



City of Niagara Falls, New York

P.O. Box 69, Niagara Falls, NY 14302-0069

AUGUST 19, 2020

NIAGARA FALLS PLANNING BOARD

**DENIAL OF RECOMMENDATION TO CITY COUNCIL:
REVISION OF SHORT TERM RENTAL ORDINANCE**

Pursuant to action taken by the Niagara Falls Planning Board on the 19th day of August 2020 your request is hereby **DENIED**.

NAME OF OWNER: City of Niagara Falls

PURPOSE: **REVISION OF SHORT TERM RENTAL
ORDINANCE.**

Recommendation to Council is **Denied**.

DATE: August 19th, 2020


Tony M. Palmer, Chairman
Niagara Falls Planning Board

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TO: Niagara Falls City Council

FROM: Niagara Falls Planning Board
Thomas J. DeSantis, AICP, Planning Board Secretary
James Bragg, Associate Planner

DATE: August 19, 2020

RE: RECOMMENDATION to CITY COUNCIL – On the Proposed Amendment to Chapter 1328.13 “Short-Term Rental Units”

The Restaino Administration proposed amending Chapter 1328.13 of the Niagara Falls codified zoning ordinance, entitled “Short-Term Rental Units,” due primarily to the proliferation of housing units utilized for short-term rental (STR), with the primary purpose being to better regulate the short-term rental of dwelling units within the City through a comprehensive registration and licensing scheme, and by prohibiting the use from most neighborhoods, not within the Core City. The Administration’s proposed changes were an attempt to balance the interests between those who offer their homes as STR properties and those adjacent property owners who do not. The Administration expected that the proposed changes would result in more robust safeguards for public health and welfare through better oversight of STR properties and generally better enforcement capabilities.

The City recognizes that an explosion of short-term rentals throughout the City can endanger the residential character of the community and can cause disruption to the peace, quiet and enjoyment of neighboring homeowners –particularly when enforcement of STR regulations is made more difficult with each new STR that is advertised in this growing online marketplace.

The NF Planning Board heard from the Niagara County Planning Board (NCPB) on its referral on the issue (Case #6655 on 7/02/2020), where it advised against the proposed changes, citing the “impacts relating to the inconsistencies with the current comprehensive plan and unresolved issues including legal issues.” The ordinarily stoic NCPB had an extraordinarily animated discussion. In particular, NCPB member Mr. Walter Garrow characterized the proposal as being detrimental – not just to Niagara Falls, but adverse to the image of Niagara County as a whole. Mr. Garrow had problems with how the proposal segregated short-term rentals into an area with a known higher crime rate, which would seem to diminish potential returns for operators and potential force

visitors to avoid the city altogether. NCPB Chair Joseph Kibler stated that the inability of Niagara Falls to establish a demonstrative rational basis for the geographic exclusion made him ponder that the genuine motivation for the proposed limited STR district had political roots rather than a sound foundation in public policy.

After hearing from many in the community, primarily, but not exclusively, at the Public Hearing held on August 5, 2020, on the appropriateness of the proposed changes, it became clear that the overwhelming majority of comments were opposed to the proposed changes to the existing ordinance on STRs.

Moreover, the primary and nearly universal complaint with the proposed law and the current ordinance was the weak oversight of STRs and the lack of meaningful code enforcement. Those with legal operations did not oppose regulation or fees but did not see how limiting the number of locations addressed the more significant issues, which are the unresolved illegal STRs that operate without penalty, or the meaningful follow up of complaints by the community when those occur. Operators also did not see how adding more stringent regulations and higher fees addressed the underlying lack of enforcement. The proposed steps did not aid in identifying and/or eliminating illegal operators and 'bad actors' who already take advantage of an underperforming regulatory regime.

Specifically, the geographic limiting of STR units into the restricted area, within the Core City, was not seen as solving perceived failures or lack of proper enforcement. This limitation on the spread of STRs into more diverse parts of the City could create a greater "mass" of STRs in neighborhoods in proximity to downtown tourist zone where commercial lodging and hospitality properties are already, but it was noted by many that in so doing it puts a far more significant burden on those neighborhoods to function in an unexpected and undesired way. There are of course other unintended consequences. The limiting of potential locations increases cost-to-entry; higher levels of regulation and compliance requirements increases operating-costs, which would discourage compliance or locating STRs within the City altogether while encouraging STRs to locate in neighboring communities. All of which seems counterproductive and a general disincentive to increasing private investment in the City. It must be noted that the STR market is, in large part, not subsidized by public incentives or tax breaks. Capital investments in legal STRs often represent an over-investment when compared to typical home-owner improvements and/or surrounding property values generally. All of which can ultimately raise residential property values higher –more quickly, than without such capital investments.

Additionally, the proposed chapter amendment, while continuing to require the basic standards featured in the existing ordinance, would require an annually renewable STR license and a one-time non-renewable (permanent) special-use permit –instead of a special permit renewable every four (4) years. STRs would additional be required to maintain at least \$1 million¹ worth of liability insurance coverage (and provide evidence to that effect each year), and; STRs would pay a new fee of \$250.00 for single unit dwellings and \$400.00 for two-unit rental dwellings before the issuance of a special permit and annual license (which is a comparable rate with other STR licensing fees). The proposed creation of an annual licensing requirement would require an STR owner/operator to submit documentation regarding building/safety code compliance in order to obtain the special permit (initial application) and then yearly for the STR license and be subject to an annual inspection. Again, these specific new regulations have questionable value in promoting the City of Niagara Falls STR market and appear to add to the City's already considerable enforcement burden. It should be noted here that while the objection to new annual licensing regulations, and new insurance requirements, were generally questioned and considered objectionable, the desire to institute new fees was seen as being better understood in principle and less offensive overall. Therefore, these provisions should be dropped in its current form and if modified could be brought back later for further consideration.

Under the proposed chapter amendment, owners of an STR would be required to register with Airbnb and only Airbnb to force the collection of taxes and fees. This mandate is not seen as viable and would likely be met with a legal challenge if adopted. Hotels are a fundamentally different land use than an STR. Therefore, this provision should be dropped altogether from further consideration.

It is our general understanding that under current local laws, an owner of an STR can be held responsible for any nuisance violation at their property and must take all reasonable steps to ensure that all occupants of the dwelling unit refrain from making any disturbing, offensive, or excessive noise, which would annoy or disturb the neighborhood. This point is already a criteria – if not adhered to, can then result in the suspension or revocation of the STR special permit. Therefore, this reference should be dropped as there is no need to add to the responsibility of code enforcement officers under this ordinance.

However, the provision to formally designate a responsible local contact who shall be available twenty-four (24) hours per day, seven (7) days per week with the ability to respond to any complaint regarding the condition, operation, or conduct of occupants of the STR unit and take immediate action to resolve any such complaints, which is similar to landlord licensing provisions, is a worthy amendment proposal to this ordinance.

The 'enhanced enforcement and penalties,' should the STR unit fail to comply with all applicable codes and regulations, is a worthy amendment to this ordinance. Likewise, the proposed enhanced due process provision, which adds an appeals procedure which could be exercised before the imposition of a suspension or revocation of the subject license, is also a worthy amendment proposal to this ordinance.

The Administration may have proposed this chapter amendment in an attempt to protect the city's neighborhoods and to concentrate like uses to boost our tourist industry. Yet we heard no substantive testimony that those neighborhoods outside of the proposed permitted STR zone would be better off without STRs. We could not substantiate arguments that concentrating lodging opportunities in the downtown area promotes fair and equal opportunities for STR operators or prospective operators. Nor were we convinced that instituting such changes would enhance the lodging experience of our visitors. Therefore, this provision should be dropped altogether from further consideration.

On the issue of locational preference, and while not a recommendation at this time, it might be more equitable to institute a sliding scale of fees depending on each neighborhood or based on zoning classifications.

The citizens of this City, as well as the STR community itself, generally desire that STR businesses be well-regulated and that the regulations enacted by the City Council are capably and vigorously enforced. It makes sense that the Administration is seeking to establish and implement the highest standards possible and that it expects the same from every hospitality business operating in the City, certainly including STR operators. Yet, we are unconvinced that this specific set of proposals is the most appropriate path forward.

In conclusion, the proposed ordinance amendment does not address the overarching issue raised by the community at the public hearing –proper code enforcement. Neither did the proposed ordinance amendment adequately address those issues identified by the Administration as lacking in the current ordinance or the concerned raised by those living in zones targeted for STR concentration. Still, there are several potential remedies available to the City that can simultaneously protect every neighborhood from unscrupulous operators, enhance and cultivate a higher caliber STR industry, and assist in the management and enforcement of any regulations

currently adopted as well as those that may be adopted in future. Such possible solutions that could be pursued, and in our opinion should be.

1. Procurement of a specialized STR compliance service provider or vendor (*Host Compliance, LodgingRes, et al.*), as utilized in other resort/tourist cities, which would streamline the application and management of STR regulations, and more efficiently bring operators into compliance. These service-vendors provide essential specialized technical services that monitor all listings, identify properties/verify legal listings, calculate/collect bed tax monies, permit and license operators, and offer a 24-hour hotline for complaints.
2. Training for the Zoning Board of Appeals. The ZBA is comprised of dedicated individuals who dedicate their time to making Niagara Falls a better place to live. Unfortunately, the lack of comprehensive and ongoing training of members in complex and sophisticated land use regulations has impaired its ability to adjudicate fair and balanced decisions. A review of the records of the ZBA illustrates an almost universal approval rate of applications. This approval record grossly deviates from the norms experienced in other New York municipalities. Members desperately need training on how to adjudicate cases appropriately under the law. They need training on how and when to disapprove/deny applications that come before them.
3. STR operators should have business licenses. STR operators need to be responsible for all applicable taxes including, but not limited to, the six- percent (6%) bed tax.

Therefore, it is the respectful recommendation of the Niagara Falls Planning Board that the Administration's proposal to amend Chapter 1328.13 "Short-Term Rental Units" not be adopted in its current form and without modification.

James Abbondanza-Phone # 316-2464 (Received 7-22-20)

Daniel Parsnick – 617 Buffalo Avenue, Phone # 940-6343, (Received 7-22-20)

Marina Dorka Salansky- of 460 Dacha LLC, (Received 7-16-20)

Ruth Cooper- 540 12th Street, (Received 7-17-20 & 7-22-20)

Justin Speidel- 2489 Weston Avenue, (Received 7-22-20)

Debbie Rodrigue- 2497 Weston Avenue, Phone # 957-4446 (Received 7-22-20)

Jen Bari – Phone # 628-8792 (Received 7-22-20)

Courtney Whiteside- 2485 Weston Avenue, Phone # 990-3823 (Received 7-22-20)

Mary Forster - Phone #696-2416 (Received 7-22-20)

James Abbondanza Jr.- 2493 Weston Avenue (Received 7-22-20)

Carroll Schultz-601 Spruce Avenue, ecarroll.schultz@gmail.com (Received 7-22-20 & 7-29-20))

Kathleen & Curtis DuBois-8919 Brookside(Received 7-29-20)

Mary Leahy- (leahy4410@gmail.com) (Received 7-22-20)

Todd Salansky- 460 Memorial, (Received 8-5-20)

Paul Fortunate- (forthc350@yahoo.com) Address:922 McKinnley Ave. (Received 7-22-20)

Denny and Joanne Thuman- 415 25th Street (Received 7-16-20)

Sheila Zuni – 544 5th Street (Received 7-22-20)

Kent & Dana Hurlbert- (Received 7-20-20)

Scott Anton- Weston Avenue, (Received 7-20-20)

I believe the growth of short-term rentals will have a **minimal impact** on the hotel industry. Conventioners and most people on holiday will continue to use hotels with vacation or conference amenities, restaurants and entertainment.

Additionally, short-term rentals tend to serve a different market and traveler. Increased visitors, due to the availability of short term rentals, benefits our economy overall with additional retail, rental and restaurant sales. Overall, short term rentals - managed properly with appropriate standards so as not to disrupt local residents - are good for the economy. **That is why it is so important to pass this Vacation Rental Ordinance.**

STVR's are an important way to augment our tourism business, accommodating different vacation segments. The Niagara Falls region economically benefits from STVR's. Homeowners and investors achieve a new source of income. **There is a customer base for both.** Some want a hotel for its amenities. Others like STVR's (short-term vacation rentals) as they provide a more affordable option for families or larger groups that want more room with the use of kitchen, laundry, and barbecue amenities.

Short-term rentals have some modest substitution effect on hotel rooms, but the market is small compared to the much larger and entrenched hotel industry. Short-term rentals have been in Niagara Falls for decades. What changed is websites, such as VRBO (vacation rentals by owner) and Airbnb, conveniently allow individuals to use their primary residence to host guests. Arguably the market niche of travelers staying in short-term rentals **expands the visitor market** rather than necessarily takes away from hotel users.

To: Niagara County Planning Board Members
City of Niagara Falls Planning Board Members

From: James Abbondanza, resident Niagara Falls, NY

Date: July 2020

Re: City of Niagara Falls Short-term, Vacation or Transient Rentals

Pages: 2 pages

After spending many positive years operating short-term rentals welcoming thousands of guests from all over the world, we were highly disturbed to read the new proposed "amendment" submitted by Mayor Restaino.

We own and operate multiple short-term tourist rentals in the city of Niagara Falls, both inside and outside the proposed zone. We have taken houses that were in foreclosure, that were left to degrade, left to be a blight on a neighborhood and brought them back to life (and back to the city tax roll). Additionally, with my family, I live in the neighborhood where many of our rentals are located.

First, the proposed "amendments" to the existing ordinance are not amendments, but a replacement of the original ordinance which was developed over the course of 10 months by members of multiple city departments, Corporation Counsel, STR operators, citizens of Niagara Falls and a member of the city council, as well as multiple public forums on the matter. Although the plan is not perfect, it mapped out a path to become a legal operator and was voted in by the council. Why is it now being revamped behind closed doors, with no input from knowledgeable parties?

The proposal speaks of negative impacts by STRs on neighborhoods saying, "The City recognizes that extensive short-term rentals endanger the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring homeowners". The city has no quantifiable proof of this claim and in fact it is the opposite that is true. STRs help improve neighborhoods in every way and this proposal is looking to curb that ability based on non-truths and misleading information. Compared to the many negative issues to neighborhoods stemming from long-term rentals, slumlords and bad long-term tenants, STRs are not even on the same map.

Second, the main negative issue with the original ordinance, and pointedly with the new ordinance, is the complete lack of enforcement and administration. Currently, there are no resources within the city to locate and shut down illegal operators. This leads to a situation where operators are almost encouraged to run without a permit because in doing so you avoid paying any fees and bed taxes, avoid anyone having to inspect your home, no need to hire an electrician to install fire alarms or get any permits, no need to be bothered with the city at all since they have no way of knowing you even exist. As a group of people who have our legal permits, we have opened ourselves up for a constant threat from the city to charge us extra fees or, as the new ordinance will prove, make it impossible for us to grow our business. The city sees us as easy pickings for a money grab via fees and additional taxes. We have been asking for enforcement of the current ordinance since its inception. So far, other than a few examples of condemned signs put up, nothing has been done to stop illegal operators, some of which are running out of basements and apartment complexes.

Thirdly, the new ordinance is fraught with requirements that are outside the legal scope of the local government. For example, the new ordinance requires an operator to register with AirBnB. There are hundreds of other booking platforms globally, not including people who book guests directly using their own methods. As a business owner, the government has no place telling me what private vendor I can or cannot use. Can the city dictate to a hotel who they can buy supplies from, or which booking sites they can use? Certainly not.

Fourth, let us talk about the housing stock and home values in the city of Niagara Falls. As we all know from driving down any street in this city, there are a large number of houses that are owned by the city, in foreclosure

purgatory, owned by slumlords and/or bad tenants, and straight up abandoned. Overgrown lawns, garbage dumped everywhere, houses falling apart and becoming dangerous are all a very common sight in our city and in stark opposition to this blight, our city houses one of the most majestic wonders of the world. The new ordinance is focusing STRs into a zone in downtown Niagara Falls and cutting out all other areas. People who wish to make a living or even just extra money are interested in buying houses all around the city, not just the highly run-down areas the mayor has chosen in the proposed zone. Does the city expect STR business owners to buy up all the dilapidated housing in this zone, then fix them up so downtown doesn't look like a dump anymore? No one but a slum lord is going to build a business on those streets until the area has been addressed by the city and issues such as crime are dealt with. It is a fact that STR owners improve the value of homes they purchase and properties adjacent to them. It is a fact that the value of a home increases when the home can potentially be run as STRs.

A further point on housing value; even though an existing permitted operator outside the proposed zone will be allowed to continue operating if they have received a permit prior to the new ordinance being set, if at some point they should choose to sell their property with the added value of its proven ability to run as an STR, the new owner will not have the option of a transferred permit or the ability to get a new permit because the property is outside the zone. This will diminish the value of the property because its use as an STR will no longer be allowed for any future owner who may be looking at that property for that exact purpose.

Fifth, We do not have enough hotels and motels in this area to accommodate pre and post pandemic visitors. Currently business has been slow for everyone, but recovery will come and our tourist industry will again be in full swing. Many of our guests are families, they are coming to town and want to stay in a home with more space than a hotel, they want a kitchen to cook a meal and neighbors they can meet. My children have had an opportunity to meet and play with kids from all over the world, right in our front yard. Additionally, for larger groups such as these families, staying in a hotel is not economically viable, and if there is no other option but a hotel, they will not come to Niagara Falls USA. That means a loss of money for local restaurants, local shops and so many more local businesses.

Sixth, the city wants to tax us for both state tax and a bed tax. As the law is currently written STRs are not responsible for paying these taxes. But putting that aside, how can the handful of permitted operators be forced to pay taxes when over two-thirds of total STR operators are running illegally and not paying any of the mentioned taxes. As John Locke wrote "the burden of taxation should be equally allotted among the citizens of a society".

In conclusion, as an STR operator, I have not asked the city for anything but to enforce the current ordinance. We didn't ask the city for a loan or a bail out when the pandemic hit like many hotels did, we didn't ask the city to give us tax breaks when we were starting out or even during the current travel bans effecting our businesses. We did all the work ourselves and used our own funding to build up a business that has been a positive for the citizens and neighborhoods of Niagara Falls.

I implore this board to vote down the new proposal and instead work on a plan for providing the resources for enforcement and administration of the current ordinance. Show the people who have done the right thing that the city is serious about helping innovative local businesses succeed and that the new administration cares about improving the conditions citizens of this city are forced to deal with on a daily basis. Time and resources should be spent on other more important issues facing our city and not spent rehashing something that is already been in place for four years.

Please vote no to the proposal and advise the city council to do the same.

Thank you for your time.



James Abbondanza
716-316-2464

Date: July 17, 2020

To: Niagara County Planning Board Members; City of Niagara Falls Planning Board Members
From: Dan Parsnick, Resident and Vacation Rental Owner in Niagara Falls, NY
Re: City of Niagara Falls Amendment to 1328.13

Good afternoon:

Given the provisions of 1328.13, I implore any advisory body to carefully explore the contents of the proposal before proceeding. This caution is based on the legalities of the amendment:

Provisions G2 and G3: Expecting hosts to maintain records of all guests lacks any evidence of need or requirement. As it stands, hotels and other places of lodging are not required to do so. It is not the responsibility of the host to maintain and/or share information of guests and violates the policy of AirBnB which is the platform we are required to maintain as a means of advertising as per H4.

Provision H5: This provision is an attempt to usurp NYS Tax Law as stated below:

"A bungalow is a single-family living unit with its own kitchen, bathroom and sleeping rooms that is rented fully furnished (e.g., cottages, condominiums, beach or lake houses, etc.). The rental of a bungalow is not subject to sales tax as long as no housekeeping services, food services, or other common hotel services (including entertainment or planned activities) are provided. If common hotel services are provided, the rental is taxable as hotel occupancy. The furnishing of linens without the service of changing them does not make a bungalow rental taxable. In addition, the provision of cleaning, laundering, and similar services for an optional and separate charge does not make the rental of a bungalow the taxable rental of a room or rooms in a hotel."

Source: NYS Publication 848 page 24

I encourage the Planning Board to note the lack of any enforcement as it pertains to those who are operating illegally. Illegal being defined as a property that has not been brought forth to the Zoning Board allowing for neighborhood input, uninspected by a Registered Architect as outlined above, uninspected by a Niagara Falls Code Enforcement Officer and lacking any proof of liability insurance. This definition omits the approximately \$500 cost of fees associated with the processes above.

As it stands, there are approximately two illegal operations operating for every one legal operation. In Niagara Falls, the number of illegal operators will increase to the numbers we witnessed last year once the Covid situation is alleviated for travelers. Based on past searches of AirBnB, it can be found that some of the operations are utilizing basements as a sleeping area. Many of these homes are of older design and have never been inspected to determine if a second means of egress is available in the event of a fire. If the safety of travelers and neighboring properties is the concern for the City of Niagara Falls (see intent of amendment on pg 1) their attention should be to address those who have yet to prove any standard of safety. As written, there is no such mention.

This entire proposal addresses only those who operate legally; those who have paid fees, helped to formulate fair regulations and provide a safe stay for visitors. Enforcement focusing on those who are operating illegally is essential, warranted...and missing.

Premature action on this measure without further research will prove lengthy and costly. There are no elected officials in the City of Niagara Falls who know this business better than those vacation rental owners who have been in the business cumulatively for over two decades. However, our knowledge will never be shared unless we are asked for input. Going forward, it is hopeful we can collectively put together an amendment that will prove beneficial.

In closing, I once again request that this matter be carefully examined before any action is taken.

Verily,

Daniel Parsnick
617 Buffalo Avenue
Niagara Falls, NY 14303
716.940.6343

To: Niagara County Planning Board Members
City of Niagara Falls Planning Board Members
From: Marina Dorka-Salansky, 460 Dacha, LLC.
Date: July 16, 2020
Re: Zone Chapter 1328.13 Schedule 14' City of Niagara Falls Short Term Rentals (STR)

I am requesting your board vote "NAY" on recommending this ordinance as it will do permanent harm to the City of Niagara Falls and Niagara County. Currently there are ordinances in place in Niagara Falls regulating the short term rental industry and I follow them. These ordinances were in place at the time I purchased the property (June 28, 2019) and were part of the decision process. One year after purchase and renovations (with proper permits) I have found that there are a few select operators doing harm to us all. Penalize them, I don't want them here either. We don't want parties or guests who disrespect us or our neighbors. I run within the rules and have a long-term strategy to make improvements to the property AND the neighborhood. I believe we have done just that and continue to do so.

This year has been very tough on us due to COVID-19 and these additional regulations make it tougher. In the past year, every dollar earned has been used to pay utilities, the renovation, operations and taxes. Not a single dollar has been returned to my pocket. Not a dollar. We intend to reinvest our dollars back into Niagara Falls properties and ask that you HELP not HINDER that process. We want to renovate properties and restore them to their original beauty. There are thousands of properties just waiting for some LOVE and attention. I would love the opportunity to some day add another property, renovate it and improve the neighborhood. There are dozens within a block from my house just waiting...

Sincerely,

Marina Dorka-Salansky

To: Niagara County Planning Board Members
City of Niagara Falls Planning Board Members
From: Ruth Cooper, resident and Vacation Rental Owner, Niagara Falls, NY
Date: July 17, 2020

Re: City of Niagara Falls Short-term, Vacation or Transient Rentals

My comments this evening are in regard to the City of Niagara Falls Short-Term rental Ordinance. I am requesting your board vote "nay" on recommending this ordinance. *Why?* The City of Niagara Falls currently has an ordinance and the process used to change/amend the ordinance has been flawed from the February 2020 Moratorium to today.

As you know, there are very specific reasons and policies for a municipality to suspend for any length of time through the use of moratoria, *a landowner's right to do with his property what is allowed by law*. I specifically question the Niagara Falls City Council's use of moratoria for the following reasons:

- A land use moratorium is a local enactment which temporarily suspends a land owner's right to obtain development while the *"community considers and potentially adopts changes to its comprehensive plan and/or land use regulations to address new circumstances not addressed by its current laws"*.¹
 - The City of Niagara Falls City Council Adopted Section 1328.13 Short-Term Rental Units March 2017 into their codified city ordinances.
 - There is no current plan to Review the 2009 Comprehensive Plan
- "The enactment of temporary restrictions on development has been held to be a *valid exercise of the police power where the restrictions are reasonable and related to public health, safety or general welfare*."²
 - Neither Niagara Falls City Council or Administration provided any data to support their claim that short-term rentals, that have been operating in the city for 8 plus years, have been detrimental to public health, safety, or general welfare.

By manipulating the moratorium process the City of Niagara Falls government has not acted in good faith. They have unduly restricted property owners who have invested in often times vacant and derelict properties based on *"controversy nationwide due to their negative effects upon quality of life of adjoining property owners, the economic impact on traditional lodging partners and the availability of affordable housing."*³ None of which apply to the current situation with short-term rentals in the City of Niagara Falls.

In regard to the proposed ordinance itself. There are numerous questions in the legality of some of the changes as well as "why" the changes were necessary. This was not merely an amendment to *strengthen* enforcement protocol. I will only address two (2) of what I consider the most egregious change and process used to "amend" the ordinance:

- The 2017 Ordinance Committee addressed specifying specific areas vs city wide. It was determined city-wide was less restrictive on property owner rights and gave opportunity to neighboring property owners who do not want a STR, Vacation home, transient use" in their neighborhood opportunity to address concerns with the ZBA who has the power to say "NO".
 - The whole special use process is designed to be deliberative. It gives the ZBA power to review and assess each and every application on their individual merits. This is a basic right of due process in our democracy and protects property rights of the owner and rights of the general community.

^{1 & 2} James A Coon Local Government Technical Series: Land Use Moratoria, Pages 1 & 3
³ CNF Resolution February 2020, para. 2

- Furthermore, clearly no research or thought was put into the boundaries selected, including an unexplainable "jut-out", as these areas identified are in direct conflict with the 2009 Adopted Comprehensive Plan, the Downtown DRI and the South End Housing Initiative to rebuild urban neighborhoods located in the north downtown district, Park Place Historic District, Daly and Memorial Park Neighborhoods.
- The 2017 Ordinance was developed over a period of 10 months. The committee formed was made up of STR owners, community members and representatives of the Departments of Code Enforcement, Planning, Corporation Counsel, and a City Council member. Approximately 10 meetings were scheduled, 6 of which were held in the public forum giving opportunity for public input and comment.
 - Only one meeting was held in February of 2020. Was the meeting held in an open forum? Were members of the STR owners and community members present? Were the various departments who play an integral role in development, implementation, and enforcement of the ordinance present during any discussions/meetings? I appreciate the impact of Covid 19 on our meeting abilities, but how many subsequent *community* phone or zoom meetings were held prior to making the final draft ordinance?

Planning Board Members, I cannot emphasize enough: the problem in the *City of Niagara Falls* is three-fold:

1. The inability or will of the City to enforce its laws.
2. Improper oversight and poorly trained members of the ZBA, and lastly
3. A serious lack of open, informed, and transparent process.

To vote "nay" on this ordinance will give an opportunity for the elected officials to pause and reset the way they conduct future business and furthermore, encouragement to take advantage of New York States Division of Local Government Services⁴ to improve our local government. Thank you for your consideration.

Kindest Regards
Ruth Cooper

^{1 & 2} James A Coon Local Government Technical Series: Land Use Moratoria, Pages 1 & 3
³ CNF Resolution February 2020, para. 2

Ruth Cooper, Owner STR in the Core Neighborhood

COPY

Imagine the future.

Imagine the city you want your children to inherit

It is 2030 and the city has dramatically changed through the successful implementation of many development projects and programs initiated through guidance of the Comprehensive Plan.

A thriving residential population, new office and employment uses, and new retail and commercial activity define the heart of Niagara Falls and present a rich range of opportunities for living, working and leisure activities in the Core City.

Imagine the future -That was a brief excerpt from the 2009 Comp Plan.

It is now 2020, 10 years into the plan. 70% of the core city is in abject poverty. Housing left in the John Daly and memorial park neighborhoods are in ruins. As with other poor neighborhoods we lack basic city services and crime is often ignored. Local block clubs and what's left of the homeowners have fought against county-wide methadone clinics, housing being torn down for illegal parking lots in neighborhoods because of a "political" favor, illegal homeless shelters, slumlords and slumtenants, overcrowded housing conditions and blight. All to maintain some sense of community and homeownership.

We are 3 years into the South End Housing Initiative our primary goal is to stabilize what is left of the core neighborhoods, increase homeownership and provide market rate housing; mixed use commercial along the Niagara Street corridor.

Now the area is being unjustly targeted, redlined, with what the administration and council perceives as "undesirable" neighborhood housing – short term rentals and how harmful they are to neighborhoods. "How has them being all over the city harmed the city?" was a question left unanswered at the NCPB meeting. Another unanswered question – "Is this refocusing in this area (core city) consistent with what is published in the city's comprehensive plan?" One board member questions if this area is being redefined as a tourist district?

I have spent the last few days reviewing the comp plan. No where could I find mention of a tourist district in the core city area. In fact – our entire city should be a tourist district. Our city and neighborhoods should work on drawing people from the downtown parking lot/hotel district to our Niagara St, Pine Ave Little Italy, City Market and Main Street Business Districts.

When I think of the tourist district, I would say Old Falls St. That is where all the money has been and still is being spent. Houses on buffalo avenue, numerous hotels on

Rainbow and Buffalo have all gotten state grants and pay little to no taxes due to their pilot status.

Short Term Rental people use their own private money. we enhance our neighborhoods by cleaning up and rehabbing former slumlord properties, vacant and abandoned properties. This often gives hope to what is left of the homeowners in these neighborhoods.

In closing, this proposed legislation is not in line with our Comprehensive Plan. To entertain such drastic change from neighborhood district to tourist district would require a complete review of the Comp Plan which takes approximately a year and can be costly.

As you consider your recommendation, Image – what our city would be like today if in 2009 our elected officials had set standards, respected our plan and enforced our laws.

Thank you

A handwritten signature in black ink, appearing to read "Dennis C. Parker". The signature is fluid and cursive, with a large, sweeping flourish at the end.

To: Niagara Falls Planning Board and City Council

Re: Changes to the existing ordinance relating to short-term rentals in Niagara Falls

As a neighbor of a few short-term rentals, I want to express my opposition to the new ordinance proposed by the mayor.

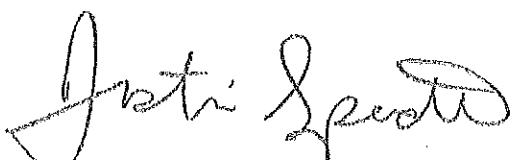
I have lived next to and across the street from short-term rentals for many years and they are well kept and problem free. Having tourists coming through and staying on our block is much preferred to long-term tenants as the guests coming to stay usually stay for a few days and then go on their way.

Recently, my neighbor purchased a run-down house that was in foreclosure. If my neighbor was not able to purchase the home for use as a short-term rental due to being out of the proposed zone, a slum lord most likely would have purchased it and not kept up with maintenance and surely would not have performed the scope of repair my neighbor did. Additionally, it is a gamble with a long-term tenant as they might be problematic and then we are stuck with them on our street for years to come.

The claim that short-term rentals are bad for neighborhoods or for our city is absurd. In many parts of the city these hosts are the only ones fixing up homes and making the street look better. As a homeowner, my neighbor's efforts with his rentals help improve the value of my own home.

Please vote NO to any changes or new ordinances that will affect people's chance to run a short-term rentals anywhere in Niagara Falls.

Thank you.



Justin Speidel
2489 Weston Avenue

Attn: Niagara Falls Planning Board and City Council,

I live next door to and across the street from multiple short-term rentals (STRs). One of these houses was completely falling apart until our neighbor purchased it and did a complete overhaul on it with the plan to make it another STR (he has four). It is now a beautiful property and well maintained. If STRs were not allowed on our street, that house would still be a mess and an eye sore on our street.

Our neighborhood is close-knit, we all know each other and watch out for one another. The STRs here have never been an issue for any of us, the guests come and go, and they don't disturb us at all. Many of the guests are families coming to see the falls from all over the world, some are couples or friends and some are visiting their local families.

After a few years of operating his STRs my neighbor hired me to be his cleaner and now, not only does our street have a series of very well-kept houses, but I have some extra income from helping.

The city needs to make it easy for people to improve our neighborhoods, not harder. The people who run the STRs are using their own money and time and are not asking the city for large payouts and tax breaks, if anything they are bringing money into the city through the taxes they pay and properties they save.

Please vote no to the new ordinance proposed by Mayor Restaino and let these entrepreneurs continue to improve EVERY neighborhood.

Sincerely,



Debbie Rodriguez

2497 Weston Avenue

(716) 957-4446

Dear Niagara Falls Planning Board and City Council,

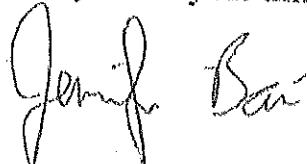
I am a neighbor of a legal short-term vacation rental and I am grateful to have them in my neighborhood. They bought a house that had been in foreclosure for many years and was in rough shape. They fixed it and worked on the property and made everything look great. I would much rather have a short-term rental in my neighborhood than any vacant houses or houses occupied by problem tenants and/or managed by slumlords.

The owners of the vacation rental maintain their property and houses on our street wonderfully. Lawns are mowed, yards are clean, and I enjoy seeing different people and families from all over the world.

The vacation rental in my neighborhood has been a positive addition for us and for the City of Niagara Falls. If hosts can't operate in all the neighborhoods of NF, then many houses that would have been purchased, fixed and added to the tax roll, will stay vacant or end up with slumlords and bad tenants.

Please do not take away a great opportunity for the city to improve by making it impossible for these local hosts to run their rentals anywhere in the city.

Thank you for your time.



Jen Bari
(716) 628-8792

Dear Niagara Falls Planning Board/City Council,

For many years there was a delapidated house on my street that was stuck in foreclosure. The house was falling apart with hanging gutters, a dangerous half-collapsed garage full of skunks and a lawn that was never cut.

Finally, a few years ago, one of our neighbors who runs a few short-term tourist rentals on our street purchased the house and spent his own time and money turning the house back into a viable property. They put on a new roof, porch and fixed up so many things. The house looks great now and the yard is always kept up. In fact, all their properties on our street look great and are always kept clean and neat.

If my neighbor hadn't been allowed to use the house as a short-term rental because it was not in the designated area for these types of rentals, then the house would have sat there and rotted away.

Instead of blight out our window, we now have a great looking property. We hope the city will not make the mistake of limiting our fellow citizens from helping our city to improve.

Please vote NO to the new ordinance proposed by the mayor.

Thank you.

Courtney Whiteside
2485 Weston Avenue
716-990-3823

To whom it may concern at the Niagara Falls Planning Board and City Council,

My street has multiple short term rentals and these properties have been operating for the past five years. We have had no issues at all with the guests that stay at them the properties are kept clean and the lawns are mowed.

One of the houses on our street was purchased by our neighbor with the intention of turning it in to another short term rental and he spent his own resources to fix the house. It was in disrepair before he started working on it, and now its newly painted, has a new roof, a new upper porch and an entirely renovated inside.

I read that the mayor wants to make it so only some of the streets in the downtown area can have these kind of rentals and I want to say, if that happens, it will have a negative impact on our city in so many ways. Not many people are moving into Niagara Falls, buying a house and then fixing it up. If these short term business owners are not allowed to operate in every part of the city, then that means that no one will be coming to buy and fix any of these run down homes that are strewn all over. I doubt anyone serious about spending their own time and money will buy a house in the proposed zone as many of these streets are currently hot zones for crime.

I live on a great street and that is partly because the houses around me are not owned by bad landlords who don't take care of their properties and let bad long term tenants move in and wreck the neighborhood. My neighbor takes his business seriously and puts a lot of effort into keeping the rentals in top shape for his guests.

I hope this board will vote no to this proposal and help make the city better by letting people continue to improve neighborhoods everywhere.

Thank you.

Mary Forster
NF Resident
(716) 696-2416

Hello,

My name is James Abbondanza, I am a long-term resident of Niagara Falls and a legal short-term rental operator.

Thank you for the opportunity to speak.

I want to first address the administration's false claim, written in the primary stated purpose of the new ordinance:

Quote:

"The City recognizes that extensive short-term rentals endanger the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring homeowners."

End Quote:

The city has presented no factual or quantifiable proof of this claim.

In my initial findings from multiple city departments, less than a handful of complaints have been generated regarding any neighborhood disruptions from legal short-term rentals. Of the more news-worthy disruptions over the last couple of years, most were illegal operators, and all were perpetrated by local residents looking to party.

The fact is that legally and locally run STRs improve neighborhoods and our city in many ways. This proposal is looking to curb that ability based on opinions not backed by actual facts and figures. Compared to the many negative issues happening to neighborhoods stemming from long-term rentals due to bad landlords and long-term tenants, STRs are not even a blip.

For the sake of keeping my time up here short, rather than getting into the details of each item, I have made a short list of some positive aspects of locally and legally run STRs:

- We, STR owners, purchase blighted, run down housing and we give them new life to these homes.
- We put our own resources and money into fixing these properties, we don't ask for grants from the city, or tax breaks, we do it on our own, no cost to the city.
- We hire local businesses to help with the repair of our properties such as electricians and plumbers.
- We bring foreclosed and abandoned houses back to the city and school tax roll.
- As a group we have hosted thousands of guests yearly and send them off to support local businesses.
- When we buy houses for short term rentals, we keep those houses out of the hands of slum lords
- We put the money we earn renting, back into our properties and continue to improve them.
- We hire local landscapers, maintenance people and many more as we continue to improve our properties.
- As we work to improve our properties, we often inspire our neighbors to do the same.
- Some of us are already part of the neighborhoods we pick to operate in. We know our neighbors and communicate with them which helps make our community stronger.

I have heard some people are worried about having "strangers" in their neighborhood. Let me say a little bit about the kind of guests who come to stay with us.

They are from all over the world, they are often families traveling to see the Falls, people visiting local family or people coming to the city for business purposes. The guests are very respectful of the property and the neighborhood. In the five years I have been running short term rentals, I can count on one hand the number of guests who have accidentally parked on the wrong side of the street or left a mess. And when I say mess, I mean they left some food around in the kitchen. That is a joy compared to the massive messes and damage some of our former long-term tenants have left behind for us to deal with.

So on the topic of renters, another positive aspect of short term rentals, is that, if on the off chance you do have a bad guest that disrupts the neighborhood, they're gone the next day, unlike a problematic long-term tenant or home owner who is there to stay disrupting your neighborhood for years to come.



Fwd: Resolution No. 2020 - Extension of Moratorium

Carroll Schultz Reetz

to:

james.bragg

07/02/2020 09:05 AM

Hide Details

From: Carroll Schultz Reetz <ccarroll.schultz@gmail.com>

To: james.bragg@niagarafallsny.gov

History: This message has been replied to and forwarded.

Here you go for the Planning Board - I will have more to say about the actual proposals later.

----- Forwarded message -----

From: Carroll Schultz Reetz <ccarroll.schultz@gmail.com>

Date: Tue, Jun 30, 2020 at 10:54 AM

Subject: Resolution No. 2020 - Extension of Moratorium

To: <christopher.voccio@niagarafallsny.gov>, <kenny.tompkins@niagarafallsny.gov>,

<andrew.tourna@niagarafallsny.gov>, <john.spanbauer@niagarafallsny.gov>,

<william.kennedy@niagarafallsny.gov>

Dear Council Members,

While I am not personally affected by the moratorium, many others are through no fault of their own. The stated reason for the moratorium was to develop a comprehensive plan concerning the location and approval of short-term rental permits. Why? This was already legislated 3 years ago and there is now an ordinance covering Short Term Rentals. The only striking problem with the current ordinance is the city's inability/refusal to enforce it and the ZBA's confusion about the permitting process.

Since the moratorium was enacted in January, there has been exactly one closed committee meeting to discuss the ordinance and any proposed changes. Granted COVID-19 put a crimp on in-person meetings, however, ZOOM and phone meetings were not considered as an alternative for open meetings. No new open meetings have been held since the first extension. Now, the Administration has prepared proposed changes to the ordinance. The Council is asking for a continuation of the moratorium in order to buy time while the Administration's proposed changes go through the process of review, public hearing and council approval. If you have not seen the proposed changes, you can find them on the city's website under the Planning Department.

There are approximately 75 permitted short-term rental operators. There are double that operating illegally. Given there are over 200 short term rental operators operating both illegally and legally and given that they all achieve about 25% occupancy within a year, that equals 18,250 rented nights per year. How many complaints have there been in the past three years? And of the complaints, have they been from legal operators? I suspect that the total annual number of complaints is less than a fraction of 1% of those 18,250 nights.

If the Administration is going to propose continuing to stop people from legally obtaining a permit citing that short term rentals "endanger the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring homeowners," the Administration should provide evidence and facts to back up this opinion. This moratorium should not have gone into effect without showing cause based on facts, not opinions or anecdotes.

Currently, there are people that are stuck in limbo. They have invested in properties with the proper intention of following the current ordinance and getting permitted. The City is not operating in good faith by extending this moratorium any longer. The problem with short term rentals is the City and its inability to administer and enforce the current ordinance. The problem is not the legal operators or would be legal operators though they are the ones being punished. By continuing this moratorium, the Council is only incentivizing people to operate illegally which is continuing to adversely impact legal/permited operators.

Sincerely,
Carroll Schultz Reetz
President, Niagara Falls Tourist Home Association

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

To: City of Niagara Falls Planning Board Members

From: Carroll Schultz Reetz, President Niagara Falls Tourist Home Association

Date: July 29, 2020

Re: Summary of a few critical points regarding the proposed new ordinance regarding Short-Term Rentals from the Mayor.

1. The reasons cited for the need for the moratorium were health and safety issues, yet the new ordinance's health and safety regulations are the same as the current ordinance.
2. The number one problem with the current ordinance is enforcement. The city does not have the resources or tools to properly enforce the current ordinance. This new proposal does nothing to address that.
3. The new proposal was crafted behind closed doors by the Mayor without expert opinion from those involved (the NFTHA, Code Enforcement, or the Planning Department).
4. The reasons for the new zone stated by Councilman Touma and Mayor Restaino are:

Touma, "could make it safer for our guests. Some of these short-term rentals have opened up in areas of the city that might not be the safest. You can really keep an eye on it if it's restricted and you keep it in the downtown core."

Restaino regarding enforcement issue, "This is just another reason to limit location because our code enforcement department is thin and stretched out as it is."

Based on this logic, all STRs should be in Deveaux given the safety issues surrounding the proposed zone. We have had four bodies in as many weeks in that zone. We are not advocating STRs not be in the zone; we are advocating that they not be limited to the zone.

In addition, illegal operators which make up 60% of what is operating in the city, are not going to limit themselves to the "zone", ordinance or no ordinance. They are illegal. There is no evidence that legal operators need such tight regulation and have caused any significant problems for code enforcement.

What this zone does is keep "strangers" with out of state license plates and speaking foreign languages out of certain neighborhoods. When politicians speak of wanting to "maintain residential character" and "preserve the quiet of neighborhoods", it smacks of NIMBY racism. And given that there have been very few problems with legal operators located throughout the city, this "zone" proposal is suspect.

5. The requirement for an annual permit flies in the face of logic given the Mayor's own admission that Code Enforcement is stretched thin. If this really a justification for increasing fees, the four-year permit cost could be increased without increasing the burden on Code Enforcement.

6. Taxes:

- a. State Sales Tax -- Attached you will find the NYS Guidance Sheet regarding Hotel and Motel Sales Tax in the State of NY. This is an abbreviation of Publication 848 from the NYS Dept. of Taxation and Finance. STRs are exempt from state sales tax (Bungalow Exemption).

I know this to be fact because for the first several years of operation, I personally collected state sales tax on our STRs. I was already collecting it for our Guesthouse as required by state law, so I assumed I had to for the STRs. When I found out we were exempt from state sales tax, I petitioned the state for a refund and got it.

b. NF Occupancy Tax (bed tax):

The current local tax laws (#3 and #5) definitions for who must collect occupancy tax do NOT include STRs. This was made clear by the resolutions drafted by Corporation Counsel in January 2018 that were approved by City Council to submit to the State. The two resolutions were:

- i. "State Legislation to clarify the meaning of the phrase "Hotel and Motel Rooms" in Section 1202-1 of the tax law pertaining to Hotel and Motel rooms in Niagara Falls." This was necessary to broaden the terms to include STRs.
- ii. "State Legislation to increase bed tax and designate the increase for the Discover Niagara Shuttle or other Transportation entities that support Tourism within the City, State Legislation 2019-5". This increased the bed tax from 5% to 6%.

Only the latter was taken up by the State Assembly and Senate and passed in December 2019. To my knowledge, the resolution to broaden the definition was not addressed by the State.

Speaking for myself and some of the other legal STRs, we are not opposed to bed tax. We are opposed to how bed tax is applied given the large number of illegal rentals putting legal operators at a competitive disadvantage. Should the state agree to change the law and broaden the definition, we of course will comply.

7. Requiring all STRs to register with AirBnB. AirBnB is a private company that charges a commission to operators. While the stated aim is to have AirBnB collect taxes, this will prove problematic for this city given the legal issues above. It took New York City two years of litigation to get AirBnB to come to an agreement.

If the city is able to come to an agreement with Airbnb and collect taxes from everyone operating in Niagara Falls listed on AirBnB, there is a different problem described to our Association last year by the Corporation Counsel. That is, AirBnB will NOT disburse the money as line items, identifying exactly who is paying and for what listing. Rather, taxes will be disbursed to the city as a lump sum. This means that illegal operators will be paying taxes as well. While the NFTHA does not have any problem with that as it levels the playing field, there are legal implications from collecting taxes from illegal operators which frustrated the former Corporation Counsel.

These are just a few of the problems with the new proposal. There are of course several others as expressed at the public hearing last week.

Bottom line, there is already an ordinance regulating STRs. The means to address problems and bad apples are already provided for in the current ordinance. Given that 1) there was no crisis spawning the need for the changes proposed and 2) the new proposal does nothing to address the city's inability to administer and enforcement of the current ordinance; this proposal should be rejected.

The NFTHA is agreeable to working with the Administration and Council if they wish to make future changes. But first the city needs to make a legitimate attempt to bring people into compliance with the current code and shut down those that chose not to comply. Transparency and public participation, in collaboration with government, ensures that flaws are avoided and the greater acceptance of changes will occur.

John P. Coughlin
New York State
Department of
Taxation and Finance
Traveler Guidance Division

Tax Bulletin
Sales and Use Tax
TB-ST-33
May 9, 2012

Hotel and Motel Occupancy¹

Introduction

This bulletin explains how sales tax is calculated on the charge for a hotel room. It also explains when those charges are not taxable.

The term *hotel* includes:

- hotels
- motels
- inns
- bed and breakfast establishments
- guest lodges
- overnight lodges
- certain bed-sit rooms, condos, cottages, and cabins (see *Residential rentals* below)

Hotel operators must collect sales tax on the room rate or rental charge for hotel occupancy, unless the charge is \$2.00 or less per day. A room remodeled (such as an internal hotel suite) is considered to be a hotel operator (such as an charge to its customer for hotel occupancy. For more information on room rentals, see *TAX MARCH Amendments Affecting the Application of Sales Tax to Rent Received for Hotel Occupancy by Room Remodelers*.

Hotel occupancy

Hotel occupancy is the use, or right to use, a room in a hotel. This room rate or rental charge is the amount that guests must pay to stay in the hotel room for to have the right to use the hotel room. This amount is taxable at the full state and local sales tax rate. See the *Bulletin Sales Tax Rates, Additions, Exemptions, and Filing* (BULLETIN).

Hotel unit fee in New York City

Hotels in New York City must charge an additional hotel unit fee of \$1.50 per unit per day in addition to the state and local sales taxes on hotel occupancy. Note: The New York City hotel unit fee is not subject to state and local sales taxes and must be separately stated on the invoice given to the customer.

Local occupancy taxes

Certain facilities (hotels, clubs, lodges, etc.) charge an additional tax on hotel occupancy commonly known as a bed tax. A bed tax must be shown as a separate charge on a customer's bill. This tax is not administered by New York State and any questions regarding this tax should be directed to your local taxing jurisdiction. Note: A local bed tax is not subject to state and local sales taxes.

To: Niagara Falls City Counsel

From: Kathleen and Curtis DuBois

Date: 7/29/2020

Re: Amendment of City Zoning Ordinance
Chapter 1328.13 "Short-Term Rental Units"

Dear Council Members,

We are writing today to express our vehement opposition to the proposed amendment, which would impose additional regulations and restrictions on short-term rental ("STR") properties in the City of Niagara Falls.

My husband and I operate an Airbnb property in LaSalle as "superhosts" and have achieved a 4.99 star rating. This house would be grandfathered into the existing regulatory structure based on the language proposed. We have also invested over \$300,000 and two years of manual labor into the oldest standing home in Niagara Falls, which was previously dilapidated, in order to turn it into a high-end Airbnb for families visiting Niagara Falls. This property would be inside the proposed tourist boundary. Our family business intended to purchase additional properties for restoration in the City, but now we are second guessing this plan due to the increased uncertainty and needless restrictions we will face. Based on the feedback from Niagara Falls residents at the July 22 Council meeting, I know other property owners are similarly positioned.

The stated purpose of this proposed amendment to Chapter 1328.13 is to protect the public health, safety, and welfare by implementing further controls on STR's to ensure the integrity and character of the neighboring community. These goals are admirable; however, the proposed means to achieve these goals are inappropriate.

The proposal seeks to create a boundary area where new STR's can situate. While we agree that promoting the City's tourist area is critical to our community's well-being, restricting STR's to an arbitrary "tourist zone" is not going to fix the problem.

As the *Niagara Gazette* article from July 23, 2020 stated, there are 75 STRs, including ours, which are properly licensed, maintained, and insured. Meanwhile, there are about 150 STR's operating illegally. It is clear the problem here is enforcement.

This proposal as is will effectively discourage local property owners from investing resources in the City of Niagara Falls. While we would prefer to continue investing in our hometown, this proposal makes it a safer business investment to identify properties in surrounding towns and villages instead of the City.

If you want to improve the effect STR's have on their surrounding neighbors and communities, instead of punishing the property owners who are compliant and adhere to the current regulations, the City Council should propose a way to enforce non-compliant owners. Although we recognize enforcement is expensive, proposing additional regulations as the solution does nothing to solve the City's current problem, which is the operation of illegal STR's.

Additionally, I have two specific questions that I would like a response to based on the Council's proposal:

- 1.) This regulation restricts owners to one vacation rental company, Airbnb. This is anti-competitive- verging on an anti-trust violation by the City. Other reputable, top rated vacation rental companies have almost identical regulations and requirements including booking.com, HomeAway, VRBO, and others. Why did the Council decide to limit users to Airbnb?
- 2.) There is a ten-block diversion from the Portage Road boundary between Niagara Street and Walnut Avenue. How did the Council determine this boundary? What were the parameters for which this boundary was established?

We thank you for your time and consideration to this matter. I look forward to receiving your response.

Respectfully,

Kathleen and Curtis DuBois
Property Owners

From: Kathleen Ligammarri/ADM/NiagaraFalls
To: Michelle Shaughnessy/PLN/NiagaraFalls@NiagaraFalls
Date: Wednesday, July 22, 2020 02:41PM
Subject: Fw: Short-term Vacation Rental Ordinance Meeting 7/22/2020 *COMMENTS FOR MEETING**

Hi Michelle - See comments below and attachments re: meeting tonight.

Thanks!

Kathleen M. Ligammarri
Niagara Falls City Clerk
716-286-4393

kathleen.ligammarri@niagarafallsny.gov

----- Forwarded by Kathleen Ligammarri/ADM/NiagaraFalls on 07/22/2020 02:37 PM -----

From: M Leahy <leahy4410@gmail.com>
To: kathleen.ligammarri@niagarafallsny.gov
Date: 07/22/2020 02:36 PM
Subject: Short-term Vacation Rental Ordinance Meeting 7/22/2020

Dear Ms. Ligammarri,

Please be kind enough to forward my email to the Planning Board Members and other appropriate individuals for their July 22, 2020 6 p.m. meeting. I am unable to attend due to a previous commitment. I have attached two documents showing my support when I addressed council regarding the original 2017 ordinance. I would like to reiterate my support and ask the board to vote against the newly proposed short-term rental ordinance.

In my opinion, these licensed, entrepreneurial owner/operators should be given the key to the city for enhancing their properties. I live in the Historic Park Place District and have watched Andre Reetz and Carroll Schultz-Reetz save two properties on my block from eventual blight unlike property speculators/slumlords. For example, Ralph Pescirillo owns two dilapidated properties on my block. The difference is stunning both in the appearance of the homes as well as the behavior of the tenants. The Reetz's properties are more than outstanding; Pescirillo LLC's are in disrepair and neglected. The standards and enforcement should be the same for long and short term rentals. Vacation rentals should not be restricted to a certain area.

The current ordinance is adequate and should be applied and enforced to the unlicensed owners, not those who are already in compliance.

Sincerely,
Mary Leahy

one Saturday in November for a photo op. People like me work for not-for-profits, pay their rent on time, volunteer for local festivals and stock the Little Free Library. People like me vote. And people like me prefer to follow the rules. But people like me are confused, because Niagara Falls does not have an ordinance at all and is dragging their feet on a good solid ordinance that:

- 1) requires that vacation rental owners have to meet much higher standards and jump through more hoops to be able to obtain a permit than regular rental owners or even bed and breakfast owners. People like me will do so.
- 2) requires that vacation rental owners have to meet the same health and safety codes of beds and breakfasts though regular rental owners do not. People like me will do so.
- 3) has a mechanism for revoking the permit if a vacation rental becomes a problem. People like me wish they could say the same was true for other regular rental owners.

Economic success increasingly depends on the ability to create all kinds of new ideas. As New Growth Theorists

famously observed decades ago, a core strength of cities is their tendency to juxtapose different people and firms in a way that stimulates the formation of new ideas. Physical proximity, the built environment, institutional characteristics and social norms found within cities influence this process of idea creation.

Economists came to the conclusion that the creation of new knowledge is the driving force behind long-term economic growth. Far from being random, the knowledge creation process hinges on the density of interaction in cities to generate new ideas. Cities mix different people together, and the resulting interactions are a fertile ground for the creation of all kinds of this new work in this new sharing economy such as Uber, Lyft and software programs such as AirBnB that facilitate Short Term Vacation Rentals. And that is why many of us are here tonight. I have been asked by the Niagara Falls Tourist Home Association - a group organized to promote the responsible and legitimate use of single and two-family residential dwellings for the purposes of renting to tourists on a short-term basis - to ask those who are here tonight to support this ordinance to

stand. These faces -- my neighbors, your constituents -- represent the entrepreneurial economic growth so desperately needed by our city. Currently, the shrinking population and the weak economic conditions do not make long-term rentals economically viable for many of us. The plants with their good paying jobs are not coming back. We are not the Seneca, we are not Wilstein, but neither are we Ralph Pescirillo. You have the power to help us make positive change in our city. You represent us. Please pass this ordinance so we can be in compliance. Thank you.

Wednesday, August 5, 2020 at 4:35:52 PM GMT-04:00

Subject: Zone Chapter 1328.13 Schedule 14¹ City of Niagara Falls Short Term Rentals (STR)
Date: Wednesday, August 5, 2020 at 4:31:04 PM GMT-04:00
From: 460 Memorial
To: planning@nfez.org

City of Niagara Falls Planning Board Members

From: Todd Salansky, 460 Dacha, LLC.

Date: August 5, 2020

Re: Zone Chapter 1328.13 Schedule 14¹ City of Niagara Falls Short Term Rentals (STR)

After participating in the Niagara County Planning Board Meeting and this group's Planning Board Meeting on July 22, 2020 it appears to be very clear that community input was not involved in this proposal. Unfortunately, I cannot attend the meeting due to concerns over covid-19. The proposal itself is a result of a hastily instituted moratorium on January 25, 2020, just a little over three weeks from taking office. The moratorium was extended multiple times to benefit the special interests. My first question is how this is possible and my next question is why? As we all know, Niagara Falls is eager for private investment. Investment that increases the tax base and quality of life. With the existing regulations in place, private investment is happening throughout the city. There are no incentives in place, this proposal can be called disincentive.

The people that stand to benefit from this proposal are obviously a few select individuals and corporations with holdings in and around the area designated. Who are these people? Why are they more important than the overall well being of this city?

If this proposal were to pass, residents and investors would simply invest their private dollars just outside the city limits, or perhaps, ignore regulations in place as some do now. I urge the planning board to reject this proposal and encourage the administration to work on a plan that BENEFITS ALL OF NIAGARA FALLS and the tourists looking for a safe, reliable place to stay with their friends and family.

Sincerely,
Todd Salansky

From: City Clerk/CLK/NiagaraFalls
Sent by: Kathleen Ligammari/ADM/NiagaraFalls
To: Thomas J. Desantis/PLN/NiagaraFalls@NiagaraFalls, Michelle Shaughnessy/PLN/NiagaraFalls@NiagaraFalls
Date: Thursday, July 23, 2020 12:34PM
Subject: Fw: Copy of speech I made at 7/22/20 Planning Board meeting

Hello,

See comment below and related attachments.

Thank you,
Kathy Ligammari, City Clerk

----- Forwarded by Kathleen Ligammari/ADM/NiagaraFalls on 07/23/2020 12:32 PM -----

From: Paul Fortunate <fortch350@yahoo.com>
To: "city.clerk@niagarafallsny.gov" <city.clerk@niagarafallsny.gov>
Date: 07/23/2020 12:07 PM
Subject: Copy of speech I made at 7/22/20 Planning Board meeting

**Please forward this email and the attachment to the Planning Board.
Also, please let me know you received this.**

It is a copy of the presentation I made last evening concerning the proposed new regulations for STRs. I was unable to present all the material nor ask any of my questions because I exceeded the 5 minute limit. I read in the Gazette, this morning, that the Planning Board was accepting written statements about STRs for the next 2 weeks.

Thank you,
Paul Fortunate
922 McKinley Ave
Niagara Falls, NY 14305

email: fortch350@yahoo.com

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_____(See attached file: Presentation to Planning Board about STRs 7-22-20.pdf)
Attachments:

Below are my questions & comments about parts of the proposal that seem unclear;

- 1) Throughout the new regs the terms *Special Permit after 7/1/20* and *STR License* are mentioned, frequently. Are they both required every year? Are fees required for both?
- 2) Page 4, Part E, #1 – \$250 / \$400 yearly fee seems low considering so many STRs charge \$350+ a night.
- 3) Page 4, Part E, #4 – What is the Destination Niagara USA's "EXP Program?"
- 4) Page 6, Part A, #5 – The designated Local Contact for the STR owner has 45 minutes to *respond* and *resolve* complaints. Define *respond*? And If the Local Contact cannot resolve the issue what is the next step?
- 5) Page 6, Part 2, b – states.... "the Director *shall have the right* to inspect..." change that to *will* inspect at 2 year intervals, every STR property...
- 6) Page 8, Part G, #2 – Will the Guest Register be the same standard format.
- 7) Page 8, Part H, #4/5 – Who from city government is responsible for keeping track of the tax payments from AirBnB and the list of who has & hasn't paid?
- 8) Page 9, Part g – Only nighttime hours are mentioned. Are guests allowed to make as much of a disturbance as they wish during the daytime?

Paul Fortunate: Presentation to NF Planning Board about STRs 7/22/20

My thanks to the Planning Board for this opportunity to speak about the proposed new regulations for Short Term Rentals (STRs). After reading the proposal, it seems to be a big improvement over the existing rules that allowed STR's, helter-skelter, in residential zones of the city. However, I feel there are still several items that need to be addressed.

For 40 years, my wife and I have lived on McKinley Ave. The last three of those years were right next door to an STR. Our street is zoned R-1 as are all the surrounding streets. That didn't matter 3 years ago when our city leaders naively decided to get on the bandwagon of STRs in the hope that a windfall of taxes awaited. As soon as speculators came forward with enough American or Canadian dollars to buy a house, it could be christened an STR, which, in many neighborhoods resulted in a business smack in the middle of a residential street.

Living next to an STR, for us, was not a constant battle with endless parties and loud music, or rude guests. That didn't happen. What did happen was that every few days there would be a different set of license plates on the cars in the driveway or you'd hear the visitors speaking a different language. That's how you learned that new patrons were staying at the house and that was very unsettling. You felt as if your privacy and security were eroding.

Throughout the proposed new regs there are numerous times when formal meetings are called for to either approve the site of a new STR or address code violations by existing STRs. Neighbors' input should be mandatory in all decisions involving STRs. Who knows better than the people living around the business (STR) how it impacts the street.

We got involved in the STR issue after receiving a written invitation from the Zoning Board of Appeals to attend their meeting of August 15, 2017 if we had anything to say about the house next to us at 928 being designated an STR. That was when we learned it had been operating without a license since May.

We held a block meeting with our neighbors on McKinley to let them know what was happening and ask how they felt about it. Finally, we had a petition stating our opposition to the STR signed by 18 of the 21 homeowners on the street (2 of the 21 were on vacation).

The upshot of all this was that at the meeting of August 15, due to the large number of neighbors who accompanied us to the Board of Appeals, the petition, and the objections we expressed it was decided to table the issue until the next meeting on September 19. At that meeting we were astonished when it was stated that because it involved a special permit the Board of Appeals had no choice but to approve the STR. They further stated that we were speaking in front of the wrong group; we should have taken this up with the city council. That was in spite of the fact it was the Board of Appeals who had invited us.

As a result of our shock at being told we were at the right time but in the wrong place, we urge the authors of these new regulations to be very clear on the steps that must be followed and the proper place to voice opposition to creation of a new STR. Hopefully, our convoluted saga will never be repeated!

It's clear that STRs are here to stay but, not at the expense of established residential neighborhoods! Make no mistake, STRs are businesses. They don't belong in R-1 neighborhoods unless the owner lives in the house. Minus that, they are businesses and should be subject to all appropriate taxes and fees that any other place of lodging must pay. Neighborhoods, not STRs are what make a city special.

Mayor Restaino was correct when he said, "The key to this is enforcement!" Hopefully the Code Enforcement department will be given the manpower and other resources to make this possible. Thank you.

July 16, 2020

To: Niagara Falls Planning Board

From: Denny and Joanne Thuman, STR owners and operators
415 25th St.
Niagara Falls, NY 14303

I am writing in reference to the proposed amendment to Chapter 1328.13 of the Niagara Falls codified zoning ordinance, entitled "Short-Term Rental Units". As responsible owners and operators of five STRs in the city of Niagara Falls, we are directly impacted by these proposed amendments. We are currently in full compliance of the current code and have received a special permit to operate. These permits for each property, granted in good faith by the city of Niagara Falls, states we can operate for 4 years from the date of issue. We believe this to be a legal contract that was entered into by both parties and needs to be honored.

The purpose for the proposed amendments is stated in part "to regulate the short-term rental of dwelling units within the City and to establish comprehensive registration and licensing to safeguard the public health, safety and welfare by regulating and controlling the use, occupancy, oversight and maintenance of STR properties." The City has already established a registration and licensing system. It is in place and has been followed by many proprietors running STRs. There are many people in the city who operate STRs who have not gone through the necessary channels to receive the proper permit and these properties are not regulated and their non-compliance has gone unenforced. The City should first address this issue rather than further legislate compliant operators.

Furthermore, as stated, the amendment would like to safeguard the public health, safety and welfare of residents. As quoted, "The City recognizes that extensive short-term rentals endanger the residential character of the community and may cause disruption to the peace, quiet and enjoyment of neighboring homeowners". There is lack of evidence to indicate that STRs actually pose a threat to public health and safety, or a disruption to peace. Short Term Rental guests do not pose a threat to our neighborhoods. They are travelers who come to Niagara Falls to see the sights, eat in our restaurants and shop in our stores. They come and spend money and further the economy of the City. There is an inaccurate perception that travelers come to disrupt neighborhoods based on the action of a foolish few. If police calls and code violation complaints were reviewed it would be evident that there are many, many more local residents and tenants who are in violation of housing code and local law. These law breakers and code violators are OVERWHELMINGLY not travelers or STR operators, and yet these proposed amendments are specifically aimed at the wrong place. Just because a traveler enters the established neighborhoods of this city does not mean they pose a threat. The beauty of this landmark city is that it attracts travelers from all over the world. They come from all cultures, colors, religions, sexual orientation, creeds and races. We cannot judge based on any of these facts. They are welcome here and are not a threat simply because people feel uncomfortable.

In addition, the underlying tone of racism being proposed in this amendment, as quoted "short-term rentals endanger the residential character of the community...in order to respect the

property rights and interests of all homeowners...”, views travelers from outside our community and outside our country as a threat. Nothing can be further from the truth as these travelers are guests to our city who bring tourist dollars and diversity that we all desire.

Moreover, we are homeowners and residents of the city, and have been investing in real estate in Niagara Falls for more than 13 years. It is my observation and belief that STRs actually improve our neighborhoods and have been a contributing factor to the increase in value of real estate in Niagara Falls. When we purchase a home for an STR, we, along with many STR real estate owners, purchase homes that are unsightly and in disrepair and seek and strive to fix them up both inside and out. Debris is removed, lawns are maintained, hedges and landscaping are improved and maintained, along with trash and snow removal. This is all in an effort and a necessity to attract travelers to our city. As we look throughout the many unmaintained and unsightly properties in the city it is obvious that this is an epidemic problem. It is in the best interest of residents and homeowners when an STR is established on their street. It improves the appearance of the home, it is faithfully maintained, and it increased the value of the property.

The above reasoning is also used to counter the proposed boundary lines. STRs throughout the entire city are a benefit, not just in the immediate downtown area, as projected. These properties are constantly being looked after, cleaned, maintained and cared for. They improve the look of every city street where they are located and should not be limited to the downtown area. If STRs are limited to a specific area, this may cause many hosts to be unable to operate in compliance. It will cause future prospective buyers to stop seeking real estate throughout the city and eventually lead to a decrease in property values once again. In our case, all 5 of our STRs are located outside the boundaries. We are very proud of our properties; we take great pride in the renovations that we have done and enjoy maintaining the look and feel of these lovely homes both inside and out. We love hosting and meeting travelers from both near and far. Our interpretation of Section F.2.d.3 indicates that this proposed boundary change may put STR operators outside the boundary in danger of losing permits in the future. Not only that, but it impacts resale value of current STRs outside the boundary as they cannot be marketed as a viable STR since the future owner will not be able to obtain a permit.

Overall, these proposed changes are not only unnecessary but the reasonings for them are invalid. The City of Niagara Falls currently has STR operators in full compliance, following code and maintaining property in good faith. There are many STR operators who are not registered and compliant. This is the real issue and should be addressed accordingly.

Respectfully submitted,

Denny and Joanne Thuman

COPY

Good evening Chairman and Planning Board Members and citizens of Niagara Falls. I am Sheila Zuni of 5th street. I have hosted on Airbnb for the past 8 years. I have a few comments on the proposed revisions to the short term rental ordinance.

The current reality is that the city of Niagara Falls needs businesses, new businesses, exciting businesses, and businesses that people have never heard of yet. That was how the sharing economy of short term rentals hit the city. A cottage industry was born to add some flavor to a neighborhood and a vacation experience for a trusty traveler.

But this revision to the ordinance stands in the way of business and neighborhood development. By creating a limited region for new business to develop, the city is denying the opportunity for various neighborhoods to grow and become an exciting part of the city. A city is only as vibrant as each of its neighborhoods.

To create a boundary for the purpose of making it easier for the city to enforce its current laws seems sadly ineffectual. What about the short term rentals that

currently fall outside of that boundary and have never bothered to register with the city? How does this new language impact them? Do you think this revised ordinance would encourage them to register with the city? To prove that they are in a region the city doesn't even encourage?

With the city's lack of enforcement of the current ordinance, and no clear direction in the new ordinance except that they will limit enforcement to within their new "boundary", what you are doing in effect is asking more people to come and do whatever they want.

I have had great success through Airbnb, but to expect each shortterm rental host to register with airbnb is a ludicrous plan. I think it should be mentioned that on the internet currently there are over 50 platforms similar to airbnb through which anyone with property can submit their rooms for rent to guests.

The city is not touching on any of those other platforms, nor would they be able to unless they signed a contract with Host Compliance. Host compliance offers municipalities a way to regulate, license, tax and screen all internet rentals in their region. It has information on all the rental platforms and would solve a lot of the city's problems. It is quite an expensive service and at this time, our city has no money to spare.

I suggest that the city put their focus on obtaining a grant that would provide funding for a contract with Host Compliance and let them show the city administrators exactly who is inviting guests into their home and what kind of service they are they providing. It is not sufficient to tax, regulate and inspect only the hosts who have met every legal requirement so far, yet have never had the city live up to their end of the bargain.

To: Niagara County Planning Board Members
City of Niagara Falls Planning Board Members

From: Kent and Dana Hurlbert, STR Operator, Niagara Falls, NY
Date: July 2020

Re: Zone Chapter 1328.13 Schedule 14 - City of Niagara Falls Short-term Rentals (STR)

I am requesting your board vote "NAY" on recommending this ordinance because of the Zone Chapter 1328.13 Schedule 14 boundary limits.

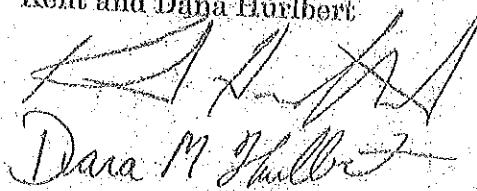
I believe this will limit who will be able to operate an STR within the City to a select few individuals. Ultimately reducing tourism spending to shops and restaurants within the called out boundary. In doing so, extended local restaurants and businesses that are outside this proposed boundary will suffer with reduced foot traffic from tourist. A yes vote will only profit the pockets of individuals operating in the boundary and hurt the rest of the city.

In Conclusion limiting where tourist can stay also limits where they will spend their money. Reducing spending in neighborhoods that are not within this boundary proposal will lead to further degradation to those neighborhoods.

Please consider a NAY vote on this proposal as it is written. So insure that everyone in the city has an equal opportunity of success.

Thank you in advance,

Kent and Dana Hurlbert

The image shows two handwritten signatures. The top signature is "Kent and Dana Hurlbert" and the bottom signature is "Dana M Hurlbert". Both signatures are in cursive and appear to be on a piece of paper with some faint background text or markings.



Regarding proposed ordinance on short term rentals

johnnie walker

to:

amy.fisk, james.bragg

07/20/2020 12:41 PM

Hide Details

From: johnnie walker <uselesscorkspork@gmail.com>

To: amy.fisk@niagaracounty.com, james.bragg@niagarafallsny.gov

Hello there, Scott Anton from Weston Ave again... I'm writing this time regarding the proposed ordinance on short term rentals. I'm asking that you please choose NOT to make Air BNB's (and the like) exclusive only to residents in a select area of Niagara Falls because I feel as though it is unfair to the other people in the Falls who have great venue's and hospitality to offer to the city's visitors. Doing something like this would just serve to yet again take away from people's personal freedoms & their ability to provide for themselves (unless of course they are lucky enough to own property in that exclusive zone). For me, excluding other areas comes across as almost elitist, as doing so, in a roundabout way implies that the other places are somehow unworthy of being a decent place for a tourist/traveler to stay, when in reality that should be left up to the tourists and the free market to decide (and they will...negative feedback gets results). Many houses that would have otherwise likely been left derelict & vacant have recently been fixed up and rented out by local entrepreneurs using AirBNB as a platform for their business.

Excluding everyone but those with properties in a designated zone potentially screws over existing businesses that are owned by well meaning citizens, who are in fact doing more to invest in the city of Niagara Falls than many others. Doing so would also destroy any hopes that a potential new entrepreneur might have due to the lower chances of attaining some of that exclusive property (not to mention that property would likely become more expensive due to its exclusivity). I do not own any Air BNB's but my neighbor does rent out some of his property, he does an excellent job of helping tourists feel welcomed and appreciated. I've never had any trouble with any of his customers and his customers have never had any problems while staying at his venues. He makes a great effort to ensure the neighborhood is safe and his properties are well kept, not only because it's good for his business, but also because he is simply a good neighbor and a decent person. In all honesty he motivates me to want to do a better job with the upkeep of my own property as well as being more sociable to my neighbors (I'm personally a bit of a recluse myself). At the very least, if the council does decide to exclude everywhere/everyone but those "lucky" enough to own properties in the designated zone, some sort of special case should be set up so that registered existing short term rental owners & their properties are exempt from the proposed limited area. If this does not happen some of these business owners may end up going bankrupt and may end up having to leave the falls entirely (and I know how important those census numbers are to the council).

In conclusion I'd just like to state one more time that the council should NOT rule in favor of this exclusionary & elitist proposal, as in the long run it would likely do more harm than good (more rundown buildings etc), not to mention it's extremely unjust to the decent well meaning entrepreneurs who make their living by making Niagara Falls a better place for its tourists and its residents.

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