties to register with the city.

Erie County and Sandusky passed similar legislation in 2018 and the matter has been discussed throughout the year at the Finance Committee and City Council levels and identified as a legislative item for consideration. The Erie County Auditor's office has established an internal mechanism to manage the additional lodging tax collections.

Financial Review

A conservative estimate of \$25,000 in revenue has been included in the 2019 proposed budget to be directed to the Recreation Fund as is currently being done with receipted bed tax revenue.

Legal Review

This matter has been reviewed and is properly before you.

Recommendation

The legislation is placed before you for its third/final reading. If the Council is in support of the request, a motion to adopt Ordinance 2018-32 would be in order.

ORDINANCE NO. 2018-32

AN ORDINANCE AMENDING SECTIONS 189.02-DEFINITIONS, 189.03-IMPOSITION OF TAX, 189.07-STATEMENT AND CHARGE OF TAX, AND 189.08-REGISTRATION; ALL OF CHAPTER 189 LODGING TAX OF THE CITY OF HURON CODIFIED ORDINANCES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That Sections 189.02- Definitions, 189.03-Imposition of Tax, 189.07-State and Charge of Tax, and 189.08-Registration all of Chapter 189 – Lodging Tax of the Codified Ordinances of the City of Huron which currently reads as follows: (refer to Exhibit “A” attached), shall be and hereby are amended.

SECTION 2. That Sections 189.02- Definitions, 189.03-Imposition of Tax, 189.07-State and Charge of Tax, and 189.08-Registration all of Chapter 189 – Lodging Tax of the Codified Ordinances of the City of Huron are hereby amended to read as follows: (refer to Exhibit “B” attached).

SECTION 3. That Sections 189.02- Definitions, 189.03-Imposition of Tax, 189.07-State and Charge of Tax, and 189.08-Registration all of Chapter 189 – Lodging Tax of the Codified Ordinances of the City of Huron, as existing prior to the adoption of this Ordinance shall be, and the same hereby are, repealed.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 5. This ordinance will take effect thirty (30) days following adoption.

Brad Hartung, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

CHAPTER 189
Lodging Tax

189.1	Purpose.	189.11	Penalties and interest.
189.2	Definitions.	189.12	Failure to collect; assessments; refunds.
189.3	Imposition of tax.	189.13	Appeals.
189.4	Exemptions.	189.14	Collection.
189.5	False evidence of tax-exempt status.	189.15	Collection of tax after termination of chapter.
189.6	Payment by transient guest.	189.16	Disposition of funds collected.
189.7	Statement and charge of tax.	189.17	Separability.
189.8	Registration.	189.99	Violations; penalty.
189.9	Records.		
189.10	Returns and payment.		

CROSS REFERENCES

State Authority- see Ohio R.C. 5739.08
City Income Tax - see Ch. 185

189.1 PURPOSE.

To provide revenues for the general fund to be used for municipal purposes including but not limited to the promotion of tourism in the City and all matters related thereto, this lodging tax is established.

(Ord. 2005-2. Passed 1-24-05.)

189.2 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the individual designated pursuant to Chapter 185, who is to administer and enforce the provisions of this chapter.
- (b) "Board of Review" means the Board of Review created by and constituted as provided in Section 185.12.
- (c) "City" means the City of Huron, Ohio.
- (d) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures (including but not limited to motels and bed and breakfast establishments).

- (e) "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms or space or portion thereof, in any hotel for dwelling, lodging or sleeping purposes. The use or possession or the right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess, all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.
- (f) "Operator" means any person who is the proprietor of a hotel, whether in the capacity of owner, lessee, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, the managing agent shall be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- (g) "Person" means a "person" as defined in Section 185.02(v).
- (h) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or service of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.
- (I) "State" means the State of Ohio.
- (j) "Transient Guests" means persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.
(Ord. 2005-2. Passed 1-24-05.)

189.3 IMPOSITION OF TAX.

(a) For the purpose of providing revenue for the purpose set forth in Section 189.01, an excise tax is levied on transactions by which lodging by a hotel is or is to be furnished to transient guests.

(b) The tax is 3% on all rents paid or to be paid by transient guests for the lodging. Such tax constitutes a debt owed by the transient guest to the City, which debt is extinguished only by payment to the operator as trustee for the City, or to the City. The tax applies and is collectible at the time the lodging is furnished regardless of the time when the rent is paid.

(c) For the purpose of the proper administration of this Chapter and to prevent the evasion of the tax, it is presumed that all lodging furnished by hotels in the City to transient guests is subject to the tax until the contrary is established.
(Ord. 2005-2. Passed 1-24-05.)

189.4 EXEMPTIONS.

(a) No tax shall be imposed under this chapter on:

- (1) Rents not within the taxing power of the City under the Constitution or laws of the State or the United States of America; or
- (2) Rents paid by the City or any of its political subdivisions.

(b) No exemption claimed under (a) above shall be granted except on a claim therefor made at the time the rent is collected and under penalty of perjury on a form prescribed by the Administrator. All claims of exemption shall be made in the manner prescribed by the Administrator. (Ord. 2005-2. Passed 1-24-05.)

189.5 FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full tax as required by this chapter or present to the operator false evidence indicating that the lodging as furnished is not subject to the tax. (Ord. 2005-2. Passed 1-24-05.)

189.6 PAYMENT BY TRANSIENT GUEST.

(a) The tax imposed by this chapter shall be paid by the transient guest to the operator, and each operator shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies.

(Ord. 2005-2. Passed 1-24-05.)

189.7 STATEMENT AND CHARGE OF TAX.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and on every evidence of occupancy or any bill or statement or charge made for such occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the City and the operator shall be liable for the collection thereof and for the remittance of the tax to the Administrator.

(b) No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

(Ord. 2005-2. Passed 1-24-05.)

189.8 REGISTRATION.

Within 30 days after the effective date of Ordinance 2005-2, passed January 24, 2005 or within 30 days after commencing business, whichever is later, each operator of any hotel renting lodging to transient guests shall register the hotel with the Administrator and obtain from the Administrator a Transient Occupancy Registration Certificate, which Certificate shall be at all times posted in a conspicuous place on the premises. The Certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel;
- (c) The date upon which the Certificate was issued; and
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Lodging Tax Ordinance by registering with the Administrator of the City of Huron for the purpose of collecting from transient guests the Lodging Tax and remitting that tax to the Administrator of the City of Huron. This Certificate does not constitute a permit."

(Ord. 2005-2. Passed 1-24-05.)

189.9 RECORDS.

Each operator shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and other pertinent documents. If the operator furnishes lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was not exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. The records and other documents shall be opened during business hours to the inspection of the Administrator and shall be preserved for a period of three years, unless the Administrator, in writing, consents to their destruction within that period, or unless the Administrator orders that such records be kept for a longer period of time.

(Ord. 2005-2. Passed 1-24-05.)

189.10 RETURNS AND PAYMENT.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period that may be established by the Administrator, make a return to the Administrator, on forms provided by the Administrator, of the total rents charged and received and the amount of tax collected by transient occupancies. All claims for exemption from tax filed by transient guests with the operator during the reporting period shall be filed with the report. At the time the return is filed, the full amount of the tax collected shall be remitted to the Administrator. The Administrator may establish shorter reporting periods for any Certificate holder if the Administrator deems it necessary in order to insure collection of the tax, and the Administrator may require further information in the return if such information is pertinent to the collection of the tax. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment is made to the Administrator. All returns and payments submitted by each operator shall be treated as confidential by the Administrator and shall not be released by the Administrator except on order of a court of competent jurisdiction or to an officer or agent of the United States of America, the State, the County of Erie or the City for official use only.

(Ord. 2005-2. Passed 1-24-05.)

189.11 PENALTIES AND INTEREST.

(a) Original delinquency. Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty equal to 10% of the amount of the tax, in addition to the tax.

(b) Continued delinquency. Any operator who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance became delinquent shall pay a second delinquency penalty equal to 10% of the amount of the tax and previous penalty in addition to the tax and the 10% penalty first imposed. An additional penalty equal to 10% of the total tax and penalty of the previous 30-day period shall be added for each successive 30-day period that the occupant remains delinquent, but the accumulated penalty shall not exceed 100% of the delinquent remittance.

(c) Fraud. If the Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to 25% of the amount of the tax shall be added thereto, in addition to the penalties stated in (a) and (b) above.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1.0% per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties during pendency of hearing or appeal. No penalty provided under the terms of this Chapter shall be imposed during the pendency of any hearing provided for herein or during the pendency of any appeal to the Board of Review.
(Ord. 2005-2. Passed 1-24-05.)

189.12 FAILURE TO COLLECT; ASSESSMENTS; REFUNDS.

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due and shall have the same investigative powers described in Section 185.09(a) and (b). As soon as the Administrator procures such facts and information as the Administrator is able to obtain on which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect it and to make such report and remittance, the Administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the operator's last known place of business. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing, the Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided by Section 189.13. No assessment shall be made against an operator for any tax, interest or penalty imposed by or pursuant to this Chapter more than four years after the due date for the remittance of the tax imposed by this Chapter or the date the return of such tax is filed, whichever is later. No statute of limitation on assessments exists where (i) the Administrator has substantial evidence of amounts of tax collected by an operator from transient guests that were not returned to the Administrator or (ii) the operator failed to file a return as required by this Chapter. A claim for refund to the Administrator of any tax illegally or erroneously paid, collected and/or remitted shall be made in the manner, and within the time, prescribed by Ohio R.C. 5739.07, including any amendments or successor provisions thereto. (Ord. 2005-2. Passed 1-24-05.)

189.13 APPEALS.

Any operator aggrieved by any decision of the Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Board of Review by filing a notice of appeal with it within ten days of the serving or mailing of the determination of tax due. The Board of Review shall fix a time and place for hearing the appeal, and shall give notice in writing to such operator at the last known place of business of the operator. The findings of the Board of Review shall be final and conclusive and shall be served on the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.
(Ord. 2005-2. Passed 1-24-05.)

189.14 COLLECTION.

Any tax required to be paid by a transient guest under the provisions of this Chapter shall be deemed a debt owed by the transient guest to the City. Any tax collected by an operator that has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.
(Ord. 2005-2. Passed 1-24-05.)

189.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

This chapter shall continue effective insofar as the levy of the tax is concerned until revoked, and insofar as the collection of the tax levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 189.99.
(Ord. 2005-2. Passed 1-24-05.)

189.16 DISPOSITION OF FUNDS COLLECTED.

By the passage of this chapter, it is the expressed intention of Council to place the funds derived from the imposition of the tax herein imposed in the general fund, such funds to be used as set forth in Section 189.01.
(Ord. 2005-2. Passed 1-24-05.)

189.17 SEPARABILITY.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 2005-2. Passed 1-24-05.)

189.99 VIOLATIONS; PENALTY.

Whoever violates or fails to comply with any of the provisions of Sections 189.01 through 189.17 for which no penalty is otherwise provided is guilty of a minor misdemeanor. Each day the violation continues shall be deemed a separate violation.
(Ord. 2005-2. Passed 1-24-05.)

CHAPTER 189
Lodging Tax

189.01 Purpose.	189.11 Penalties and interest.
189.02 Definitions.	189.12 Failure to collect; assessments; refunds.
189.03 Imposition of tax.	189.13 Appeals.
189.04 Exemptions.	189.14 Collection.
189.05 False evidence of tax-exempt status.	189.15 Collection of tax after termination of chapter.
189.06 Payment by transient guest.	189.16 Disposition of funds collected.
189.07 Statement and charge of tax.	189.17 Separability.
189.08 Registration.	189.99 Violations; penalty.
189.09 Records.	
189.10 Returns and payment.	

CROSS REFERENCES

State Authority- see Ohio R.C. 5739.08
City Income Tax - see Ch. 185

189.01 PURPOSE.

To provide revenues for the general fund to be used for municipal purposes including but not limited to the promotion of tourism in the City and all matters related thereto, this lodging tax is established.

(Ord. 2005-2. Passed 1-24-05.)

189.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

- (a) "Administrator" means the individual designated pursuant to Chapter 185, who is to administer and enforce the provisions of this chapter.
- (b) "Board of Review" means the Board of Review created by and constituted as provided in Section 185.12.
- (c) "City" means the City of Huron, Ohio.
- (d) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures (including but not limited to motels and bed and breakfast establishments).
- (e) "Transient accommodation" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four (4) or less rooms are used for the accommodations of such guests, whether such rooms are in one (1) or several structures.

- (f) "Occupancy" means the use or possession, or the right to the use or possession, of any room or rooms or space or portion thereof, in any hotel or **transient accommodation** for dwelling, lodging or sleeping purposes. The use or possession or the right to use or possess any room or any suite of connecting rooms as office space, banquet or private dining rooms, or exhibit, sample or display space shall not be considered occupancy within the meaning of this definition unless the person exercising occupancy uses or possesses, or has the right to use or possess, all or any portion of such room or suite of rooms for dwelling, lodging or sleeping purposes.
- (g) "Operator" means any person who is the proprietor of a hotel or **transient accommodation**, whether in the capacity of owner, lessee, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character, other than an employee, the managing agent shall be deemed an operator for the purposes of this Chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.
- (h) "Person" means a "person" as defined in Section 185.02(v).
- (i) "Rent" means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or service of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.
- (l) "State" means the State of Ohio.
- (j) "Transient Guests" means persons occupying a room or rooms for sleeping accommodations for less than 30 consecutive days.
(Ord. 2005-2. Passed 1-24-05.)

189.03 IMPOSITION OF TAX.

(a) For the purpose of providing revenue for the purpose set forth in Section 189.01, an excise tax is levied on transactions by which lodging by a hotel or **transient accommodation** is or is to be furnished to transient guests.

(b) The tax is 3% on all rents paid or to be paid by transient guests for the lodging. Such tax constitutes a debt owed by the transient guest to the City, which debt is extinguished only by payment to the operator as trustee for the City, or to the City. The tax applies and is collectible at the time the lodging is furnished regardless of the time when the rent is paid.

(c) For the purpose of the proper administration of this Chapter and to prevent the evasion of the tax, it is presumed that all lodging furnished by hotels in the City to transient guests is subject to the tax until the contrary is established.
(Ord. 2005-2. Passed 1-24-05.)

189.04 EXEMPTIONS.

- (a) No tax shall be imposed under this chapter on:
 - (1) Rents not within the taxing power of the City under the Constitution or laws of the State or the United States of America; or
 - (2) Rents paid by the City or any of its political subdivisions.

(b) No exemption claimed under (a) above shall be granted except on a claim therefor made at the time the rent is collected and under penalty of perjury on a form prescribed by the Administrator. All claims of exemption shall be made in the manner prescribed by the Administrator. (Ord. 2005-2. Passed 1-24-05.)

189.05 FALSE EVIDENCE OF TAX-EXEMPT STATUS.

No transient guest shall refuse to pay the full tax as required by this chapter or present to the operator false evidence indicating that the lodging as furnished is not subject to the tax. (Ord. 2005-2. Passed 1-24-05.)

189.06 PAYMENT BY TRANSIENT GUEST.

(a) The tax imposed by this chapter shall be paid by the transient guest to the operator, and each operator shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging.

(b) If the transaction is claimed to be exempt, the transient guest must furnish to the operator, and the operator must obtain from the transient guest, a certificate specifying the reason that the sale is not legally subject to the tax. If no certificate is obtained, it shall be presumed that the tax applies.

(Ord. 2005-2. Passed 1-24-05.)

189.07 STATEMENT AND CHARGE OF TAX.

(a) The tax to be collected shall be stated and charged separately from the rent and shown separately on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and on every evidence of occupancy or any bill or statement or charge made for such occupancy issued or delivered by the operator. The tax shall be paid by the occupant to the operator as trustee for and on account of the City and the operator shall be liable for the collection thereof and for the remittance of the tax to the Administrator.

(b) No operator of a hotel or transient accommodation shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

(Ord. 2005-2. Passed 1-24-05.)

189.08 REGISTRATION.

Within 30 days after the effective date of Ordinance 2005-2, passed January 24, 2005 or within 30 days after commencing business, whichever is later, each operator of any hotel renting lodging to transient guests shall register the hotel with the Administrator and obtain from the Administrator a Transient Occupancy Registration Certificate, which Certificate shall be at all times posted in a conspicuous place on the premises. Within 30 days after the effective date of Ordinance 2018-_____, passed _____ or within 30 days after commencing business, whichever is later, each operator of any transient accommodation renting lodging to transient guests shall register the transient accommodation with the Administrator and obtain from the Administrator a Transient Occupancy Registration Certificate, which Certificate shall be at all times posted in a conspicuous place on the premises. The Certificate shall, among other things, state the following:

- (a) The name of the operator;
- (b) The address of the hotel or transient accommodation;
- (c) The date upon which the Certificate was issued; and
- (d) "This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Lodging Tax Ordinance by registering with the Administrator of the City of Huron for the purpose of collecting from transient guests the Lodging Tax and remitting that tax to the Administrator of the City of Huron. This Certificate does not constitute a permit."

(Ord. 2005-2. Passed 1-24-05.)

189.09 RECORDS.

Each operator shall keep complete and accurate records of lodging furnished, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and other pertinent documents. If the operator furnishes lodging not subject to the tax, the operator's records shall show the identity of the transient guest, if the sale was not exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. The records and other documents shall be opened during business hours to the inspection of the Administrator and shall be preserved for a period of three years, unless the Administrator, in writing, consents to their destruction within that period, or unless the Administrator orders that such records be kept for a longer period of time.

(Ord. 2005-2. Passed 1-24-05.)

189.9 RETURNS AND PAYMENT.

Each operator shall, on or before the last day of the month following the close of each calendar quarter, or at the close of any shorter reporting period that may be established by the Administrator, make a return to the Administrator, on forms provided by the Administrator, of the total rents charged and received and the amount of tax collected by transient occupancies. All claims for exemption from tax filed by transient guests with the operator during the reporting period shall be filed with the report. At the time the return is filed, the full amount of the tax collected shall be remitted to the Administrator. The Administrator may establish shorter reporting periods for any Certificate holder if the Administrator deems it necessary in order to insure collection of the tax, and the Administrator may require further information in the return if such information is pertinent to the collection of the tax. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by operators pursuant to this Chapter shall be held in trust for the account of the City until payment is made to the Administrator. All returns and payments submitted by each operator shall be treated as confidential by the Administrator and shall not be released by the Administrator except on order of a court of competent jurisdiction or to an officer or agent of the United States of America, the State, the County of Erie or the City for official use only.

(Ord. 2005-2. Passed 1-24-05.)

189.10 PENALTIES AND INTEREST.

(a) Original delinquency. Any operator who fails to remit any tax imposed by this Chapter within the time required shall pay a penalty equal to 10% of the amount of the tax, in addition to the tax.

(b) Continued delinquency. Any operator who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance became delinquent shall pay a second delinquency penalty equal to 10% of the amount of the tax and previous penalty in addition to the tax and the 10% penalty first imposed. An additional penalty equal to 10% of the total tax and penalty of the previous 30-day period shall be added for each successive 30-day period that the occupant remains delinquent, but the accumulated penalty shall not exceed 100% of the delinquent remittance.

(c) Fraud. If the Administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty equal to 25% of the amount of the tax shall be added thereto, in addition to the penalties stated in (a) and (b) above.

(d) Interest. In addition to the previous penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of 1.0% per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

(e) Penalties during pendency of hearing or appeal. No penalty provided under the terms of this Chapter shall be imposed during the pendency of any hearing provided for herein or during the pendency of any appeal to the Board of Review.
(Ord. 2005-2. Passed 1-24-05.)

189.11 FAILURE TO COLLECT; ASSESSMENTS; REFUNDS.

If any operator fails or refuses to collect the tax and to make, within the time provided in this chapter, any report and remittance of such tax or any portion thereof required by this chapter, the Administrator shall proceed in such manner as he may deem best to obtain facts and information on which to base his estimate of the tax due and shall have the same investigative powers described in Section 185.09(a) and (b). As soon as the Administrator procures such facts and information as the Administrator is able to obtain on which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect it and to make such report and remittance, the Administrator shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the Administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at the operator's last known place of business. Such operator may, within ten days after the serving or mailing of such notice, make application in writing to the Administrator for a hearing on the amount assessed. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the Administrator shall become final and conclusive and immediately due and payable. If such application is made, the Administrator shall give not less than five days written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in such notice why such amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After the hearing, the Administrator shall determine the proper tax to be remitted and shall thereafter give written notice to the person in the manner prescribed herein of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after 15 days unless an appeal is taken as provided by Section 189.13. No assessment shall be made against an operator for any tax, interest or penalty imposed by or pursuant to this Chapter more than four years after the due date for the remittance of the tax imposed by this Chapter or the date the return of such tax is filed, whichever is later. No statute of limitation on assessments exists where (i) the Administrator has substantial evidence of amounts of tax collected by an operator from transient guests that were not returned to the Administrator or (ii) the operator failed to file a return as required by this Chapter. A claim for refund to the Administrator of any tax illegally or erroneously paid, collected and/or remitted shall be made in the manner, and within the time, prescribed by Ohio R.C. 5739.07, including any amendments or successor provisions thereto. (Ord. 2005-2. Passed 1-24-05.)

189.13 APPEALS.

Any operator aggrieved by any decision of the Administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the Board of Review by filing a notice of appeal with it within ten days of the serving or mailing of the determination of tax due. The Board of Review shall fix a time and place for hearing the appeal, and shall give notice in writing to such operator at the last known place of business of the operator. The findings of the Board of Review shall be final and conclusive and shall be served on the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice.
(Ord. 2005-2. Passed 1-24-05.)

189.14 COLLECTION.

Any tax required to be paid by a transient guest under the provisions of this Chapter shall be deemed a debt owed by the transient guest to the City. Any tax collected by an operator that has not been paid to the City shall be deemed a debt owed by the operator to the City. Any person owing money to the City under the provisions of this Chapter shall be liable to an action brought in the name of the City for the recovery of such amount.
(Ord. 2005-2. Passed 1-24-05.)

189.15 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

This chapter shall continue effective insofar as the levy of the tax is concerned until revoked, and insofar as the collection of the tax levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 189.99.
(Ord. 2005-2. Passed 1-24-05.)

189.16 DISPOSITION OF FUNDS COLLECTED.

By the passage of this chapter, it is the expressed intention of Council to place the funds derived from the imposition of the tax herein imposed in the general fund, such funds to be used as set forth in Section 189.01.
(Ord. 2005-2. Passed 1-24-05.)

189.17 SEPARABILITY.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 2005-2. Passed 1-24-05.)

189.99 VIOLATIONS; PENALTY.

Whoever violates or fails to comply with any of the provisions of Sections 189.01 through 189.17 for which no penalty is otherwise provided is guilty of a minor misdemeanor. Each day the violation continues shall be deemed a separate violation.
(Ord. 2005-2. Passed 1-24-05.)



TO: Mayor Hartung and City Council
FROM: Andrew D. White, City Manager
RE: Ordinance No. 2018-33
DATE: December 3, 2018

Subject Matter/Background

Ordinance No. 2018-33 will be on the January 8th agenda for its third and final reading. Administration has not received any comments / amendments relative to the proposed legislation as drafted.

Summary

Ordinance No. 2018-33 repeals Chapter 1369-Rooming Houses and replaces it with Chapter 1369-Transient Rental Property. The proposed replacement will establish a transient rental registration and inspection program within the city. The existing Chapter 1369-Rooming Houses was established in 1972 and placed the inspection responsibilities within the authority of the Health Commissioner. Staff has consulted with Erie County Health Commissioner Pete Schade who supported the repeal and replacement as proposed.

The proposed legislation creates a twenty-four month rental permit/certificate of occupancy program. The filing of the initial application for a rental permit will trigger the life safety, property maintenance and building code inspection of the proposed rental property.

The fees were established upon a survey of various communities throughout northern Ohio with vacation rentals. The fees for the rental permit and inspections varied greatly. The proposed fees represent a median cost premised on that review. The permit fee includes the inspection cost and one reinspection if necessary. If additional reinspections are required, a \$50.00 fee per rental unit will be assessed.

Financial Review

Upon implementation of the rental registration and inspection program, data collected will allow the city to forecast anticipated revenue and expense associated with the program and adjust the budget accordingly. Mr. Zimmerman has confirmed that required inspections identified in the ordinance would fall under the current scope of service within the Building Official agreement.

Legal Review

This matter has been reviewed and is properly before you.

Recommendation

The legislation is placed before you for its third/final reading. If the Council is in support of the request, a motion to adopt Ordinance 2018-33 would be in order.

ORDINANCE NO. 2018-33

AN ORDINANCE REPEALING CHAPTER 1369-ROOMING HOUSES OF THE CITY OF HURON CODIFIED ORDINANCES; AND REPLACING IT WITH CHAPTER 1369-RENTAL REGISTRATION OF THE CITY OF HURON CODIFIED ORDINANCES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That City Council has determined it is in the best interest of the residents of the City of Huron to regulate the health, safety and wellness of the public, including the owners, occupants, and neighboring property owners of properties being utilized for transient occupancy within the City.

SECTION 2. That Chapter 1369-Rooming Houses of the Codified Ordinances of the City of Huron which currently reads as follows: (refer to Exhibit “A” attached), shall be and hereby is repealed and replaced with Chapter 1369-Transient Rental Property which reads as follows: (refer to Exhibit “B” attached).

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 3. This ordinance will take effect thirty (30) days following adoption.

Brad Hartung, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

EXHIBIT A

**CHAPTER 1369
Rooming Houses**

1369.01	Compliance.	1369.05	Enforcement.
1369.02	Permit; fee.	1369.06	Minimum requirements.
1369.03	Denial of permit.	1369.07	Correction of violations;
1369.04	Inspections; right of entry.		notices; hearing.

CROSS REFERENCES

Appeal, hearing and variances - see BLDG. Ch. 1355

Condemnation proceedings - see BLDG. Ch. 1357

Removal of unsafe buildings - see BLDG. Ch. 1358

1369.01 COMPLIANCE.

No person shall operate a rooming house or shall occupy or let to another for occupancy any room unit in any rooming house, except in compliance with the applicable provision of every section of these regulations. (Ord. 1972-6. Passed 1-10-72.)

1369.02 PERMIT; FEE.

(a) No person shall operate a rooming house unless he holds a valid rooming house permit issued by the Health Commissioner in the name of the operator for the specific rooming house. This permit shall be displayed in a conspicuous place within the rooming house at all times. Every rooming house permit shall expire at the end of one year following its date of issuance.

(b) The operator shall apply to the Health Commissioner for such permit, which shall be issued by the Commissioner upon compliance by the operator with the applicable provisions of these regulations.

(c) A rooming house permit is not transferable. When a person who holds a rooming house permit transfers his interest in or control of a rooming house he shall notify the Health Commissioner in writing within twenty-four hours. Such notice shall include the name and address of the person succeeding to the ownership or control of the rooming house.

(d) A permit fee of ten dollars (\$10.00) for the first five dwelling units and one dollar (\$1.00) for each additional unit shall be paid to the County Health Commissioner. The minimum fee shall be ten dollars (\$10.00) for any rooming house.
(Ord. 1972-6. Passed 1-10-72.)

EXHIBIT A

1369.03 DENIAL OF PERMIT.

(a) When the Health Commissioner denies an application for a rooming house permit, he shall notify the applicant in writing. A notice of denial shall include the date of denial, the time within which a request for hearing may be made and a brief statement of the facts upon which the denial was based.

(b) Any person whose application for a permit to operate a rooming house has been denied may request and shall be granted a hearing before the Commissioner under the procedure provided by Section 1369.07. (Ord. 1972-6. Passed 1-10-72.)

1369.04 INSPECTIONS; RIGHT OF ENTRY.

Upon presentation of proper credentials or proper identification, the Health Commissioner may enter at reasonable times any building, structure or premises in the City to perform any duty imposed on him by these regulations. No person shall in any way obstruct, hinder, delay or otherwise interfere with the Commissioner in such entrance.

(Ord. 1972-6. Passed 1-10-72.)

1369.05 ENFORCEMENT.

(a) Whenever upon inspection of any rooming house the Health Commissioner finds that conditions or practices exist which are in violation of any provision of these regulations, the Commissioner shall give notice in writing to the operator of such rooming house that unless such conditions or practices are corrected within a reasonable period to be determined by the Commissioner, the operator's rooming house permit shall be suspended. At the end of such period the Commissioner shall reinspect such rooming house, and if he finds that such conditions or practices have not been corrected, he shall give notice in writing that the permit has been suspended.

(b) Any person whose permit to operate a rooming house has been suspended, or who has received a written notice that his permit is to be suspended unless an existing violation is corrected, may request and shall be granted a hearing before the Health Commissioner, under the procedure provided by Section 1369.07. If no petition for a hearing is filed within ten days after the date the permit was suspended, the permit shall be automatically revoked. Upon receipt of notice of revocation, the operator shall immediately cease operation of the rooming house and no person shall occupy for sleeping or living purposes any rooming unit therein. (Ord. 1972-6. Passed 1-10-72.)

1369.06 MINIMUM REQUIREMENTS.

(a) At least one flush watercloset, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the Health Commissioner and in good working condition, shall be provided for each ten persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of such facilities. However, in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one-third the required number of water closets. All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all person sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times. No such facilities shall be located in a basement except by written approval of the Health Commissioner.

EXHIBIT A

(b) The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(c) Every room occupied for sleeping purposes by one person shall contain at least seventy square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least fifty square feet for each additional occupant.

(d) Every rooming unit shall have at least one safe, unobstructed means of egress leading to safe, open space at ground level and to a public street or alley without having to pass through any other rooming unit.

(e) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings; for maintenance of sanitary conditions in every other part of the rooming house and for the sanitary maintenance of the premises of the rooming house.

(f) Every provision of this regulation which applies to rooming houses shall also apply to hotels, motels, tourist homes, except to the extent that any such provision may be found in conflict with the laws of this State or with the lawful regulations of any State board or agency. (Ord. 1972-6. Passed 1-10-72.)

1369.07 CORRECTION OF VIOLATIONS; NOTICES; HEARING.

(a) Whenever the Health Commissioner determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, he shall give written notice of such alleged violation to the person or persons responsible, therefore allowing a reasonable time for the correction of the alleged violation.

(b) Any person affected by any notice of an alleged violation may request and shall be granted a hearing before the Health Commissioner provided the request for such hearing is made within the number of days specified in the notice.

(c) After such hearing the Commissioner shall sustain, modify or withdraw the notice, depending upon his finding as to whether the provisions of the regulations have been complied with.

(d) Whenever the Health Commissioner finds that an emergency exists which requires immediate action to protect the public health, he may without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he deems necessary to meet the emergency.

Notwithstanding the other provisions of this chapter, such an order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the Health Commissioner shall be afforded a hearing as soon as possible. After such hearing, depending upon his finding as to whether the provisions of this chapter have been complied with, the Commissioner shall continue such order in effect, or modify or revoke it. (Ord. 1972-6. Passed 1-10-72.)

CHAPTER 1369
Transient Rental Property

1369.01	Definitions.
1369.02	Purpose.
1369.03	Rental License/Certificate of Occupancy.
1369.04	Fees.
1369.05	Maintenance Responsibilities.
1369.06	Entry and Inspection.
1369.07	Reports and Reinspection.
1369.08	Change of Ownership.
1369.09	Severability.
1369.99	Penalties.

1369.01 DEFINITIONS.

As used in this chapter:

(a) “Agent” or “Person in Charge” means any individual, person, firm, partnership, corporation or company acting on behalf of the property owner of a residential rental.

(b) “Dwelling unit” means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(c) “Rental agreement” means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(d) “Residential premises” means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances unit, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant.

(e) “Life Safety Inspection” means that inspection performed by the Building Official consisting of the following:

- (1) Testing of all electrical receptacles;
- (2) Check for and test smoke detectors and CO2 detectors;
- (3) Check for improper wiring;
- (4) Check electrical panel;
- (5) Check all light fixtures at all stairways and exterior doors;
- (6) Check furnace and water heaters;
- (7) Check for leaking water, gas and waste lines;
- (8) Check for removal of all refuse, garbage and debris.

1369.02 PURPOSE.

The purpose and intent of this section is to regulate the health, safety and wellness of the public, including the owners, occupants, and neighboring property owners of properties being utilized for transient occupancy within the City.

1369.03 RENTAL LICENSE/CERTIFICATE OF OCCUPANCY.

(a) Required. There is hereby created a Residential Rental Property Registration System for the City of Huron that requires owners of residential rental property units located within the City to

register each of their rental units. Rental units will be required to be renewed within thirty (30) days of any ownership change. The owner/operator of the rental unit shall comply with the following:

- (1) A property being utilized as a transient rental property shall visibly display a Rental License/Certificate of Occupancy outside the main entry of the property.
- (2) No person shall be allowed to transient rent a dwelling that is in violation of the City of Huron's health code, building code, or zoning regulations.
- (3) No person shall display a Rental License/Certificate of Occupancy or allow transient occupancy of a dwelling that has had its License/Certificate suspended, revoked, or denied.
- (4) No person shall allow a dwelling to be listed or advertised as a transient rental prior to obtaining a valid Rental License/Certificate of Occupancy.
- (5) No person shall allow a dwelling to be listed or advertised as a transient rental if the Rental License/Certificate of Occupancy has been suspended, revoked, or denied

(b) Issuance.

(1) Application for a Rental License/Certificate of Occupancy required by the provisions of this chapter shall be made by supplying the information and date to determine the compliance with the requirements of the Life Safety Inspection and compliance with the Residential Building Code of Ohio and Property Maintenance Code for the City of Huron for the existing use or occupancy or the intended use or occupancy on forms supplied by the Building Department. Upon completion of such application and submission of the required fee, the Building Official shall issue a Rental License. Upon obtaining a Rental License, the owner, agent or person in charge of any building or unit thereof shall comply with the provisions of this Chapter to obtain a Certificate of Occupancy.

(2) The Building Official shall cause a general inspection of the building and premises to be made.

(3) If it is found that a building and premise is in compliance with the inspection provisions of this chapter regarding a Life Safety Inspection, the Building Official shall issue a Certificate of Occupancy for such building and the rental units thereof which shall contain the following information: the name, address and telephone number of the owner(s); the address of each structure and premises with a rental unit; the number of rental units within each structure and premises; and, if someone other than the owner(s) is responsible for maintenance or repairs to a rental unit, the name, address and telephone number of the person(s) or entity responsible for such maintenance or repairs, along with identification of the rental units for which they are responsible.

(c) Revocation. The Building Official shall have the power to revoke a Rental License/Certificate of Occupancy if any false statement shall be made by the applicant in connection with the issuance of such certificate, or for the noncompliance of a building or rental unit thereof with the requirements of this chapter, or the owner, agent or person in charge of a building or rental unit thereof shall refuse to comply with any provisions of this chapter.

(d) Term. A Rental License/Certificate of Occupancy issued pursuant to this chapter shall be valid for twenty-four months from the application date or until a change in ownership of the rental unit.

1369.04 FEES.

(a) Registration Fee. All rental units, including but not limited to, single family

buildings or residential units located within a single building shall pay the registration fee for a Rental License/Certificate of Occupancy. Fees shall not be prorated for partial year issuance.

One Rental Unit	\$50.00
Two to Five Rental Units	\$100.00
Six or more Rental Units	\$100.00 plus \$15.00 per unit

(b) Reinspection Fee. The initial inspection and a maximum of one reinspection is of the rental unit is included in the application fee paid to the City for the Rental License/Certificate of Occupancy. Any subsequent reinspection will require a reinspection fee of \$50.00 per rental unit.

1369.05 MAINTENANCE RESPONSIBILITIES.

(a) The code used in determining whether the conditions of property and premises are maintained in an approved manner shall be the Property Maintenance Code as adopted or may be amended by the City of Huron, and the Residential Building Code of Ohio.

(b) The owner(s), agent(s) or person(s) in charge of every residential rental unit or structure shall be responsible for the maintenance thereof in good repair and safe condition in compliance with the requirements of this chapter and the requirements established by the City administratively. The owner shall also be responsible for maintain in a safe and sanitary condition the shared or common areas of the premises.

(c) The occupant(s) of a residential rental unit or premises shall be responsible for maintaining in a safe and sanitary condition that part of the unit and premises which he or she occupies and controls. In addition, such occupant shall be responsible for maintain in a safe condition all equipment and appliances which he or she owns.

1369.06 ENTRY AND INSPECTION.

(a) The Building Official is authorized and directed to cause exterior inspections to be made of all dwellings, and the grounds surrounding such dwellings located within the City of Huron, with the inspection to include only those items which can be inspected by lawful means. In the event the Building Official has reason to believe that a code violation may have occurred within a dwelling unit, he is authorized and directed to inspect the remainder of the premises. The owner, operator or occupant of every rental unit may, upon the request of the Building Official, give the Building Official free access to the property, at reasonable times, for the purpose of inspection. In the event access to the premises is refused, the Building Official with the assistance of the Law Director may obtain an administrative warrant from a court of competent jurisdiction in order to gain access to the premises. In the event an administrative warrant cannot be obtained, then the inspection shall include only those items which can be inspected by lawful means. This chapter shall not be construed to require an owner, operator or occupant to consent to a warrantless inspection of property except as provided by law.

(b) All owners/operators of rental units within the City of Huron shall cause to have each rental unit inspected by the Building Official on an annual basis to determine compliance with this Chapter. A failure to permit the inspection shall be cause for revocation of the Rental License/Certificate of Occupancy.

1369.07 REPORTS AND REINSPECTION.

(a) Upon completion of an inspection, an inspection report will be issued to the agent/owner of the rental unit within fourteen (14) days.

(b) Violations enumerated in the inspection report shall be abated by the

owner/operator of the rental unit within thirty (3) days from the date of the inspection report. A reinspection shall be required to verify that the violations have been corrected. The owner/operator of the rental unit shall contact the Building Official to schedule the required reinspection.

(c) Failure to correct the violations within thirty (30) days from the inspection report date shall constitute a violation of this chapter and may result in the revocation of the Rental License.

1369.08 CHANGE OF OWNERSHIP.

Any person selling or otherwise relinquishing ownership control of a rental unit shall notify the Building Official of said change in ownership within fourteen (14) calendar days of the effective date of the transfer. Such notice shall be in writing and shall include: the name, address and telephone number of the new owner, and the name, address and telephone number of the previous owner. Rental registration shall not be transferred or assigned to any property owner, or to any dwelling rooming unit, other than to who and for which it was issued. New owners must register rental units in accordance with the provisions of this code.

1269.09 SEVERABILITY.

The provisions of these regulations shall be severable and should any section or provision of these regulations be declared by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

1369.99 PENALTY; LEGAL ACTION

(a) Whoever violates any provision of this chapter or any rule or regulation promulgated thereunder or fails to comply therewith or with any written notice or written order issued thereunder shall be guilty of a first degree misdemeanor and subject to a maximum fine of one thousand dollars (\$1,000.00) or a maximum imprisonment term of six (6) months or both, with the special restriction that each violation shall result in at least a minimum fine of two hundred fifty dollars (\$250.00).

(b) The imposition of any penalty as provided for in this chapter shall not preclude the Director of Law from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance, to restrain, correct or abate a violation, to prevent the occupancy of a building, or premises, or to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules or regulations.



TO: Mayor Hartung and City Council
FROM: Andrew D. White, City Manager
RE: Ordinance No. 2018-34
DATE: December 3, 2018

Subject Matter/Background

Ordinance No. 2018-34 will be on the January 8th agenda for its third and final reading. Administration has not received any comments / amendments relative to the proposed legislation as drafted.

Summary

Ordinance No. 2018-34 will amend Chapter 905 -Culverts, Drains, and Ditches of the Streets, Utilities and Public Services Code incorporating language to revise and address matters associated with proactive ditch maintenance.

The amendments to this Chapter were a result of inquiries and recommendations presented by resident, Jerry Weyer to City Council in various meetings over the last few years. Additionally, Mayor Hartung and Councilman Ginesi performed an on-site walk of the creek/ditch areas with Mr. Weyer to better understand his concerns for floatable objects and routine ditch maintenance. Late summer, Doug Green performed a visual inspection of drainage ways throughout the city to determine what obstructions existed. Following that inspection, Mr. Green notified affected property owners of obstructions and directed the property owners to remediate obstructions which were effecting the efficient drainage of water.

Mayor Hartung met with staff to review the recommendations presented by Mr. Weyer and reviewed ordinances from several different jurisdictions. As a result of this review, staff has prepared the amendments to Chapter 905 for your consideration.

905.01 is a proposed amendment to the existing language incorporating the designation of the Zoning Official or his designee as the enforcement authority. Additionally, language was incorporated from Ohio Revised Code §715.47 which specifically affords the municipal corporation the authority to maintain, repair, deepen, widen or clean ditches, watercourses or drainage improvements. Additional definitions of Floodway Obstructions and storage of specific floatable objects have been added.

905.02 is a proposed amendment incorporating the designation of the Zoning Official or his designee as the enforcement agency. Section 905.02 allows the discretion to rest with the city as to the determination of whether a perceived condition of obstruction exists.

905.07 is a proposed addition to the existing ordinance requiring designated funds for remediation to be appropriated by city council. This addition establishes the annual maintenance effort to be directed by council through your budgetary process.

905.08 is a proposed addition to the existing ordinance restating the collection through the imposition of a real property lien as stated by Ohio Revised Code §715.47. Additionally, 905.08 allows for the declaration of a public nuisance through a citation in municipal court without causing the lengthier process of written notice to abate the nuisance to occur.

Financial Review

There are no immediate financial implications to the adoption of the proposed legislation. If approved, a future appropriation would be necessary to designate the funds available for remediation of various obstructions.

Legal Review

This matter has been reviewed and is properly before you.

Recommendation

The legislation is placed before you for its third/final reading. If the Council is in support of the request, a motion to adopt Ordinance 2018-34 would be in order.

ORDINANCE NO. 2018-34

AN ORDINANCE AMENDING SECTIONS 905.1-INSPECTIONS FOR DEFECTIVE CONDITIONS, 905.2-NOTICE TO CORRECT DEFECTS, AND ADOPTING SECTIONS 905.7-APPROPRIATION OF FUNDS BY COUNCIL, AND 905.8 ENFORCEMENT; ALL OF CHAPTER 905 CULVERTS, DRAINS AND DITCHES OF THE CITY OF HURON CODIFIED ORDINANCES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That Sections 905.1- Inspections for Defective Conditions and 905.02 – Notice to Correct Defects both of Chapter 905 – Culverts, Drains and Ditches of the Codified Ordinances of the City of Huron which currently reads as follows: (refer to Exhibit “A” attached), shall be and hereby are amended: (refer to Exhibit “B” attached).

SECTION 2. That Sections 905.7 – Appropriation of Funds by Council and 905.8 – Enforcement both of Chapter 905 – Culverts, Drains and Ditches of the Codified Ordinances of the City of Huron are hereby adopted to read as follows: (refer to Exhibit “B” attached).

SECTION 3. That Sections 905.1- Inspections for Defective Conditions and 905.02 – Notice to Correct Defects both of Chapter 905 – Culverts, Drains and Ditches of the Codified Ordinances of the City of Huron, as existing prior to the adoption of this Ordinance shall be, and the same hereby are, repealed.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements, including O.R.C. §121.22.

SECTION 5. This ordinance will take effect thirty (30) days following adoption.

Brad Hartung, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____

CHAPTER 905
Culverts, Drains and Ditches

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| 905.1 | Inspections for defective conditions. | 905.5 | Failure to comply; City action. |
| 905.2 | Notice to correct defects. | 905.6 | Building permit requirements. |
| 905.3 | New installation materials. | 905.99 | Penalty. |
| 905.4 | New installation; cost borne by owner. | | |

CROSS REFERENCES

- Notice to remove obstructions from culverts or covered drains, fill or drain lots- see Ohio R.C. 715.47
- Notice to construct or repair curbs or gutters - see Ohio R.C. 729.03 et seq. Division of Streets and Parks - see ADM. Ch. 149
- Removal of obstructions from culverts, etc. - see GEN. OFF. 521.05
- Pavements and curbs in subdivisions - see P. & Z. 1119.04
- Rain carriers - see BLDG. 1363.10

905.1 INSPECTIONS FOR DEFECTIVE CONDITIONS.

The Service Director is directed and instructed to make periodic inspections and examinations of the position and condition of all culverts, drains or drainage ditches to determine the need, if any, for them to be reset, cleaned or replaced.
(Ord. 1962-20. Passed 7-23-62.)

905.2 NOTICE TO CORRECT DEFECTS.

In the event that the Service Director finds and determines a drain, culvert or drainage ditch defective in construction, obstructed or inadequate in size so as to hinder, stop or interfere with the disposal of excess surface water, he is authorized and directed to inform the owner or the occupant of the property, on which the defect or inadequacy is found, of the unsatisfactory conditions and make recommendations in writing for replacement, resetting or cleaning as he deems necessary.
(Ord. 1962-20. Passed 7-23-62.)

905.3 NEW INSTALLATION MATERIALS.

In all new construction of driveways drains or culverts and in all cases requiring replacement of existing culverts or drains, the drains or culverts shall be of corrugated steel or reinforced concrete tube and shall be not less than eight inches in diameter.
(Ord. 1962-20. Passed 7-23-62.)

905.4 NEW INSTALLATION; COST BORNE BY OWNER.

In the event that new culverts or drains must be installed in the opinion of the Service Director, the owner or occupant of the property to be benefited shall, upon notice, have the duty of providing and installing the necessary drain pipe at his own cost and expense. All work shall be in accordance with the recommendations of the Service Director.
(Ord. 1962-20. Passed 7-23-62.)

905.5 FAILURE TO COMPLY; CITY ACTION.

In the event any owner or occupant fails to provide and install the drain pipe, as required in Section 905.04, the Service Director is authorized to cause within fifteen days after notice, grading of the street so as to provide proper drainage and to prevent the obstruction thereof. Any expense incurred by the City shall be paid by the owner or occupant benefited by such improvement. (Ord. 1962-20. Passed 7-23-62.)

905.6 BUILDING PERMIT REQUIREMENTS.

No building permit shall be issued by the Building Official unless and until the Service Director has examined the proposed building site and the proposed plans to determine if the applicant proposes to provide a satisfactory culvert or drain under the driveway of the premises and adequate lot drainage.

Upon completion of such examination the Service Director shall notify immediately the Building Official and the builder of his findings and recommendations.

No building permit shall be issued to any applicant until the recommendations of the Service Director are complied with.

No trucks or materials of any builder shall be permitted to have access to a proposed building site until all the provisions of this section have been complied with.
(Ord. 1962-20. Passed 7-23-62.)

905.7 ENFORCEMENT.

The City, by and through its Zoning Official or his designee may fill or drain any lot or land within its limits on which water at any time becomes stagnant, remove all putrid substances from any lot, and remove all obstructions from culverts, covered drains, or private property, laid in any natural watercourse, creek, brook, or branch, which obstruct the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort, or convenience of any of the citizens of the neighborhood as provided in Ohio Revised Code 715.47. If such culverts or drains are of insufficient capacity, the City may make them of such capacity as reasonably to accommodate the flow of such water at all times. The City Council may, by resolution, direct the owner to fill or drain such lot, remove such putrid substance or such obstructions, and if necessary, enlarge such culverts or covered drains to meet the requirements thereof.

After service of a copy of such resolution, or after a publication thereof, in a newspaper of general circulation in such municipal corporation or as provided in section [7.16](#) of the Revised Code, for two consecutive weeks, such owner, or such owner's agent or attorney, shall comply with the directions of the resolution within the time therein specified.

In case of the failure or refusal of such owner to comply with the resolution, the work required thereby may be done at the expense of the municipal corporation, and the amount of money so expended shall be recovered from the owner before any court of competent jurisdiction. Such expense from the time of the adoption of the resolution shall be a lien on such lot, which may be enforced by suit in the court of common pleas, and like proceedings may be had as directed in

905.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

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- Notice to remove obstructions from culverts or covered drains, fill or drain lots- see Ohio R.C. 715.47
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905.1 INSPECTIONS FOR DEFECTIVE CONDITIONS.

(a) The Service Director, **by and through the Zoning Official or his designee** is directed and instructed to make periodic inspections and examinations of the position and condition of all culverts, drains or drainage ditches to determine the need, if any, for them to be reset, cleaned or replaced.

(b) **The City shall have the authority to maintain, repair, deepen, widen or clean any and all ditches, watercourses or drainage improvements within the City and such authority includes the right of ingress to and egress from the ditch, watercourse or drainage improvement. No person, firm or corporation shall interfere with, prohibit or obstruct the City or its agents in the exercise of this right.**

(c) **Storage or processing of materials which are buoyant, pollutant, flammable, explosive, or could be injurious to human, animal or plant life in time of flooding shall be stored one and one half feet above the Base Flood Elevation, or suitably flood-proofed and protected.**

(d) **A Floodway Obstruction means any object in, along, across, or projecting into a portion of the floodway which may impede, retard, or change the direction of the flow of water either in and of itself or by catching or collecting waterborne debris, or that is placed where the flow of water would carry the same downstream to the damage or detriment of life or property.**

905.2 NOTICE TO CORRECT DEFECTS.

In the event that the Service Director, **by and through the Zoning Official or his designee** finds and determines a drain, culvert or drainage ditch defective in construction, obstructed or inadequate in size so as to hinder, stop or interfere with the disposal of excess surface water, he is authorized and directed to inform the owner or the occupant of the property, on which the defect or inadequacy is found, of the unsatisfactory conditions and make recommendations in writing for replacement, resetting or cleaning as he deems necessary. (Ord. 1962-20. Passed 7-23-62.)

905.3 NEW INSTALLATION MATERIALS.

In all new construction of driveways drains or culverts and in all cases requiring replacement of existing culverts or drains, the drains or culverts shall be of corrugated steel or reinforced concrete tube and shall be not less than eight inches in diameter.
(Ord. 1962-20. Passed 7-23-62.)

905.4 NEW INSTALLATION; COST BORNE BY OWNER.

In the event that new culverts or drains must be installed in the opinion of the Service Director, the owner or occupant of the property to be benefited shall, upon notice, have the duty of providing and installing the necessary drain pipe at his own cost and expense. All work shall be in accordance with the recommendations of the Service Director.
(Ord. 1962-20. Passed 7-23-62.)

905.5 FAILURE TO COMPLY; CITY ACTION.

In the event any owner or occupant fails to provide and install the drain pipe, as required in Section 905.04, the Service Director is authorized to cause within fifteen days after notice, grading of the street so as to provide proper drainage and to prevent the obstruction thereof. Any expense incurred by the City shall be paid by the owner or occupant benefited by such improvement. (Ord. 1962-20. Passed 7-23-62.)

905.6 BUILDING PERMIT REQUIREMENTS.

No building permit shall be issued by the Building Official unless and until the Service Director has examined the proposed building site and the proposed plans to determine if the applicant proposes to provide a satisfactory culvert or drain under the driveway of the premises and adequate lot drainage.

Upon completion of such examination the Service Director shall notify immediately the Building Official and the builder of his findings and recommendations.

No building permit shall be issued to any applicant until the recommendations of the Service Director are complied with.

No trucks or materials of any builder shall be permitted to have access to a proposed building site until all the provisions of this section have been complied with.
(Ord. 1962-20. Passed 7-23-62.)

905.7 APPROPRIATION OF FUNDS BY COUNCIL.

The City's right and responsibility in the cleaning, deepening, widening and maintaining of all ditches, watercourses and drainage improvements shall be dependent on the appropriation and availability of funds for this purpose.

905.8 ENFORCEMENT.

(a) The City, by and through its Zoning Official or his designee shall have all authority conveyed to it by Ohio Revised Code 715.47 and may fill or drain any lot or land within its limits on which water at any time becomes stagnant, remove all putrid substances from any lot, and remove all obstructions from culverts, covered drains, or private property, laid in any natural watercourse, creek, brook, or branch, which obstruct the water naturally flowing therein, causing it to flow back or become stagnant, in a way prejudicial to the health, comfort, or convenience of any of the citizens of the neighborhood.

If such culverts or drains are of insufficient capacity, the City may make them of such capacity as reasonably to accommodate the flow of such water at all times. The City Council may, by resolution, direct the owner to fill or drain such lot, remove such putrid substance or such obstructions, and if necessary, enlarge such culverts or covered drains to meet the requirements thereof. After service of a copy of such resolution, or after a publication thereof, in a newspaper of general circulation in such municipal corporation or as provided in section 7.16 of the Revised Code, for two consecutive weeks, such owner, or such owner's agent or attorney, shall comply with

the directions of the resolution within the time therein specified.

In case of the failure or refusal of such owner to comply with the resolution, the work required thereby may be done at the expense of the municipal corporation, and the amount of money so expended shall be recovered from the owner before any court of competent jurisdiction. Such expense from the time of the adoption of the resolution shall be a lien on such lot, which may be enforced by suit in the court of common pleas, and like proceedings may be had as directed in relation to the improvement of streets as provided in Ohio Revised Code §715.47.

(b) Notwithstanding the foregoing, in the event that the Service Director by and through the Zoning Official or his designee determines that a citation shall be issued without causing written notice to abate said nuisance the Service Director by and through the Zoning Official or his designee may direct the appropriate law enforcement agency to cause a citation to be issued to the landowner, or person in charge of the premises upon which a nuisance does exist as defined by Section 521.05.

905.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.



TO: Mayor Hartung and City Council
FROM: Andrew D. White, City Manager
RE: Resolution 2019-1
DATE: December 31, 2018

Subject Matter/Background

This resolution authorizes a request for an advance payment of property taxes collected by the County Auditor. The total amount requested is equal to \$200,000.00 and will be deposited equally into the General Fund (\$100,000.00) and Fire Levy Fund (\$100,000.00). Without this action these funds would not be received until much later in the year; the city has routinely exercised its right to request the funds due the city in advance.

Financial Review

This is an annual request for the advance payment of property taxes due from the Erie County Auditor's Office. The anticipated revenue is included in the current 2019 budget.

Legal Review

The matter has been reviewed, follows normal legislative procedure and is properly before you.

Recommendation

If the Council is in support of the request, a motion to adopt Resolution No. 2019-1 is in order.

RESOLUTION NO. 2019-1

A RESOLUTION REQUESTING AN ADVANCE PAYMENT OF THE CURRENT COLLECTION OF TAXES DUE THE CITY OF HURON

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF HURON, OHIO:

SECTION 1. That the County Auditor of Erie County, Ohio, is hereby requested to advance to the City of Huron, Ohio from any money that may be in the County Treasury to the account of the City of Huron, Ohio, the sum of \$200,000.00 as it becomes available, \$100,000.00 of which is allocated to the Fire Levy Fund and \$100,000.00 to the General Fund;

SECTION 2. The City Manager is hereby authorized to certify a copy of this Resolution to the Erie County Auditor together with any other necessary documents as may be required by Section 321.34 of the Ohio Revised Code to permit said advance payment of funds to be made.

SECTION 3. That it is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution and the subject matters set forth herein were adopted in open meetings of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of the City of Huron.

SECTION 4. This resolution shall be in full force and effect from and immediately after its adoption.

Brad Hartung, Mayor

ATTEST: _____
Clerk of Council

ADOPTED: _____