


From: **Carroll Schultz-Reetz** wanderfallshostel@gmail.com 
Subject: Bed Tax Law Documentation
Date: April 22, 2019 at 10:50 PM
To: Reu CooperNiagara reucooperniagara@gmail.com, James Abbondanza eveneye@me.com, Colin Ligammari cligammari@yahoo.com

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Hi All,

I have attached everything I can find pertinent to the city's new attempt to collect bed tax on Short Term Vacation Rentals.

I have included:

Local Law #5 - no use of word transient if that is being used as an argument by the city. ROOMS in hotels, motels, inns, and the like. I highlight rooms because Jeff Flach went to the city when he took over the Gorge View hostel and argued successfully that beds were not rooms. The city concurred and then informed me of the same (i.e. I didn't have to collect bed tax on dorm beds anymore) Dorm beds are definitely transient but the law says Rooms, not beds, not houses.

State Law 1201-1 - current as of 2019 - no changes to definitions (see next part)

City Council Meeting minutes from 1/23 where the city wants the state to redefine "hotel and motel" in State Law 1201-1 to include Tourist Homes and Short Term Rental Units (2 pages). Please read this carefully and let me know if you read it the same as I do. Meaning, that once the state changes 1201-1, then the city can create a local law and hold a public hearing. I am not aware of any change to 1201-1 since what I printed was current and I definitely am not aware of a public hearing.

City Council Meeting minutes from 2/6 where they have asked the state for Home Rule to increase the bed tax. The Senate Bill and Assembly Bill mentioned there are not on the docket for this legislative session and are only in committee per the State's website.

If you see something I am missing, or think my interpretation is off, please let me know.

Carroll

RESOLUTION: HOME RULE, INCREASE IN OCCUPANCY TAX, 2019-16
BY: ALL COUNCIL MEMBERS

City Council
Mins.

Agenda Item #9

WHEREAS, Section 1202-1 of the New York State Tax Law allows the City of Niagara Falls to adopt and amend local laws imposing a per diem tax on persons occupying hotel and motel rooms in the City; and

WHEREAS, that rate of tax is presently established at five (5%) per centum per day of the rent or charge for each room; and

WHEREAS, it is requested that this rate of tax be increased from five (5%) per centum per day to six (6%) per centum per day with the additional one (1%) per centum of revenue dedicated to the operation of the Discover Niagara Shuttle; and

WHEREAS, Senator Robert Ortt introduced Senate Bill No. S.2826, attached hereto (on file in the City Clerk's Office), and Assemblyman Angelo Morinello introduced Assembly Bill No. A.3271, attached hereto (on file in the City Clerk's Office), which will authorize and empower the City of Niagara Falls to increase the rate of tax from five (5%) per centum per day to six (6%) per centum per day; and

WHEREAS, in order for the Legislative process to continue, this City Council is requested to adopt a home rule request.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Niagara Falls, New York does hereby recognize, acknowledge and support the enactment by the New York State Legislature of Senate Bill No. S.2826 and Assembly Bill No. A.3271 which will allow the City of Niagara Falls to impose an additional one (1%) per centum occupancy tax in the City of Niagara Falls to benefit the Discover Niagara Shuttle; and

BE IT FURTHER RESOLVED that the Clerk of this City Council is directed to complete and certify the home rule requests and forward copies to the New York State Legislature as required.

Yeas
Nays

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CONTRACT: HYDE PARK GOLF COURSE, LEASE, NIAGARA GOLF PARTNERS

Agenda Item #10

In the interest of continuing the ongoing improvements to the amenities at the Hyde Park Golf Course ("the course") and also being mindful of the City's costs to operate the course, the Purchasing Division issued an RFP to potentially bring in an operator to take over the operation of the golf course, the restaurant and the shop located on the premises.

After publishing and posting the RFP, the City received two (2) responses and both prospective vendors were interviewed by the scoring committee. After further discussions with both prospective vendors, the proposal from Niagara Golf Partners ("NGP") emerged as the strongest proposal.

The terms of NGP's proposal are as follows: NGP will assume full operational control at the course by performing all tasks necessary to operate the course, restaurant and shop; collecting all revenues and paying all expenses with the exception of the utility contributions set forth herein. The term of the agreement shall be five (5) years, with the option of a mutual five (5) year extension following the end of the initial term.

As discussed above, the City will make contributions towards the utility costs as follows:

Years 1 and 2	\$60,000.00 per year
Years 3 and 4	\$40,000.00 per year
Year 5	\$20,000.00

02/06/2019

I hereby certify that the following Local Law was adopted at a Meeting of the City Council held on December 2, 1991.

NIAGARA FALLS LOCAL LAW NO. 5
FOR THE YEAR 1991

A LOCAL LAW IMPOSING A TAX ON THE OCCUPANCY OF HOTEL ROOMS
PURSUANT TO CHAPTER 598 OF THE LAWS OF 1991 OF THE STATE OF NEW YORK

BE IT ENACTED BY THE COUNCIL OF THE CITY OF NIAGARA FALLS

Section 1. Short Title. This local law shall be known as the City of Niagara Falls Hotel Room Occupancy Tax Law.

Section 2. Definitions. When used in this Local Law, the following terms shall mean:

(a) Person. An individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of the foregoing.

(b) Operator. Any person operating a hotel in the City

of Niagara Falls, including but not limited to the owner or proprietor of such premises, lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such hotel.

(c) Hotel. A building or portion of it which is regularly used and kept open as such for the lodging of guests. The term "hotel" includes a motel, motor court, motor lodge or inn, or similar hotel or motel type of accommodations by whatever name designated.

(d) Occupancy. The use or possession, or the right to use or possession of any room in a hotel.

(e) Occupant. A person who, for a consideration, uses, possesses, or has the right to use or possess, any room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

(f) Permanent Resident. A person occupying any room or rooms in a hotel for at least thirty consecutive days shall be considered a permanent resident with regard to the period of such occupancy.

(g) Rent or Charge. The consideration received for occupancy valued in money, whether received in money or otherwise.

(h) Room. Any room or rooms of any kind in any part or portion of a hotel, which is available for or let out for any purpose other than a place of assembly.

(i) Return. Any return filed or required to be filed as herein provided.

(j) City Controller. The controller of the City of Niagara Falls, New York.

Section 3. Imposition of Tax.

On and after the 1st day of January, nineteen hundred ninety-two, there is imposed and there shall be paid a tax of four percentum (4%) per day upon the rent for every occupancy of a room or rooms in a hotel in this City except that the tax shall not be imposed upon a permanent resident of a hotel or exempt organizations as hereinafter set forth.

From City Council Meeting Mins

THENCE, leaving westerly along the southerly right of way of Buffalo Avenue, proceeding until its intersection with the easterly edge of Riverside Drive;

THENCE, leaving southerly and westerly along the Boundary of Riverside Drive until its intersection with the westerly boundary of Holly Place;

THENCE, leaving westerly along the line of land appropriated by and for the People of the State of New York in 1885, now known as Niagara Falls State Park, then following said property boundary westerly and northerly, proceeding until its intersection with the northerly right of way of Niagara Street;

THENCE, leaving easterly along the right of way of Niagara Street, proceeding until its intersection with the westerly right of way of Rainbow Boulevard;

THENCE, leaving northerly along the westerly right of way of Rainbow Boulevard, proceeding until its intersection with the northerly right of way of Main Street;

THENCE, leaving northeasterly along the northerly right of way of Main Street, proceeding until its intersection with the westerly right of

Main Street, proceeding until its intersection with the westerly right of way of Whirlpool Street;

THENCE, leaving northerly along the westerly right of way of Whirlpool Street, also abutting along the line of land appropriated by and for the People of the State of New York, proceeding until its intersection with the easterly right of way of Third Street;

THENCE, leaving southerly along the easterly right of way of Third Street, proceeding until its intersection with the northerly right of way of Pine Avenue;

THENCE, leaving easterly along the northerly right of way of Pine Avenue, proceeding until its intersection with the easterly right of way of Main Street;

THENCE, leaving southwesterly along the easterly right of way of Main Street, proceeding until its intersection with the easterly right of way of Fourth Street;

THENCE, leaving southerly along the easterly right of way of Fourth Street, proceeding until its intersection with the northerly right of way of Niagara Street;

THENCE, leaving easterly along the northerly right of way of Niagara Street, proceeding until its intersection with the westerly right of way of John B. Daly Boulevard;

THENCE, leaving southerly along the westerly right of way of John B. Daly Boulevard, proceeding until its intersection with the southerly right of way of Buffalo Avenue, being also the POINT OF BEGINNING.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Niagara Falls, New York does hereby respectfully request that the New York State Senate and Assembly submit companion bills authorizing the City of Niagara Falls, New York to reduce the speed limit to a speed limit not less than 25 miles per hour in the downtown area of Niagara Falls, New York as described herein; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the members of the New York State Senate and Assembly.

Yeas

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Nays

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ADOPTED

RESOLUTION: 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, 2019-4
BY: ALL COUNCIL MEMBERS

Agenda Item #15

WHEREAS, the City Council of the City of Niagara Falls believes in Home Rule; and

01/23/2019

WHEREAS, the City Council of the City of Niagara Falls desires that §1202-1 of the Tax Law pertaining to hotel and motel rooms in Niagara Falls be amended to clarify the meaning of the phrase "hotel and motel rooms" to be more consistent with the definition of that phrase as it pertains to other communities mentioned in the Tax Law to recite that the term "hotel" or "motel rooms" shall mean and include "any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as "Bed and Breakfast", Inns, Tourist Homes and Short Term Rental units.

NOW, THEREFORE, BE IT RESOLVED that the City of Niagara Falls hereby requests that the State of New York Senate and Assembly draft companion bills for the purpose of amending §1201-1 of the Tax Law pertaining to hotel and motel rooms in Niagara Falls to include the

following language in §1201-1(1) of the Tax Law: "For purposes of this section, the term "hotel" or "motel" shall mean and include any facility providing lodging on an overnight basis and shall include those facilities designated and commonly known as "Bed and Breakfast", Inns, Tourist Homes and Short Term Rental units; and

BE IT FURTHER RESOLVED that the drafting of this legislation on the State level would provide the City of Niagara Falls the option of passing a Home Rule message in support of such legislation; and

BE IT FURTHER RESOLVED that subsequent to the State's adoption, the City of Niagara Falls would have an opportunity to present a Local Law in order to accomplish this clarification in its Local Law regarding bed tax; and

BE IT FURTHER RESOLVED that the City of Niagara Falls City Council respectfully requests the New York State Senate and Assembly to submit companion bills that would pave the way for City's Local Law and Public Hearing and that copies of this Resolution be sent immediately to the City of Niagara Falls' State Representatives.

Yeas

Nays

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ADOPTED

RESOLUTION: 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
BY: ALL COUNCIL MEMBERS

Agenda Item #16

WHEREAS, the City Council of the City of Niagara Falls believes in Home Rule and should be able to determine the most preferable way to pay for services to promote tourism in the City of Niagara Falls; and

WHEREAS, the City Council of the City of Niagara Falls sees an advantage to an additional 1% increase in the current Bed tax to aid and promote tourism in the City of Niagara Falls and Niagara County in general; and

WHEREAS, the City of Niagara Falls has an opportunity to assist the Niagara Falls National Heritage area in its operation of the Discover Niagara Shuttle or other entities for transportation or economic development purposes pursuant to New York State Tax Law Article 29 §1201-d(a) authority to impose tax; and

WHEREAS, the Discover Niagara Shuttle service presently serves the City of Niagara Falls and along the Niagara River corridor to the Village of Youngstown; and

WHEREAS, the City of Niagara Falls anticipates several benefits to an additional 1% increase of the current bed tax, which would include:

1. Promote tourism by ease of transportation to and from all the tourist sites in the City of Niagara Falls, Town of Lewiston, Village of Youngstown and in the future various additional tourist sites in Niagara County;
2. Relieve congestion of tourism traffic on the roads, parking, and provide a scenic commute throughout the existing City of Niagara Falls and Niagara County tourist locations; and

01/23/2019

* § 1202-1. Hotel or motel taxes in Niagara Falls. (1) Notwithstanding any other provisions of law to the contrary, the city of Niagara Falls is hereby authorized and empowered to adopt and amend local laws imposing in such city a tax in addition to any tax authorized and imposed pursuant to this article such as the legislature has or would have the power and authority to impose on persons occupying hotel and motel rooms in such city. The rate of such tax shall be five per centum (5%) per day of the rent or charge for each room; provided, however, such tax shall not be applicable to a permanent resident of a hotel. For the purposes of this section, the term "permanent resident" shall mean a person occupying any room or rooms in a hotel for at least thirty consecutive days.

(2) Such tax may be collected and administered by the comptroller of the city of Niagara Falls by such means and in such manner as other taxes which are now collected and administered by such officers as provided by local law.

(3) Such local laws may provide that any tax imposed shall be paid by the person liable therefor to the owner of the hotel room occupied or to the person entitled to be paid the rent or charge for the hotel room occupied for and on account of the city of Niagara Falls imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel room, or in respect to nonpayment of the tax by the person occupying the hotel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the city comptroller of the city of Niagara Falls shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

(4) Such local laws may provide for the filing of returns and the payment of the tax on a monthly basis or on the basis of any longer or shorter period of time. Such returns shall be filed within twenty days from the expiration of the period covered.

(5) This section shall not authorize the imposition of such tax upon the following:

a. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state;

b. The United States of America, insofar as it is immune from taxation;

c. The United Nations or other world-wide international organization of which the United States is a member; and

d. Any corporation, or association, or trust, or community chest, fund or foundation, organized and operated exclusively for religious, charitable, or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in