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Town of Somerset New York

Members of the Board

Subject: Proposed Regulation of Short-Term Rental Property

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Introduction

Ladies and Gentlemen of Somerset City Council;

Thank you for your work at council, it's a thankless job. I'm cognizant of this and I appreciate your service to the public.

I extend my gratitude for your dedicated service to the council, acknowledging the often thankless nature of your responsibilities. My name is Andre Pagliaro, I am the owner of the property located at 9115 Lakeshore Drive, Barker NY. Having owned this property for approximately two years, I hold a deep appreciation for the town of Barker and the small-town ambiance reminiscent of my upbringing in rural central Ohio.

Presentation on Proposed Regulation of Short-Term Rental Property

This document is a comprehensive analysis of the proposed regulations regarding short-term rental properties. Before delving into the specifics, I kindly request your attention to the table of contents for a brief overview of the key topics to be covered.

- Personal Observations and Experiences as a Rental Operator
- Niagara County Planning Board Requirements - I will be discussing the legality of the proposed rules and potential issues of due process
- The importance of gaining input from all stake holders
- Economic impact - an abundance of research conducted by external and county sources
- Templates and Guidance to Rule Development
- New York State Assembly Legislative Draft on STR
- Augments to proposed rules

In reviewing the proposed rules, it is evident that they were formulated unilaterally, potentially reflecting a biased stance against short-term rentals (STRs). Notably, the absence of consultation with existing operators raises concerns about the arbitrary, punitive, and possibly Fifth Amendment rights-violating nature of these regulations. I advocate for a comprehensive rewrite to ensure fairness and effectiveness.

Personal Observations and Experiences as a Rental Operator

I have received no complaints (documented or otherwise) over the last two years about me or my guests. I strive to be not only a responsible operator, but also a good neighbor. I have yet to receive a single direct complaint from anyone, neighbors or city representatives. I must be doing something correctly with how and who I market to.

The water front is not heavily used. I was at my cottage during the middle of last August often outside using my property for a week straight, outside of jetskies roaring by, I saw perhaps two people in either direction of the shoreline during the entirety of the week. More noise comes from Jetskiis and lawnmowers that could ever be generated from children happily playing or a family having dinner conversation or roasting marshmallows.

I consider myself a very involved operator, I often choose to clean and turn over my property between guests as it allows me to conduct maintenance that would otherwise could be missed by cleaners. My clients rarely cook for themselves, the number of pizza boxes and food containers I see in the trash/recycling bin purchased from establishments in town is shocking. Clearly, my guests patron Somerset's establishments, whether it's the Barnyard for breakfast, the Grain House for dinner, Blackbird Cidery for a sip, The Taco Place, Crosby's or even Dollar General. It's undeniable that STR guests inject a significant amount of money into this economy. I'm not a proprietor in the restaurant business, so I can't speak from there, but I do know it's extremely hard work and that, generally, the idea of more customers is better than less customers. I don't know if they have access to or the ability to track where their customers come from, but I suspect out of town guests generate a significant portion of their revenue, especially during peak season.

I would like to see more proprietors speak to the undeniable benefits of how tourism money supports their businesses, but I suspect we may not hear from them today for several reasons; Firstly, no business owner wants to find themselves on either side of a contentious issue for fear of reprisals (boycotting of patronage). Yes, they want more business, but taking a polarized position may result in money being intentionally steered away from them by one group or the other. I'm sure they must be cognizant of this real risk.

Second, there could be other factors as to what initiated the need for STR rule development in the first place. In discussions with neighbors, property owners and residents it was implied that these proposed laws may have been originally born from some sort of animosity between past family members and not actually with residents raising objections to properly run STRs. I'm not suggesting that some residents don't have personal opposition to rentals, but it seems the initial impetus to table these laws had little to do with operators or their guests. This is not the way legislation should be initiated.

I know several neighbors who don't necessarily wish to get heavily involved as they want to avoid potential neighbor reprisals, but they all say, they are very concerned about losing the right and flexibility to rent their properties on a short term basis (either now or in the future). They either have done so regularly in the past and that right is potentially being obscured with unreasonable bureaucracy, and or, they feel this is a direct attack on their rights as property owners.

Properties have been rented on a short term basis in this town since summer homes started being built along the lake over a century ago. In the past a Realtor would often facilitate the brokering between owner and client, it has evolved to internet based brokering as few Realtors practice in this space. In many respects, the safeguards and identity verification with the new systems are far more exhaustive and secure than what a Realtor could ever accomplish over the phone.

I employ two residents of Niagara County, one of which lives in Somerset to assist in preparing the cottage for guest arrival. I hired a lawn care service from a local provider who lives in Somerset, I hire maintenance personnel who reside near Somerset, I use utility and service companies such as propane service and septic maintenance services, all local providers. I use these providers in an STR capacity much more than I would if I was not renting the cottage periodically. Guest visits generate higher usage for these utilities and maintenance which increase the amount money entering the Somerset economy than if I were to use it just as a seasonal home. Money to pay for these services comes from the guests themselves.

I patron the Dollar General franchise in town for most all of my supply needs. I would likely not patron nearly as often to replenish supplies if it were not for my guests.

These are all factors of increased economic input that, to date, are being overlooked..

Niagara County Planning Board Requirements

The town council may or may not be aware that the town of Somerset is required to refer certain actions to the Niagara County Planning Board for referral pursuant to existing inter-municipal agreements;

For Somerset, this currently includes;

- a. Adoption or amendment of a local comprehensive plan having municipal-wide effect
- b. Adoption of amendment of a zoning ordinance or local law having a municipal-wide effect**
- c. Actions immediately adjacent to a municipal boundary
- d. Actions immediately adjacent to a state or county park
- e. Actions on corner lots on state or county highways

Amendments to Rental laws would fall under A or B.

<https://www.niagaracountybusiness.com/niagara-county-planning-board>
(See Document A. Niagara County Planning Board _ NCCED.pdf)

https://www.niagaracountybusiness.com/file-library/100024/Town_Somerset_IMA_Summary.pdf
(See Document B. Town_Somerset_IMA_Summary.pdf)

This implies that the passage of these laws without final referral to the Niagara County Planning board could result in the violation of the existing inter-municipal agreement. This may expose Somerset to

potential litigious challenge from property owners. Siting legal precedent in a case study from a judgment against the Village of Bellport, NY for having amended the Rental Law without proper referral to the Suffolk County Planning Commission. The judgment ruled in favor of the plaintiffs that the changes to the Rental Law were null and void.

(see Document *Eiseman v. Inc. Vil. of Bellport*, 2020 N.Y. Slip Op. 31941 _ Casetext Search + Citator.pdf)

To avoid such a potential situation, the town and all stake holders should work together to form better approaches to implementing new legislation.

Gaining Input from All Stake Holders

Numerous property owners, many of whom regularly rent their properties, should actively participate in the formulation of these new rules.

It is crucial to avoid attempting to push legislation through mere days into the new year without reaching out to stakeholders. This is especially relevant as many stakeholders, particularly seasonal property owners, may not be readily available for input during this time. The timing of the meeting to pass these rules appears to be strategic, potentially disenfranchising seasonal owners.

Town hall meetings may not be the most conducive environment for effective rule development.

I propose holding separate meetings facilitated by the Somerset Business Development/Tourism Advisory Committee. This approach will allow comprehensive input from all stakeholders, ensuring the development of well-balanced rules. These meetings should be scheduled at a time of the year when seasonal properties have reopened, and owners are available for consultation.

To gain a better understanding of the economic implications at stake, it is imperative that the Town seeks input from both the Niagara Board of Tourism and the Niagara Chamber of Commerce.

Additionally, the final draft needs to be referred to the Niagara County Planning Commission for thorough review, public hearings, necessary adjustments, and eventual approval. This step will further enhance the credibility and legality of the proposed rules.

Economic Impact

I reached out to Andrea Czopp (COO) at the Niagara County Board of tourism, she shared valuable statistics on how visitors to Niagara county and each of their towns provide significant economic input.

<https://www.niagarafallsusa.com/about-us/annual-reports/>

The Longwoods report contains a wealth of spending statistics for Niagara Falls.

Last year I would estimate that one in every two of my guests visited Niagara falls from Somerset. These guests are spending a significant portion of their vacation budget at local businesses close to their accommodation.

https://niagara-usa-2023.s3.amazonaws.com/images/files/niagara_falls_travel_usa_2022_report.pdf?v=1701368454

(see Document D. [niagara_falls_travel_usa_2022_report.pdf](#))

Other areas of interest specific to Somerset would be on page 11, highlighting the average spend per fishing party when visiting Niagara county. Page 13 where Niagara County reported that recreational fishing generated a total of 58.55 million 2022 visitor spending. I hosted several fishing parties in 2023. https://niagara-usa-2023.s3.amazonaws.com/images/files/2023_niagara_fishing_study_9-22_mm.pdf?v=1699424563

(see Document E. [2023_niagara_fishing_study_9-22_mm.pdf](#))

The regional impacts starting on page 13 demonstrates the amount of visitor spend to Niagara county, employment income and tax revenues.

https://niagara-usa-2023.s3.amazonaws.com/images/files/nys_tourism_impact_greater_niagara_2022.pdf?v=1699424979

(see Document F. [nys_tourism_impact_greater_niagara_2022.pdf](#))

Guidance to STR Rule Development Toolkit

The incumbent in the STR broker space, AirBnB, has been in existence since 2007, they bring with them a wealth of knowledge from the successes and challenges of brokering STR properties across the globe.

Attached is a link to proactive guidance intended for municipal policy development for STR rules, in reading this text it is a very unbiased and balanced approach.

Please review their practical guidance on how to assemble fair and balanced STR rules and laws.

<https://news.airbnb.com/policy-toolkit-short-term-rental-regulations/>

(See Document [Airbnb short-term rental regulation toolkit for G. policymakers.pdf](#))

New York State Assembly Legislative Draft on STR

The New York State Assembly has already gone through the effort in 2023 to draft a template for use by cities and towns in New York state. Many of the provisions would be highly applicable to Somersets situation. The legislative draft focuses on economic benefits from a balanced approach to STR permitting.

https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A01140&term=2023&Summary=Y&Text=Y

(See Document H. Bill Legislative Information _ New York State Assembly_STR.pdf)

Once a fair an unbiased rule set is developed, it will need to be referred to the Niagara County Planning Commission for public hearings, adjustments and approval.

Augments to Proposed Regulations

The best approach would be to reconstruct the proposed rules from a more solid template, as noted above, with proper stake holder input from the ground up. This would be the preferred approach as the current rules are highly biased, punitive and don't seem to be realistically constructed to support rentals. They seem to aim to bury the property owners under a mountain of bureaucracy intended to make it near impossible to obtain a permit.

I have taken the time to edit the rules as presented, highlighting valid concerns and challenging the overabundance of bureaucratic process.

LOCAL LAW NO. 2 OF THE YEAR 2023

TOWN OF SOMERSET

COUNTY OF NIAGARA, STATE OF NEW YORK

A local Law Enacting Short-Term Rental Regulations

Be it enacted by the Town Board of the Town of Somerset as follows:

Section 1. Title

This local law shall be known as and may be cited as Local Law No. 2-2023, to amend the Somerset Town Code to add Chapter 155, "Short-Term Rentals" requiring owners to obtain a Short-Term Rental Permit from the Town of Somerset Planning Board to continue or commence operation of a Short-Term Rental.

Section 2. Purpose, Intent and Authority

A. The Town recognizes that Short-Term Rentals can attract visitors to the Town of Somerset and may also provide an additional source of income to Town residents. The Town also recognizes that Short-Term Rentals can create a threat to the public health, safety and welfare to Town residents. **This law is intended to preserve and protect the health, character, safety, and general welfare of the Town and mitigate adverse effects of short-term rentals.**

AP: The above sentence implies that this law has a singular goal, this is clearly stated that it is written with intent to NOT reach a balance between all valid factors (public health/ safety, local economic input, and additional tax revenues. This statement does not take the perspective and input from all stake holders of this legislation.

B. This Chapter shall apply to all that portion of the Town of Somerset outside the Village of Barker.

C. This Chapter is adopted pursuant to New York Municipal Home Rule Law.

Section 3. Definitions

As used in this Chapter, the following terms shall have the meaning indicated:

Short-Term Rental – Any portion of real property rented for compensation in exchange for lodging for a period of not more than thirty-one (31) consecutive days. For the purpose of this Chapter, the term “Short-Term Rental” shall not include a bed-and-breakfast, hotel, motel, or ongoing month-to-month tenancies.

Section 4. Presumption of Dwelling Unit as Short-Term Rental Property

A. The presence of the following shall create a presumption that all or a part of the property is being used as a Short-Term Rental:

- a. All or part of the property is offered for lease on a short-term rental

website, including but not limited to Airbnb, Home Away and VRBO, for a rental period of less than thirty-one (31) days; and/or

- b. All or a part of the property is offered for lease for a period of thirty-one (31) days or less through any form of advertising.

B. The foregoing presumptions may be rebutted by presenting evidence to the Code Enforcement Officer that the premises is not operated as a Short-Term Rental.

Section 5. Permit Required.

A. Owners shall not use their property as a Short-Term Rental without obtaining a revocable Short-Term Rental permit from the Town of Somerset Planning Board.

B. A Short-Term Rental Permit shall be valid for one (1) year and must be renewed In April of each calendar year if the premises is to continue to operate as a Short-Term Rental.

- a. Renewal applications shall be mailed to the property owner or designee in March of each calendar year. Failure to submit a renewal application may result in the revocation of the Short-Term Rental permit pursuant to

Section 9(C) of this Chapter.

C. The Short-Term Rental permit is not transferable to a new owner. The new owner of the premises subject to a Short-Term Rental permit must file a new permit application.

D. Notwithstanding the foregoing, properties with Short-Term Rental commitments existing on the date this Chapter takes effect shall be permitted to honor such existing commitments and continue to make commitments for Short-Term Rentals, but must apply for a permit within one-hundred eighty (180) days of this Local Law’s effective date for all future Short-Term Rental commitments. ~~In the event such application is denied, all commitments shall be canceled.~~

AP: The stricken sentence is not an equitable condition. In the unusual circumstance of an application being denied, only then is it reasonable to impose a halt on future bookings for the property in question, meaning, existing booking reservations into the future should be allowed to be honored. To enforce this, a snapshot of bookings can be taken on the date of denial and sent to

the permit office for record keeping so that customers and the town is not disenfranchised from economic input or litigious action. (example, beginning of April)

Section 6. Short-Term Rental Permit Application Requirements.

A. Applications for a Short-Term Rental permit may be obtained at the Town of Somerset Town Clerk's Office and submitted to the Code Enforcement Officer, accompanied by payment of a nonrefundable permit fee to be determined from time to time by resolution of the Town Board. The application shall include the following:

a. The signatures of all owners or their designated agents.

~~b. A statement authorizing the Code Enforcement Officer to inspect the property to ensure compliance with all requirements and standards contained within this chapter.~~

AP: The stricken portion is a violation of grandfathered building codes and property rights. Properties built over 100 years ago had been built or updated to the standards of the time. Seasonal and short term rentals had always been permitted as per inalienable property rights. Subjecting these properties to current standards that at one point had legally met all requirements of the time should not be subject to forced updates.

c. A list of each property owner and the name of any manager or management company managing the property, including names, addresses, telephone numbers and email addresses of each.

d. The name, address, telephone number and email address of a contact person, who shall be responsible and authorized to act on the owners' behalf to promptly remedy any violation of the standards outlined in this Section. For properties owned by limited liability companies, corporations, and partnerships, the applicant shall provide an address for service of process.

~~e. An accurate suitable floor plan for each level of the dwelling that can be occupied measuring at least 8.5 inches by 11 inches, drawn to scale and certified by the applicant. The floor plan must include the following:~~

~~i. Location of buildings and required parking.~~

~~ii. Basement — location of house utilities and all rooms including bedrooms, windows, exits and any heating/cooling units.~~

~~iii. First floor — all rooms including bedrooms, windows, exits and any heating/cooling units.~~

~~iv. Second floor — all rooms including bedrooms, windows, exits and any heating/cooling units.~~

~~v. Attic (if applicable) — all rooms including bedrooms, windows, exits and any heating/cooling units.~~

AP: Why the above was stricken. Again, the above sections intend to document the property to then subject the properties to current building standards. Asking the property owner to draft the floor plan and all mechanics of the existing property is an unreasonable and expensive ask that most owners do not have the expertise and resources to provide. These sections are designed to disincentivize and or raise the technical requirement burdens on a property owner to prevent them from renting out their property. This is not a progressive inclusion.

~~f. A statement that none of the owners of the subject property have had a Short-Term Rental permit revoked within the previous year for any rental properties owned individually or jointly with other within the Town of Somerset.~~

AP: The requirement of this statement implies a punitive condition that has no recourse process detailed. In the even a permit is denied, the fact that a permit was denied in the past should not be used as a reason to prevent re-application or a appeal of said permit again in the future. As such this section should be stricken.

B. All completed short-term rental applications are subject to a Floor Plan Review and Approval by the Town of Somerset Planning Board. Upon approval of the application, the Code Enforcement Officer shall grant a short-term rental permit.
Section 7. Short-Term Rental Standards

AP: As mentioned before, subjecting properties that have maintained rentals both short and long term for over 100 years to current building and fire standards is not a reasonable condition. Such conditions are normally relegated for new construction projects and for properties that are above a certain number of unities within the same structure.

All Short-Term Rentals shall meet the following standards:

A. Property Requirements:a. Smoke and Carbon Monoxide Detectors – There shall be one working smoke detector in each sleeping room and one additional smoke detector on each floor. Carbon monoxide detectors shall be installed as required by the New York State Uniform Fire Prevention and Building Code.

AP: As highlighted before, application of currently adopted building and fire codes to existing properties is not reasonable, and is actually specifically mentioned in the NYS Uniform Fire Prevention and Building code as not applicable to existing structures. Further, these codes are typically applied to multi unit commercial hotel structures, to to single family units/homes/cottages already in existence.

Application of these conditions is not tenable for homeowners to achieve.

“

New York State Uniform Fire Prevention and Building Code. Section [NY} 102 APPLICABILITY 102.2 Construction and Design Provisions. The construction and design provisions shall apply to;

1. Structures, facilities and conditions arising after the adoption of this code.

“

“

[NY 102.11 Existing Structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change,

“

As such the following sections are to be removed.

~~b. Emergency Evacuation Procedures — Evacuation procedures must be posted in each sleeping room to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke detecting or other alarm device.~~

~~c. Fire Extinguishers — There shall be an ABC fire extinguisher on each floor and in the kitchen. Fire extinguishers shall be inspected monthly by the permit holders.~~

~~d. The house number shall be located both at the road and on the dwelling unit so that the house number is clearly visible from both the road and the driveway.~~

~~e. Exterior doors shall be operational and all passageways to exterior doors shall be clear and unobstructed.~~

~~f. Electrical systems shall be inspected by a third party electrical inspector to ensure no visual defects or unsafe conditions prior to initial short-term rental permit application.~~

~~g. All fireplaces shall comply with all applicable law and regulations.~~

~~h. The property containing the proposed short-term rental must have a minimum of one (1) off-road parking space for every bedroom shown on the floor plan included listed with the application with the application.~~

AP: This provision is appropriate, but should not require a floor plan, simply bedrooms indicated on the application..

~~i. The maximum occupancy for each short-term rental unit shall not exceed two (2) people per bedroom shown on the floor plan.~~

AP: The above occupancy limitations where never present in any past or present building codes for single family homes, this provision should not be permitted and as such stricken.

~~j. In the event that the property has a septic system, the maximum occupancy shall be defined by the capabilities of the septic system, but in no event shall overnight occupancy for any dwelling unit that contains a Short-Term Rental permit exceed two (2) people per bedroom.~~

AP: This section potentially subjects an older property and its existing mechanicals to current standards, which should not be permitted and as such stricken.

B. All applicants and permit holders must provide a “Evidence of Property Insurance” and “Certificate of Liability Insurance” indicating the premises is rated as a Short-Term Rental property maintain such insurance throughout the term of the Short-Term Rental permit.

AP: The above provision is appropriate, as it shows responsible liability coverage.

C. Provisions shall be made for weekly garbage removal during rental periods. Garbage containers shall be secured with tight-fitting covers at all times to prevent leakage, spilling or odors, and placed where they are not clearly visible

from the road except at pick-up time.

AP: This above provision is appropriate, current by-laws are already in existence for the handling of refuse containers.

D. All applicants and permit holders shall have a rental contract, which includes the following policies and statements:

- a. Maximum property occupancy.
- b. Maximum on site parking provided.
- c. Good Neighbor Statement stating:
 - i. That the short-term rental is in a residential area in the Town of Somerset and that renters shall be conscious of the residents in neighboring homes;
 - ii. A statement that guests must comply with the Noise Law of the Town of Somerset.
 - iii. A statement that all fires must be attended.

AP: All of the above section D is appropriate and reasonable

Section 8. Procedure upon Filing Application.

A. Short term rental permit applications shall be filed with the Town of Somerset Code Enforcement Officer with all supporting documents and the nonrefundable permit fee. Only completed applications will be accepted by the Code Enforcement Officer.

AP: The above section is appropriate and reasonable.

B. Upon the Code Enforcement Officer's acceptance of the completed permit application, all documents and information required by this Chapter, and the application fee, ~~the Code Enforcement Office shall conduct a property inspection~~ within thirty (30) days to certify that all short-term rental requirements have been met.

AP: The above section requiring property inspection should not be required. The application should be processed and filed without the need for inspection or intrusion to the property. Processing time of a reasonable length should be facilitated, 30 days seems excessive.

C. Within thirty (30) days of the Code Enforcement Officer's ~~inspection and~~ certification of the short-term rental application, ~~the Code Enforcement Officer shall refer the application to the Town Planning Board for review.~~

AP: There is no needed to include the planning board for review of this type of permit. Including bureaucratic process of this level is a preventative mechanism and should be used as tool to prevent issuance of a permit.

~~**D. Upon acceptance of the Short-Term Rental Application by the Town of Somerset Planning Board, the Planning board shall schedule a public hearing within sixty (60) days. Public hearing notices shall be advertised at least five (5) days prior**~~

~~to the hearing date in a newspaper of general circulation in the Town and delivered, via first class mail, to the property owners within five hundred (500) feet of said property. Upon completion of the public hearing, the Town of Somerset Planning Board shall approve, with or without conditions, or disapprove the Short-Term rental permit within sixty (60) days. The Planning Board may impose any such reasonable conditions and restrictions as are related to and incidental to the use of the property for short-term rentals.~~

AP: This entire section is systemically designed to create as much interference and empowers objectionable input to a simple permit application. This section is filled with extreme bias, the provisions are unjustly weighted in favor of oppositional property owners that wish to oppose STR permits without considerations to, its benefits to the tax base of the town, and completely disenfranchises property owners and their existing rights. The provision of property owners within 500 feet to have the power to unilaterally oppose permits is unjustifiable. No property owner (who hypothetically) owns 50ft of street frontage should have the power to control 1000' of adjacent property rights. This must be completely removed.

F. Upon approval of the Short-Term rental permit ~~by the Town of Somerset Planning Board~~, the Code Enforcement Officer shall issue the applicant a short-term rental permit. The permit shall include the following information:

~~AP: The permit should not require planning board input.~~

a. The names, addresses and phone numbers of every person or entity that has an ownership interest in the short-term rental property and of a primary contact person who shall be available during the entire time the short-term rental property is being rented;

~~b. The maximum occupancy and vehicle limits for the short-term rental property;~~

AP: As mentioned previously, occupancy limits should not be enforceable on single family structures. Owner operators will responsibly set their own occupancy limits. This provision should not be required, as such stricken.

~~c. Identification of the number of and location of parking spaces available;~~

AP: As mentioned previously, parking spaces limits should not be enforceable on single family structures. Owner operators will responsibly set their own parking limits. This provision should not be required, as such stricken.

~~d. Any conditions imposed by the Planning Board and/or Code Enforcement Officer.~~

AP: This section is to be excluded as it is arbitrary.

Section 9. Compliance, Hearings and Penalties.

A. Violations of this Section or of any short-term rental permit issued pursuant to this Chapter shall be subject to enforcement and penalties prescribed in this Chapter.

B. In the event the Code Enforcement Officer either witnesses or receives a written complaint of an alleged violation of this Section or of any short-term rental permit issued pursuant to this Chapter, the Code Enforcement Officer shall refer such matter to the Planning Board along with a copy of the complaint, if applicable, a written report, if any, pertaining to any investigation and/or inspection conducted relative to the alleged violation and any other facts or documents pertaining thereto. The Planning Board shall schedule a hearing to be held within ~~thirty (30)~~ **AP sixty (60)** days and mail, by first class mail to the address(es) provided on the short-term rental application, written notice thereof to the owners and residents of the subject property no less than ~~ten (10)~~ **AP: thirty (30) days** prior to the date of the hearing. At the conclusion of the hearing, the Planning Board shall determine if the terms of the short-term rental permit or the regulations contained in this Chapter were violated and, if it finds that there was a violation or violations, the Planning Board may take the following actions:

- a. Attach reasonable conditions to the existing short-term rental permit;

AP: More time must be provided for notification (10) is not sufficient. A 60 day hearing with a minimum 30 day notice is equitable.

- b. Suspend the short-term rental permit; and/or

AP: This penalty is not connected to the severity or frequency of a violation, the penalty, like a civil crime must be explicitly documented and provisioned, which has not been done here.

- c. Revoke the short-term rental permit. Should a permit be revoked, none of the owners of the short-term rental unit may obtain any short-term rental permit sooner than one (1) year after the date of revocation.

AP: This penalty is not connected to the severity or frequency of a violation, the penalty, like a civil crime must be explicitly documented provisioned, which has not been done here.

C. The Planning Board may suspend or revoke a short-term rental permit by application from the Code Enforcement Officer based upon, among other, any of the following grounds:

- a. Applicant has falsified or failed to provide information in the application for a permit, application for renewal of a permit, registration of property or registration of property owner.

AP: One must be careful as to what is deemed falsification, vs omission or interpretation of facts by parties involved. There is significant room for abuse by an over empowered council/board in this statement.

- b. Applicant violated any provision of this Chapter during the term of the short-term rental permit or conditions of the Short-Term Rental Permit.

c. Applicant ~~or any tenant~~ violated any provisions of the Code of the Town of Somerset.

AP: Applying tenant violation could subject the property owner to intentional nefarious activity by oppositional owners. This should be completely stricken.

d. Applicant or any tenant violated any provision of the Penal Code of the State of New York, which violation occurred on, or pursuant to the occupancy of the short-term rental unit.

AP: Such scenarios are highly unlikely, but if a penal code violation were to occur, this should be handled exclusively by law enforcement and the existing penal code process and have no bearing on the STR permit holder.

e. Any conduct on the premises, which is unreasonable under the circumstances and which disturbs the health, safety, peace or comfort of the neighborhood or which otherwise creates a public nuisance.

AP: This is far too ambiguous a provision and sets up a scenario where oppositional owners to STR rentals can create/file a complaint without basis or unreasonable basis.

Section 10. Violations; penalties for Offenses.

A. The Code Enforcement Officer is authorized to issue appearance tickets for any violations of this Chapter.

AP: There is no reason to require an appearance for violations except if being reviewed by the planning board, those provisions were listed above.

~~**B. Any person who violates any provisions of this Chapter, or any term or condition of the Short-Term Rental Permit, shall be guilty of a violation punishable by a fine not exceeding \$250.00, or imprisonment for a period not to exceed fifteen (15) days, or both. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue.**~~

AP: This is an absolutely unacceptable provision.. By-law violations/penalties should never be conflated with civil or legal/imprisonment penalties. Writing such punitive provision illustrates how this entire proposal, as initially assembled, was written with an extreme anti STR bias. If all stake holders were involved from the beginning in authoring these rules, this would never have appeared as even remotely acceptable. As it stands the rules contained within its original form are, arbitrary, capricious and unconstitutional.

Section 11. Effective Date. This local law shall take effect immediately upon filing with the Secretary of the State of New York.

REFERRAL REQUIREMENTS

INTERMUNICIPAL AGREEMENTS

REVIEW PROCESS

MEETING SCHEDULE/PROJECT DEADLINES

DOCUMENTS

Project Referral Requirements

New York State General Municipal Law requires cities, towns, and villages to refer certain actions to a county planning board for review and recommendation in order to address potential intercommunity and countywide concerns. The following actions are required to be referred to the Niagara County Planning Board by local municipalities:

- Adoption or amendment of a local comprehensive plan
- Adoption or amendment of a zoning ordinance or local law
- Issuance of a special use permit
- Approval of a site plan
- Granting of a use or area variance

Cities, towns, and villages are required to refer the above actions to the Niagara County Planning Board ONLY if the property is located within 500 feet of the following:

- A city, town, or village boundary
- The boundary of any existing or proposed county or state park or other recreation area
- The right of way of any existing or proposed county or state roadway
- The right of way of any existing or proposed county owned stream or drainage channel
- The boundary of any county or state owned land that has a public building
- The boundary of an active farm operation located in an agricultural district (area variances excluded)

NIAGARA COUNTY PLANNING BOARD REFERRAL MAP

Use this online map to search for an address. If the parcel intersects any of the buffer layers, then a project at that location likely requires Niagara County Planning Board review. Click the "Information" icon and "More Details" for more information and instructions.

Intermunicipal Agreements

The Niagara County Planning Board has intermunicipal agreements with most of the cities, towns, and villages in Niagara County. These agreements establish the specific actions that are required to be referred to the Niagara County Planning Board, while exempting other actions from referral on the basis that they are of local rather than intercommunity or countywide concern. The table below identifies the actions that each municipality must refer to the Niagara County Planning Board.

Cities

Lockport

Niagara Falls

North Tonawanda

Towns

Cambria

Hartland

Lewiston

Lockport

Newfane

Niagara

Pendleton

Porter

Royalton

Somerset

Wheatfield

Wilson

Villages

Barker

Lewiston

Middleport

Wilson

Youngstown

Project Review Process

The purpose of county planning board review is to bring attention to pertinent intercommunity and countywide planning, zoning, and site plan considerations, which may include:

- Compatibility of adjacent land uses with one another especially near municipal borders
- Traffic characteristics including impact on adjacent land uses and capacity of existing infrastructure
- Impact on county or state institutional uses such as government buildings as well as other uses
- Impact on community character as established by existing land uses, population density, relationship between residential and nonresidential areas, and community resources including natural, cultural, and historic resources

- Impact on regional drainage systems including drainage infrastructure, drainage capacity, water quality, coastal resources, natural and community resources, wetlands, floodplains, etc.
- Impact on community facilities including educational facilities, community centers, recreation areas, etc.
- Consistency with local and county development policies as outlined in community plans and regulations

Actions are referred to the Niagara County Planning Board for review through the local municipality. The Niagara County Planning Board must review the action within 30 days of receiving a full statement of the proposed action. A full statement means all materials required by and submitted to the referring municipality as part of the application, including a completed environmental assessment form. The County Planning Board will make a recommendation of approval, modification, or disapproval of the proposed action, or report that the proposed action has no significant countywide or intercommunity impact.

A recommendation of modification or disapproval requires a vote of majority plus one of all members of the applicable municipal review board in order to overrule the County's recommendation. The referring municipality must file a report back to the County within 30 days of taking final action on the project.

For more information on the Niagara County Planning Board review process, please contact:

Niagara County Planning Board

6311 Inducon Corporate Drive
Sanborn, New York 14132

Phone: (716) 278-8756

Fax: (716) 278-8757

Email: nathaniel.bonafede@niagaracounty.com

Meeting Schedule/Project Submission Deadlines

Regular meetings of the Niagara County Planning Board are held on the third Monday of every month, except when the third Monday is a holiday, in which case the regular meeting is held on the fourth Monday of the month. The deadline for municipalities to submit projects for Niagara County Planning Board review is ten (10) calendar days prior to the meeting date. All materials must be received by 4:00 pm on or before the submission deadline and any projects received after the deadline will be reviewed at the following month's meeting. Please refer to the official schedule below.

NIAGARA COUNTY PLANNING BOARD MEETING SCHEDULE

All regular monthly meetings are held at 2:00 pm in the offices of the Niagara County Department of Economic Development at the address listed below. All regular monthly meetings are open to the public. Project representatives need to attend the meeting on the date in which their project is scheduled for review in order to answer questions about the project.



Niagara County Planning Board Documents

Meeting Agendas and Minutes

NIAGARA COUNTY PLANNING BOARD PROJECT REFERRAL AND REVIEW GUIDE

Detailed information on project referral requirements, project referral and review processes, and considerations used by planning board members and staff when reviewing projects as well as forms used by local municipalities.

NIAGARA COUNTY PLANNING BOARD REFERRAL PROCESS BROCHURE

Brief overview of project referral requirements, project referral and review processes, and referral deadlines as well as contact information for the Niagara County Planning Board.

NIAGARA COUNTY PLANNING BOARD REFERRAL FORM

Form used by municipalities to refer projects to the Niagara County Planning Board for review and recommendation including a list of documents required to be submitted with each referral.

NOTICE OF FINAL ACTION FORM

Form used by municipalities to provide the Niagara County Planning Board with notice of final action taken on the project - by law, this form must be filed within 30 days of final action by the local municipality.



Town of Somerset

This municipality is required to refer only the following actions to the Niagara County Planning Board pursuant to inter-municipal agreement:

- Adoption or amendment of a local comprehensive plan having a municipal-wide effect
- Adoption of amendment of a zoning ordinance or local law having a municipal-wide effect
- Actions immediately adjacent to a municipal boundary
- Actions immediately adjacent to a state or county park
- Actions on corner lots on state or county highways

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From casetext. Smarter Legal Research

Eiseman v. Inc. Vil. of Bellport

SUPREME COURT - STATE OF NEW YORK I.A.S. PART 38 - SUFFOLK COUNTY

Jun 10, 2020

2020 N.Y. Slip Op. 31941 (N.Y. Sup. Ct. 2020)

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INDEX NO.: 3374-2018

06-10-2020

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Defendants-Respondents.

PETITIONERS' ATTORNEY: J. Lee Snead, Esq. 144 South Country Road
Post Office Box 489 Bellport, New York 11713 RESPONDENTS' ATTORNEY:
David J. Moran, Esq. Incorporated Village of Bellport 29 Bellport Lane
Bellport, New York 11713-2739

HON. WILLIAM G. FORD JUSTICE of the SUPREME COURT

SHORT FORM ORDER

PRESENT: Motion Submit Date: 01-10-19

Conference Held: 10-16-19

Motion Seq #: 001 - MotD PETITIONERS' ATTORNEY:

J. Lee Snead, Esq.

144 South Country Road

Post Office Box 489

Bellport, New York 11713 RESPONDENTS' ATTORNEY:

David J. Moran, Esq.

Incorporated Village of Bellport

29 Bellport Lane

Bellport, New York 11713-2739

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Return and supporting papers; Petitioners' Affirmation in Reply, dated June 25, 2019, and supporting papers; and upon full consideration of the foregoing; it is

ORDERED that, the Complaint/Petition (hereinafter "petition") (seq. #001) by the Plaintiffs/Petitioners (hereinafter "petitioners") in this hybrid declaratory judgment/special proceeding, which seeks, *inter alia*, an order annulling and declaring void Local Law No. 3,¹ which created Chapter 25 [Neighborhood Preservation], Article I [Rental Registration] (hereinafter "Rental Law"), of the Village Code of the respondent, Incorporated Village of Bellport ("Village"), which was adopted on February 26, 2018 by Resolution of the respondent, Board of Trustees of the Village ("Board"), is hereby decided to the extent and for the reasons set forth herein; and it is further *2

¹ Although introduced as Local Law No. 1 of 2018, by the time it was adopted, it was designated as Local Law No. 3 of 2018.

ORDERED that the petitioners' First Cause of Action (Violation of Municipal Home Rule Law, Village Law & General Municipal Law), is granted to the extent that the Court hereby declares, pursuant to CPLR §3001 and §7803(3), that the Village's Rental Law was adopted in violation of GML §239-m(2), in that respondents failed to submit the final version of the

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other claims for relief therein are denied; and it is further

ORDERED that petitioners' Second Cause of Action (Violation of Open Meetings Law), is hereby denied for failure to establish that respondents violated [Article 7 of the Public Officers Law](#), known as the Open Meetings Law; and it is further

ORDERED that the petitioners' Third Cause of Action (Limitation of Number of Rentals), is hereby granted, inasmuch as the petitioners have established that the Rental Law is arbitrary and capricious and unconstitutional, and the Court hereby adjudges, pursuant to [CPLR §7803\(3\)](#), that the Board's determination of adopting the Rental Law by Resolution on February 26, 2018, was arbitrary and capricious in nature, as well as unconstitutional, and said Rental Registration Law is null and void; and it is further

ORDERED that the petitioners' Fourth Cause of Action (Pre-Existing, Non-Conforming Use), is hereby denied, as moot, inasmuch as the Court has declared the subject Rental Registration Law null and void; and it is further

ORDERED that the petitioners' Fifth Cause of Action (Money Had and Received) and Sixth Cause of Action (Unjust Enrichment) are decided to the extent that said Causes of Action are hereby severed pursuant to [CPLR §603](#)

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ORDERED that counsel for the petitioners shall forthwith serve a copy of this Decision and Order upon all counsel for the respondents via facsimile transmission and certified mail (return receipt requested), as well as upon the Calendar Clerk of the Court, and shall promptly thereafter file the affidavit of such service with the Suffolk County Clerk; and it is further

ORDERED that, if applicable, within 30 days of the entry of this Decision and Order, petitioners' counsel shall also give notice to the Suffolk County Clerk, as required by [CPLR §8019\(c\)](#), with a copy of this Decision and Order, and pay any fees should any be required.

FACTUAL BACKGROUND AND PROCEDURAL POSTURE

Pursuant to notice published by the Village in the Long Island Advance, a public hearing was held in the Village of Bellport on January 22, 2018, the purpose of which was to discuss a proposed draft of a rental registration law. Such proposed law would require Village residents who wish to rent their properties, to complete and submit an application to include those properties on a Village rental registry. At the hearing, public commentary was heard and recorded in favor of and against the proposed *3 draft rental law ("draft version"). Thereafter, pursuant to another published notice, on

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commentary concerning the newly proposed final version was heard and recorded. At the close of the hearing, a motion was made by the Board for a Resolution to adopt the newly proposed final version. By Resolution of the Board on February 26, 2018, this final version (the Rental Law) was adopted by the Board over various objections.

It is from the adoption of the Rental Law that the petitioners, Village of Bellport residents, filed this hybrid Article 78 and declaratory judgment proceeding, challenging the Board's adoption of such Rental Law. The petitioners' First Cause of Action alleges that the respondents failed to follow lawful procedure by violating New York's Municipal Home Rule Law, Village Law and General Municipal Law. The Second Cause of Action alleges that the respondents failed to follow lawful procedure by violating Article 7 of the New York's Public Officers Law, commonly known as the Open Meetings Law. The Third Cause of Action alleges that the Board's determination to adopt the Rental Law was arbitrary and capricious, as is the Rental Law, itself. The Fourth Cause of Action alleges that if the Rental Law is upheld, the petitioners and others similarly situated, are entitled to an order granting them pre-existing, non-conforming use status. The Fifth and Sixth Causes of Action essentially allege that the rental registration fees paid by Village residents pursuant to the Rental Law were wrongfully

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of an administrative determination is “whether a determination was made in violation of lawful procedure, was affected by an error of law or was arbitrary and capricious or an abuse of discretion . . .” ([CPLR §7803](#)[3]). A board’s determination must be afforded great deference, and judicial review is generally limited to ascertaining whether the board’s action was illegal, arbitrary and capricious, or an abuse of discretion (see *Credit v Southold Town Zoning Board of Appeals* , [179 AD3d 1058](#), [117 NYS3d 675](#) [2d Dept 2020]; *Rada Corp. v Gluckman* , [171 AD3d 1189](#), [99 NYS3d 342](#) [2d Dept 2019]; *Matter of Bartolacci v Village of Tarrytown Zoning Bd. of Appeals* , [144 AD3d 903](#), [41 NYS3d 116](#) [2d Dept 2016]). Generally, a determination of a village board will be sustained if it has a rational basis and is not arbitrary and capricious (see [CPLR §7803](#)[1], [3]; *Matter of Sasso v Osgood* , [86 NY2d 374](#), [633 NYS2d 259](#) [1995]; *Matter of Nowak v Town of Southampton* , [174 AD3d 901](#), [106 NYS3d 372](#) [2d Dept 2019]; *Matter of 278 , LLC v Zoning Bd. of Appeals of the Town of E. Hampton* , [159 AD3d 891](#), [73 NYS3d 614](#) [2d Dept 2018]; *Matter of Conway v Van Loan* , [152 AD3d 768](#), [58 NYS3d 598](#) [2d Dept 2017]; *Matter of Halperin v City of New Rochelle* , [24 AD3d 768](#), [809 NYS2d 98](#) [2d Dept 2005]).

Where a rational basis for the board’s determination exists, a court may not substitute its own judgment for that of the board, even if a contrary determination is supported by the record (see *Matter of Retail Prop . Trust v*

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- 4 **Van Loan** , 152 AD3d 768, 58 NYS3d 598 [2d Dept 2017]; **Matter of Roberts v Wright** , 70 AD3d 1041, 896 NYS2d *4 124 [2d Dept 2010]]. However, although an administrative agency's determination is entitled to deference, such determination is not entitled to unquestioning judicial deference, since the ultimate responsibility of interpreting the law is with the court (*see Ogden Land Development , LLC v Zoning Bd. of Appeals of Village of Scarsdale* , 121 AD3d 695, 994 NYS2d 148 [2d Dept 2014]; *Nilsson v Dept. of Environmental Protection of City of New York* , 28 AD3d 773, 814 NYS2d 677 [2d Dept 2006]).

A village's local law affecting real property is unreasonable, under police power and due process analysis, if it encroaches on the exercise of private property rights without substantial relation to a legitimate governmental purpose, which is to further the public health, safety, morals or general welfare of the village (*see Fred F . French Investing Co., Inc. v City of New York* , 39 NY2d 587, 385 NYS2d 56 [1976]). A village ordinance enacted under the police power must bear a reasonable connection to the public health, comfort, safety and welfare of the village (*see D'Angelo v Cole* , 67 NY2d 65, 499 NYS2d 900 [1986]). Such ordinance, on similar police power analysis, is unreasonable if it is arbitrary, or if there is no reasonable relation between the end sought to be achieved by the regulation and the means used to achieve that end (*see Fred F . French Investing Co., Inc. v City of New York* ,

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demonstrated beyond a reasonable doubt (see *Robert E. Kurzius, Inc. v Inc. Village of Upper Brookville*, 51 NY2d 338, 434 NYS2d 180 [1980]; *Joel v Village of Woodbury*, 138 AD3d 100, 831 NYS3d 83 [2d Dept 2016]).

DISCUSSION

Petitioners' First Cause of Action:

In their First Cause of Action, petitioners seek a declaration that the respondents adopted the subject Rental Law in violation of [Municipal Home Rule Law §20\(4\)](#) and §20(5), New York Village Law §2-2100 and §7-706(1), and [General Municipal Law §239-m\(2\)](#).

As set forth in its title, General Municipal Law (GML) [§239-m](#) deals with "Referral of certain proposed city, town and village planning and zoning actions to the county planning agency." Requirements in the statute are imposed upon a referring body, such as the Bellport Village, before "final action" may be taken by such referring body. As applicable here, GML [§239-m\(2\)](#) mandates that "[i]n any . . . village which is located in a county which has a county planning agency . . . each referring body shall, before taking final action on proposed actions included in [GML [§239-m\(3\)](#)], refer the same to such county planning agency or regional planning council." Pursuant to GML [§239-m\(3\)\(a\)\(ii\)](#), a village board's "adoption or

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sum, before a village board takes final action to adopt or amend a zoning ordinance or local law affecting real property located within five hundred feet of another city, village or town, the board must first refer that ordinance or local law to the Suffolk County Planning Commission.

5 It is undisputed that the respondents did not submit the final version of the Rental Law to the *5 Suffolk County Planning Commission prior to it being adopted by Resolution of the Board on February 26, 2018. Here, the respondents argue that since they referred the original draft of the Rental Law to the County Planning Commission, there was no need to refer the final version of the Law to the Commission before it was adopted. In support of this argument, respondents submit the November 28, 2018 affidavit of MaryLou Bono, Village Building Department Administrator.

According to Ms. Bono, on December 21, 2017, she emailed the draft version of the proposed rental law to Andrew Freleng of the Suffolk County Planning Commission. In her affidavit, Ms. Bono contends that sometime thereafter (date not specified), she spoke with Mr. Freleng and was informed that if the final version of the law was less restrictive than the original, it was up to the Village Attorney to decide whether or not the final version must be referred back to the Commission. This contention, however, is belied by a December 28, 2017 letter from Mr. Freleng to Ms. Bono, which was annexed to respondents' answer, in which Mr. Freleng states: "Please

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Indeed, the determination of whether or not there was compliance with statutory mandates is determined by factual, admissible evidence of such compliance, not merely by telephonic information, nor by counsel's own self-serving decision that there was is no need to resubmit the changes and final version to the Planning Commission.

The referral requirements of GML §239-m are intended to facilitate regional review of amendments to local ordinances by requiring the local municipality to refer its proposed amendments to the County Planning Board (see *Gernatt Asphalt Products, Inc. v Town of Sardinia*, 87 NY2d 668, 642 NYS2d 164 [1996]; *Benson Point Realty Corp. v Town of East Hampton*, 62 AD3d 989, 880 NYS2d 144 [2d Dept 2009]). Notwithstanding the respondents' belief to the contrary, sending the original draft of the proposed rental law to the Planning Commission did not obviate the need for a new referral of the final version of, pursuant to GML §239-m, before the Rental Law was adopted by the Board on February 26, 2018 (see *Calverton Manor, LLC v Town of Riverhead*, 160 AD3d 842, 76 NYS3d 72 [2d Dept 2018]). Indeed, under the statute, the Board was mandated, " before taking final action," to refer the final version to the Suffolk County Planning Commission" (GML §239-m[2] [emphases added]; see also §239-m[3]).

Where changes are made to a proposed action following referral, a new referral to the Planning Commission is required, unless the particulars of

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substantial modifications which warranted a new referral (*id* ; *LCS Realty Co. Inc. v Inc. Village of Roslyn* , 273 AD2d 474, 710 NYS2d 605 [2d Dept 2000]).

For example, the original draft included nearly 9 pages of text, whereas the final version has 7 pages. The draft version included 12 subsections, whereas the final version has 9 subsections. Several terms defined in Sec. 25-3 of the draft were omitted from Sec. 25-3 of the final draft, including: "Code Enforcement Officer;" "Conventional Bedroom;" "Dwelling Unit;" and "Kitchen." Also, by definition of "Short Term Rental" ("[a]ny rental occupancy ... less than sixteen [16] consecutive days"), the draft version essentially permitted an unlimited number of rentals, provided such rentals were for a period of *6 less than 16 days. The term, "Short Term Rental," however, was omitted from the final version. Furthermore, pursuant to Sec. 25-4(B) of the final version, it is unlawful for rental-registered homeowners to rent their residence more than 5 consecutive times during the Seasonal Period (the definition of which also changed in the final version). No such restriction existed in the draft version. Since the particulars of the final version were not embraced within the original referral, and since the final version as adopted is, in fact, substantially different from the referred draft, the respondents were required to refer the substantially modified final version to the Suffolk County Planning Commission (see *Calverton Manor* ,

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of City of Yonkers, and do not dispute having to submit the final version of the Rental Law to the Planning Commission, a jurisdictional defect exists, which renders the Law's adoption invalid (*see 24 Franklin Ave. R.E. Corp. v Heaship*, 139 AD3d 742, 30 NYS3d 695 [2d Dept 2016]; *Annabi v City Council of City of Yonkers*, 47 AD3d 856, 850 NYS2d 625 [2d Dept 2008]; *Eastport Alliance v Lofaro*, 13 AD3d 527, 787 NYS2d 346 [2d Dept 2004]; *Burchetta v Town Bd. of Town of Carmel*, 167 AD2d 339, 561 NYS2d 305 [2d Dept 1990]; *Old Dock Associates v Sullivan*, 150 AD2d 695, 541 NYS2d 569 [2d Dept 1989]).

Notwithstanding the foregoing, petitioners' additional First Cause of Action claims, that the respondents violated Municipal Home Rule Law (MHRL) and New York Village Law (VL), are without merit. MHRL §20(4) states, in relevant part, that no "local law shall be passed until it shall have been in its final form and either (a) upon the desks or tables of the members at least seven calendar days, exclusive of Sunday, prior to its final passage. . . . For purposes of this subdivision, a proposed local law shall be deemed to be upon the desks or tables of the members if: it is set forth in a legible electronic format by electronic means, and it is available for review in such format at the desks of the members" (MHRL §20[4]). In this regard, the respondents submit the November 28, 2018 affidavit of John Kocay, Bellport Village Clerk. In his affidavit, Mr. Kocay avers that in addition to emailing

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petitioners' contentions, the record reveals that public notice of the February 26, 2018 hearing was published in the Long Island Advance on February 15, 2016, more than 10 days before the hearing, thereby satisfying the strictest publication time requirements of MHRL §20(5).

As for petitioners' claims that respondents violated Article 7 of the New York Village Law, respondents argue in opposition that the Village Law is not applicable here, since their Rental Law is not a zoning law to which New York Village Law applies. In parts pertinent to this proceeding, VL §7-706(1) states that no "regulations, restrictions or boundaries shall become effective until after a public hearing in relation thereto, at which the public shall have an opportunity to be heard. At least ten days notice of the time and place of such hearing shall be published in a paper of general circulation in such village." Similarly, in relevant part, VL §21-2100 requires: (1) "[a]ny notice of a hearing, not otherwise specifically required by law shall be given . . . by publication of such notice in the official newspaper of the village or if there be none, in a newspaper of general circulation in the village wherein the hearing is to be held. (2) [s]uch hearing shall be conducted not less than seven days after publication of such notice."

Notably, Article 7 of the New York Village Law comes under the title of "Building Zones." *7 Furthermore, in the Village of Bellport Code, the Zoning Laws are set forth in Chapter 21 of the Code, whereas its Rental Law

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publication notice requirements of VL §7-706 and §2-2100.

Based upon the foregoing, the petitioners' First Cause of Action is granted, to the extent that the Rental Law was adopted in violation of GML §239-m(2) and, therefore, said Rental Law is null and void. Likewise, the Board's determination to adopt the Resolution was made in violation of a lawful procedure. Accordingly, the adopted Resolution is also null and void.

Petitioners' additional claims for relief based upon alleged violations of the Municipal Home Rule Law and Village Law, as set forth in the First Cause of Action, are belied by the record evidence and are denied as without merit.

Petitioners' Second Cause of Action:

In their Second Cause of Action, petitioners seek a declaration that the respondents failed to follow a lawful procedure by failing to comply with [Article 7 of the Public Officers Law](#), known as the Open Meetings Law, §104(1), §107(1) and §107(2).

Open Meetings Law §104(1) requires, in pertinent part, that "[p]ublic notice of the time and place of a meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media. . . ." In relevant part, OML §107(1) states that "if a court determines that a public body failed to comply with this article, the court shall have the power, in its discretion, upon good cause shown, to declare that the public body violated

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violation of this article, or that substantial deliberations relating thereto occurred in private prior to such vote, the court shall award costs and reasonable attorney's fees to the successful petitioner, unless there was a reasonable basis for a public body to believe that a closed session could properly have been held."

Petitioners allege that the respondents failed to provide notice of the February 26, 2018 public hearing in violation of OML §104(1). Petitioners also allege that the Mayor and members of the Board held meetings and engaged in substantial deliberations with private parties after the January 22, 2018 public hearing was closed. According to the petitioners, these meetings resulted in substantial modifications to the original draft version of the proposed rental law, the final version of which was ultimately adopted by Resolution of the Board on February 26, 2018. According to petitioners, this constituted a material violation of OML §107(1) and (2).

As previously noted, the record establishes that Village's February 13, 2018 notice of the February 26, 2018 public hearing was published in the Long Island Advance on February 15, 2018. Therefore, contrary to petitioners' claims, respondents' compliance with OML §104(1) has been established. Petitioners' assertions regarding respondents' alleged violations of OML §107(1) and (2) are also without merit. The purpose of the Open Meetings Law is to prevent municipal governments from debating and deciding in

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Village of Monticello , 87 NY2d 124, 637 NYS2d 961 [1995]; *Goetschius v Board of Educ. of Greenburgh Eleven UFSD* , 244 AD2d 552, 664 NYS2d 811 [2d Dept 1997]). The party claiming that the ordinance was adopted in violation of the Open Meetings Law has the burden of showing good cause warranting judicial relief (see *New York Univ . v Whalen* , 46 NY2d 734, 413 NYS2d 637 [1978]; *Thorne v Village of Millbrook Planning Bd.*, 83 AD3d 723, 920 NYS2d 369 [2d Dept 2011]).

Upon this record, it is apparent that conversations between the Mayor and the Village residents occurred off-the-record after the January 22, 2018 public hearing was closed; however, it is not unreasonable to expect that residents of a small Village may speak to their resident Mayor and/or resident Board Members outside the setting of a public hearing about ongoing public issues affecting their Village. The record shows that any such conversations after the January 22, 2018 was closed, as well as any conversations by the Mayor and the Board during the February 12, 2018 work session, were ultimately raised publicly by the Mayor and the Board during the public portion of the February 12, 2018 work session and during the February 26, 2018 public meeting, each of which was properly noticed. Furthermore, the petitioners have not shown that "a vote was taken in *material violation* of this article, or that *substantial deliberations* relating thereto occurred in private prior to such vote" in violation of OML §107(2)

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Second Cause of Action is hereby denied, as is any claim for attorneys' fees.

Petitioners' Third Cause of Action:

The petitioners' Third Cause of Action seeks a declaration that the 5-Rental Limitation, as set forth in final version of the Rental Law adopted on February 26, 2018, is without rational support and carries no legitimate governmental health, safety, or welfare concern and violates the Due Process requirements of the New York Constitution, and that, therefore, the Rental Law is void.

As adopted by the Board on February 25, 2018, Rental Law, Sec. 25-1, states the Legislative intent as follows:

The intent of this chapter is to preserve the aesthetic integrity of our residential neighborhoods, prevent neighborhood blight, protect residential property values, encourage residential property maintenance and enhance the quality of life in our residential neighborhoods. . . . [Rental] registration will further enable the village to adequately control the proliferation of rentals and manage the effect of same on village amenities. The board finds that current Code provisions are inadequate to halt the proliferation of such conditions and that the public health, safety, welfare and good order governance of the Village of Bellport will be enhanced by

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within the meaning of the Penal Law of the State of New York for any owner to permit any tenant(s), to take up residence by a rental occupancy in any dwelling unit without the owner's first having completed and filed with the building department a rental registration form approved by the building inspector, and bearing the signature of the owner acknowledging the requirements of such registration. Failure or refusal to file a rental registration hereunder shall be deemed a violation.

(b) During the seasonal period², despite having a valid rental registration on file, its shall be unlawful and a violation of this article and an offense within the meaning of the Penal Law of the State of New York for any owner to permit any tenant(s), to take up residence by rental occupancy in any dwelling unit more than five (5) separate times during the seasonal period.

(1) It shall be an affirmative defense to a violation of subsection (a) of this section that the rental occupant or occupants is/are immediate family members³ of the owner of the subject premises, as defined in this chapter.

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before Memorial Day weekend and the Sunday after Labor Day.”

- ³ Sec. 25-3(a) defines “immediate family” as “[p]ersons related to the family of the owner of a dwelling unit, to include: The owner’s spouse, children, parents, grandparents, grandchildren or their functional equivalent, and no others.” Sec. 25-3(a) also defines “family” as “[o]ne (1) or more persons related by blood, adoption, marriage or domestic partnership, living and cooking together as a single housekeeping unit, including household servants. A number of persons, but not exceeding three (3), living and cooking together as a single housekeeping unit, though not related by blood, adoption or marriage, shall be deemed to constitute a family. In no case shall a lodging house, boarding house or dormitory be classified or construed as a single housekeeping unit or the occupants thereof be construed as a “family,” Petitioners challenge the constitutionality of the respondents’ definition of “family” and “immediate family” as found in Sec. 25-3(a). The Court sees no need to opine on these issues, given the ultimate declaration that the Rental Law in this proceeding is null and void.

The Court agrees with the petitioners that the 5-Rental limitation as set forth in Sec. 25-4(b) of the Rental Law is arbitrary. The arbitrary nature of the 5-Rental limitation is particularly evident from the following question and answer exchange between a Village resident and the Mayor, as recorded at the February 26, 2018 public hearing (*see* pp. 135, line 16 - 136, line 16):

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Mayor Fell: Well, we picked - - we looked at the number five and we just thought that if someone rented five times within that period . . . that would give enough spaced out time that there wouldn't be someone there every weekend. Although with this there could be someone there for five weeks in a row, but then there would be no more rentals for that period of time. . . . We talked about three rentals, five rentals, eight rentals, and we're going to try five and see how it works. We'll look at it again in October next year or November and see, you know, where we made mistakes and where we're going to correct. . . .

Where, as here, a mayor involved in creating and implementing a village ordinance admits that a restriction set forth therein was selected arbitrarily, and was not the result of a scientific or any other type of study, the ordinance is arbitrary and unconstitutional (*see McClure v Board of Trustees of Village of Saltaire* , 121 AD2d 699, 504 NYS2d 173 [2d Dept 1986]). Likewise, where the Village is unable to justify the limitations set forth in an ordinance, the ordinance is arbitrary (*id.*).

Based upon the record evidence, the subject Rental Law, and the limitations imposed therein, are arbitrary and capricious and not adequately connected

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provisions [were] inadequate to halt the proliferation of such conditions” (Sec. 25-1). Even if there had been such evidence, there is no showing of how implementation of this Rental Law and its 5-Rental limitation (as opposed to any other measure) will “curb such conditions and that the public health, safety, welfare and good order governance of the Village of Bellport will be enhanced by fits] enactment. . .” (Sec. 25-1). Accordingly, there is no evidence that the newly adopted Rental Law is in any way “remedial in nature and effect,” as purported in Sec. 25-1.

The arbitrary and capricious nature of the Rental Law is also evidenced in the record of the public hearing on February 26, 2018, during which the following questions and answers between petitioners’ counsel and the Mayor ensued (pp. 151, line 11 - 152, line 10):

Mr. Snead: . . . I’m looking at the summary [[Sec. 25-1, Legislative Intent](#)] and it indicates that the purpose of this proposal is to prevent neighborhood blight. Can you explain to me how this document or this proposal is to prevent neighborhood blight?

Mayor Fell: I’m not going to explain it - -

Mr. Snead: Can you explain it to me?

Opinion Case details

11 *11

Mr. Snead: Okay. How does it help you manage the effects of village amenities?

Mayor Fell: I'm not going to answer that either.

Mr. Snead: Have you anywhere identified how that happens?

Mayor Fell: No.

Notwithstanding the Mayor's refusal to address these issues, the February 26, 2018 transcript also shows that, immediately after this and other challenges made by Mr. Snead, the Mayor attempted to call for a motion to close the hearing when he was interrupted by a resident. The Mayor permitted the resident to speak and the following exchange ensued (see pp.159, line 22 - 160, line 21):

Resident: I'm standing here terrified that you're going to vote on this.

Mayor: That's up to the other trustees.

Opinion Case details

Thereafter, Deputy Mayor Joseph Gagliano expressed his concerns, as a Board Member, about voting on the Rental Law as ultimately adopted. Such concerns were expressed as follows (p-161, line 7-13; pp.163, line 18 - 164, line 1):

Bd. Member: . . . In consideration of what we're hearing this evening, there are things I would like to give answers to and clarify from a technical point. I'd would [sic] like us to consider to put this on hold until we get those answers clarified.

. . . I believe that we should give merit to looking into some of the issues that were raised this evening as we have been listening to the people. I came here prepared to vote in favor of this, but I think things were brought up tonight that we should look into and review, so we're not going in a direction that could be challenge [sic].

Given his stated concerns, Deputy Mayor Galgano abstained from voting on the Resolution to adopt the Rental Law in its current form. In addition, another Board Member (unidentified) voted "No" on the Resolution. Notwithstanding the objections from Deputy Mayor Gagliano, as well as from another Board Member, other Village residents and Mr. Snead, the Mayor and other Board Members adopted the Resolution, thereby enacting

Opinion Case details

occupancy of their homes for any reason, even if those homeowners never rent their homes to anyone. For example, Sec. 25-2 of the Rental Law states, in relevant part, that "[a]ny ^{*12} dwelling unit subject to this article shall be *presumed to be rented* for a fee and a *charge made* if said premises are not occupied by the legal owner thereof" (emphasis added). Despite legitimate absences from their homes, homeowners who never rent their homes are, nevertheless, presumed to be renting for a fee in violation of the Rental Law, simply for being away from their homes for various reasons, including extended vacations, business trips, "snow-birding," illnesses, and the like. Under these scenarios, pursuant to Sec. 25-9(a), non-violating homeowners could be subject to criminal prosecution for "presumed" violations of the Rental Law, which are punishable by "a fine of not less than \$500.00 and not more than \$5,000.00 for a conviction of a first offense, and by a fine not less than \$1,000.00 and not more than \$10,000.00 for a conviction of a second or more offense within a five-year period."

Given its arbitrary provisions an unsubstantiated purported Legislative intent, the Rental Law is unreasonable under a police power and due process analysis, since it encroaches on the exercise of private property rights without substantial relation or reasonable connection to the legitimate governmental purpose of furthering the public health, safety, morals or general welfare (see *D'Angelo v Cole* , 67 NY2d 65, 499 NYS2d 900 [1986];

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[NYS3d 675](#) [2d Dept 2020]; *Rada Corp. v Gluckman*, [171 AD3d 1189](#), [99 NYS3d 342](#) [2d Dept 2019]]. When asked at the February 26, 2018 hearing about the basis for the 5-rental limitation, the Mayor essentially admitted to the arbitrariness in choosing such limitation.

The Rental Law is also unconstitutional, inasmuch as the respondents failed to substantiate any of the reasons put forth in the Legislative Intent as the grounds for implementing the Rental Law (see *McClure v Board of Trustees of Village of Saltaire*, [121 AD2d 699](#), [504 NYS2d 173](#) [2d Dept 1986]). When given an opportunity at the February 26, 2018 hearing to substantiate the basis for the purported Legislative intent, the Mayor refused to answer questions related to the [Sec. 25-1](#) stated Legislative intent regarding how the proposed Rental Law will help “prevent neighborhood blight,” “protect residential property values,” or “manage the effects of village amenities.”

Notwithstanding the strong presumption of constitutionality that applies to legislative acts, based upon the foregoing, the petitioners have rebutted such presumption and have established, upon the record evidence, that the subject Rental Law is arbitrary, capricious and unconstitutional (see [CPLR §7803](#)[3]; *Credit v Southold Town Zoning Board of Appeals*, [179 AD3d 1058](#), [117 NYS3d 675](#) [2d Dept 2020]; *Ogden Land Development, LLC v Zoning Bd. of Appeals of Village of Scarsdale*, [121 AD3d 695](#), [994 NYS2d 148](#) [2d Dept

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said Rental Registration Law is, itself, null and void. **Petitioners Fourth**

Cause of Action:

The petitioners' Fourth Cause of Action states that in the event any portion of the Rental Law is declared valid, petitioners ask the Court to declare that each of the petitioners' properties is a pre-existing, non-conforming use, and that each of their properties is grandfathered from having to comply with requirements of the Rental Law. Since the Court has declared the subject

13 Rental Law null and void, this cause of action is denied as moot. *13 **Fifth and Sixth Causes of Action:**

In petitioners' Fifth Cause of Action (Monies Had and Received) and Sixth Cause of Action (Unjust Enrichment) the Court is requested to declare that the Village is not entitled to retain any fees paid by the petitioners in compliance with the Rental Law. Section 25-5(a) of the Rental Law requires that "[a] nonrefundable bi-annual registration fee as set from time to time by resolution of the board of trustees shall be paid, upon filing an application for a rental registration." At the time the Rental Law was adopted in February 2018, a fee of \$250.00 was required to be paid by the applicant upon the filing of a rental registration application.

In relevant part, [CPLR §603](#) states that "[i]n furtherance of convenience . . . the court may order a severance of claims, or may order a separate trial of

Opinion Case details

such pursuant to [CPLR §603](#) (see *Roanoke Sand & Gravel Corp. v Town of Brookhaven*, [24 AD3d 783](#), [809 NYS2d 95](#) [2d Dept 2005]; *Corporate Property Investors v Board of Assessors of County of Nassau*, [153 AD2d 656](#), [545 NYS2d 166](#) [2d Dept 1989]). Accordingly, the parties are directed to appear before the undersigned for the Preliminary Conference as scheduled herein, to enter into a discovery schedule pertaining to alt claims related to these Causes of Action, unless such claims are settled prior thereto.

CONCLUSION

Based upon the foregoing, petitioners' First Cause of Action is granted to the extent set forth herein (see GML §239-m[2]; *Calverton Manor, LLC v Town of Riverhead*, [160 AD3d 842](#), [76 NYS3d 72](#) [2d Dept 2018]; *LCS Realty Co. Inc. v Inc. Village of Roslyn*, [273 AD2d 474](#), [710 NYS2d 605](#) [2d Dept 2000]). Petitioners' Third Cause of Action is also granted for the reasons stated herein (see *Ogden Land Development, LLC v Zoning Bd. of Appeals of Village of Scarsdale*, [121 AD3d 695](#), [994 NYS2d 148](#) [2d Dept 2014]; *Nilsson v Dept. of Environmental Protection of City of New York*, [28 AD3d 773](#), [814 NYS2d 677](#) [2d Dept 2006]). For the reasons set forth herein, petitioners' Second and Fourth Causes of Action are denied. Petitioners' Fifth and Sixth Causes of Action are severed as plenary in nature, and the parties shall appear before the undersigned for the Preliminary Conference

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merit.

Petitioners are hereby **directed** to settle judgment on notice in a manner consistent with the provisions of this Decision and Order.

This constitutes the Decision and Order of this Court. Dated: June 10, 2020

Riverhead, New York

/s/ _____

WILLIAM G. FORD, J.S.C.

___ **FINAL DISPOSITION** X **NON-FINAL
DISPOSITION**

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Travel USA Visitor Profile



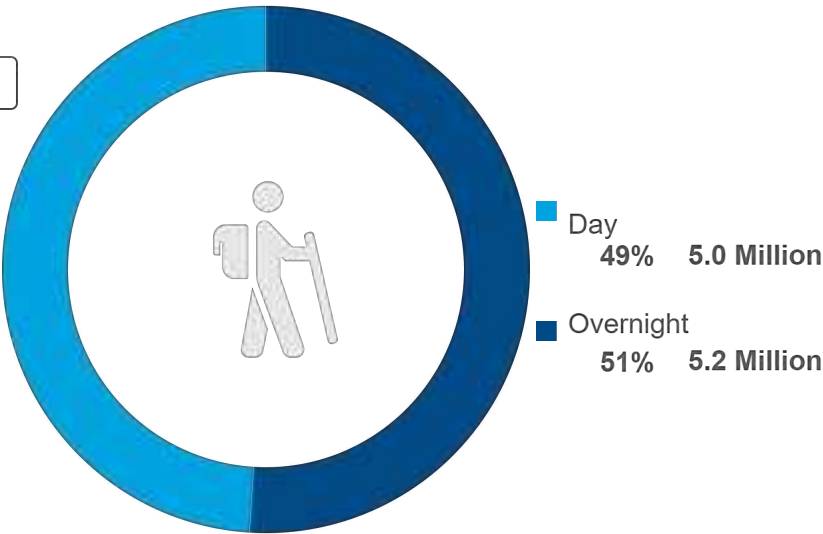
2022

Total Size of Niagara Falls 2022 Domestic Travel Market

Total Person-Trips

10.2 Million

+6.6% vs. last year

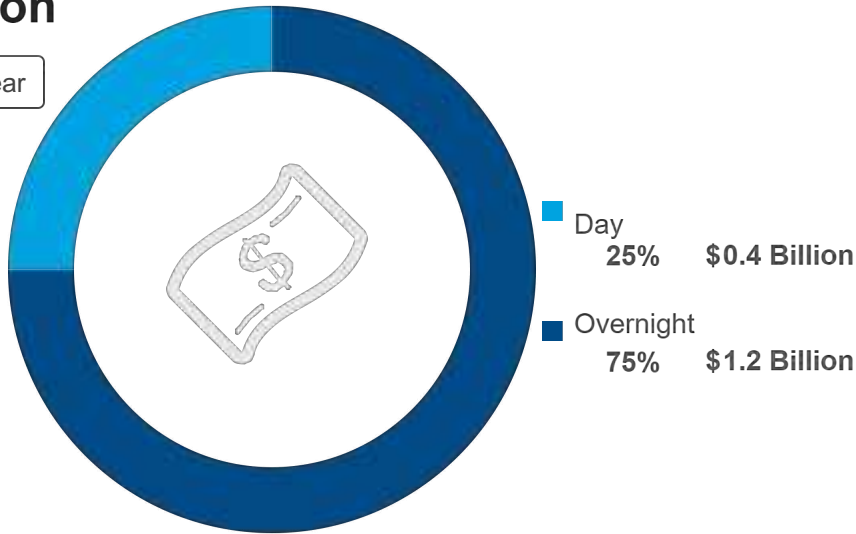


Total Expenditures for Niagara Falls 2022 Domestic Travel Market

Total Spending

\$ 1.6 Billion

+19.1% vs. last year





Travel USA Visitor Profile

Overnight Visitation



WHERE ADVENTURE COMES NATURALLY®

2022

Introduction

- Longwoods International began tracking domestic American travelers in 1985, and has conducted large-scale syndicated visitor research quarterly since 1990.
- It is currently the largest ongoing study conducted of American travelers, providing our clients with more reliable data and greater ability to home in on key market segments of interest.
- An **overnight trip** is any journey for business or pleasure, outside your community and not part of your normal routine, where you spent one more nights away from home.
- This report provides an overview for Niagara Falls' domestic tourism business in 2022.

Methodology

Each quarter, a random, projectable sample of adult members (18 years of age and over) of a major U.S. consumer panel is invited to participate in the **Longwoods Travel USA®** survey. Respondents are selected to be representative of the U.S. adult population.

For Niagara Falls, the following sample was achieved in 2022:

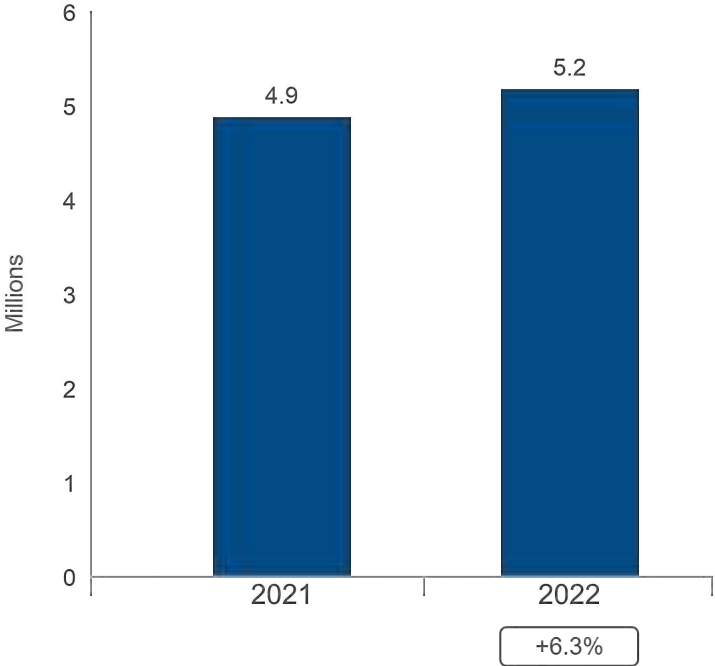


Overnight Base Size

364

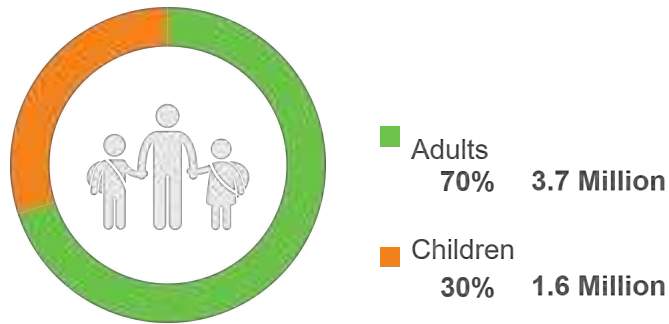
For analysis, data were weighted on key demographics to correct for any differences between the sample and U.S. population targets.

Overnight Trips to Niagara Falls



Size of Niagara Falls Overnight Travel Market - Adults vs. Children

Total Overnight Person-Trips
5.2 Million



Past Visitation to Niagara Falls

- 70%** of overnight travelers to Niagara Falls are repeat visitors
- 36%** of overnight travelers to Niagara Falls had visited before in the past 12 months

Domestic Overnight Expenditures - by Sector

Total Spending
\$ 1.219 Billion
+18.3% vs. last year



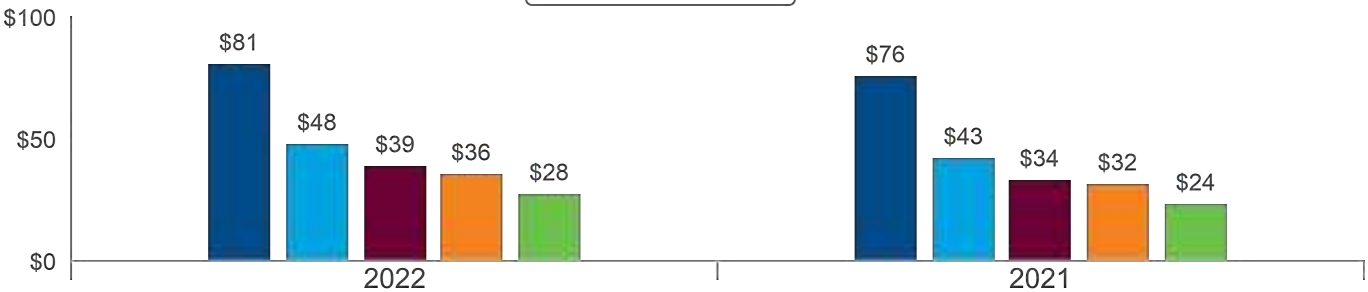
Lodging	35%	\$424 Million
Transportation at Destination	12%	\$148 Million
Restaurant Food & Beverage	21%	\$251 Million
Retail Purchase	16%	\$191 Million
Recreation/Entertainment	17%	\$205 Million

vs. last year
+13.5%
+24.9%
+18.7%
+19.7%
+22.6%

Average Per Person Per Trip Expenditures on Domestic Overnight Trips - by Sector

Average Per Person Per Trip: \$232












Last year: \$209



Lodging Restaurant food & beverage Recreation/ Sightseeing/ Entertainment Retail Purchase
Transportation at Destination

Average Per Person
Per Trip:
Leisure \$234

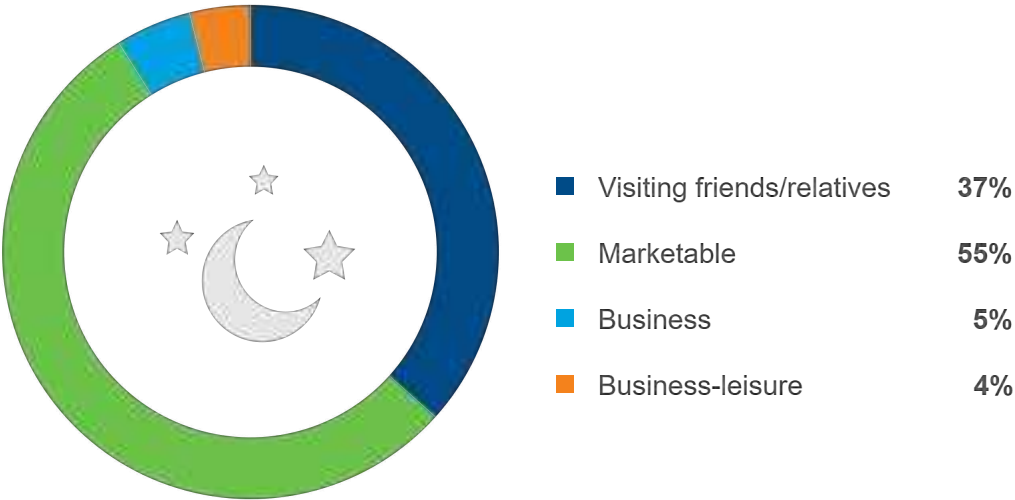
Main Purpose of Trip

 37% Visiting friends/ relatives	
 20% Touring	 3% Conference/ Convention
 12% City trip	
 6% Special event	
 5% Casino	 2% Other business trip
 5% Outdoors	
 4% Theme park	
 2% Resort	 4% Business-Leisure

Main Purpose of Leisure Trip

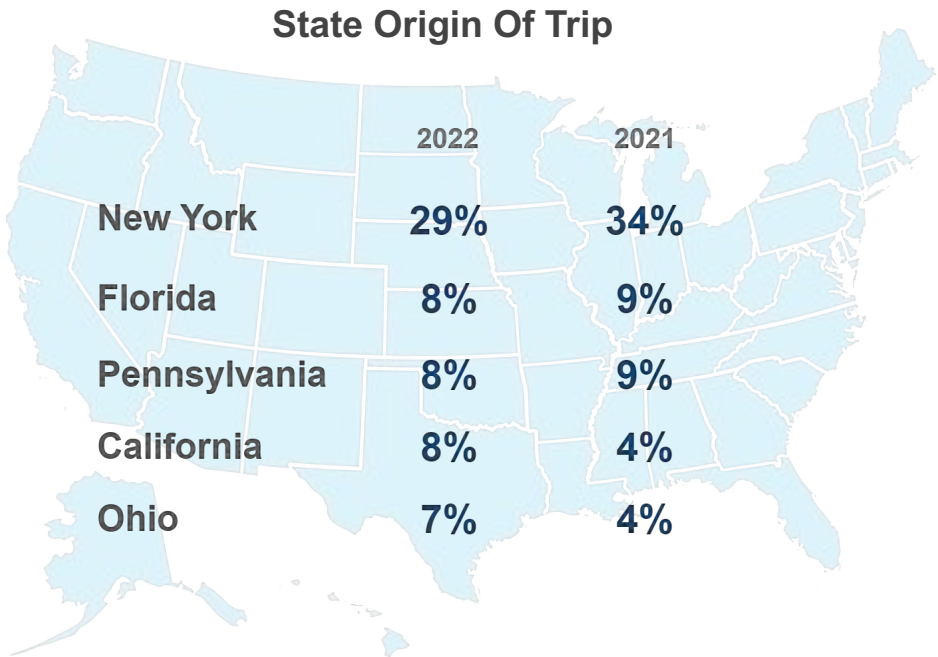
	2022	2021
Visiting friends/ relatives	37%	33%
Touring	20%	20%
City trip	12%	9%
Special event	6%	3%
Casino	5%	5%
Outdoors	5%	10%
Theme park	4%	4%
Resort	2%	2%

2022 Niagara Falls Overnight Trips



Last Year's Niagara Falls Overnight Trips





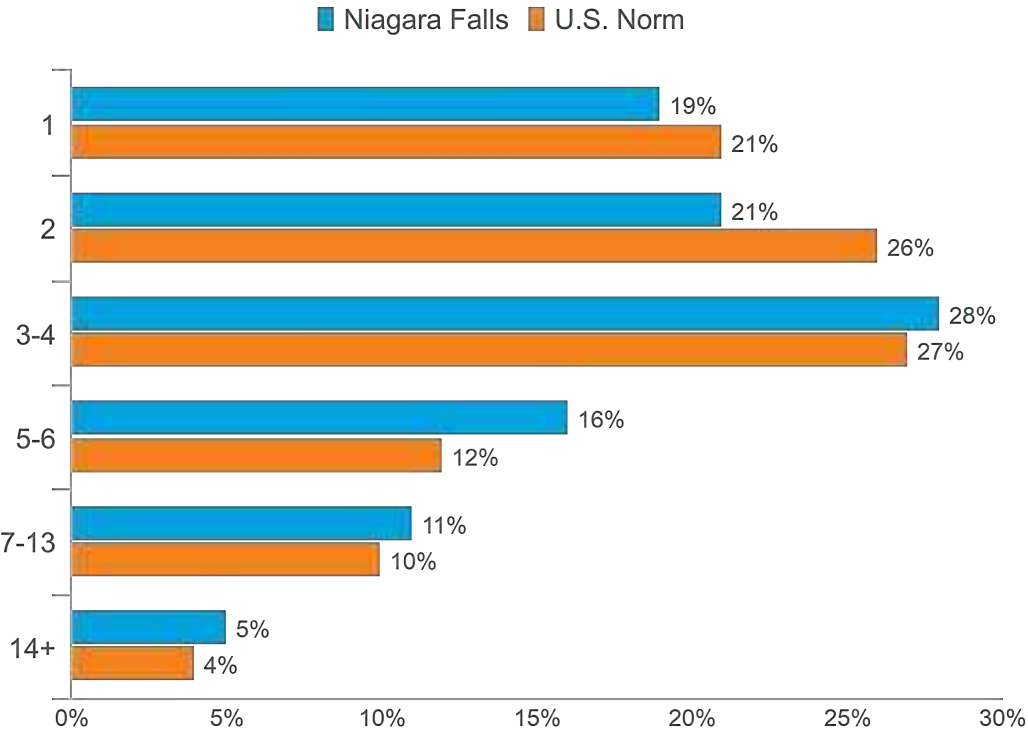
DMA Origin Of Trip

	2022	2021
New York, NY	17%	14%
Buffalo, NY	6%	10%
Los Angeles, CA	5%	3%
Orlando-Daytona Beach-Melbrn, FL	4%	3%
Rochester, NY	4%	2%
Syracuse, NY	4%	6%
Cleveland, OH	4%	2%
Chicago, IL	3%	1%
Erie, PA	3%	1%



Season of Trip
Total Overnight Person-Trips

Total Nights Away on Trip



Niagara Falls

4.3

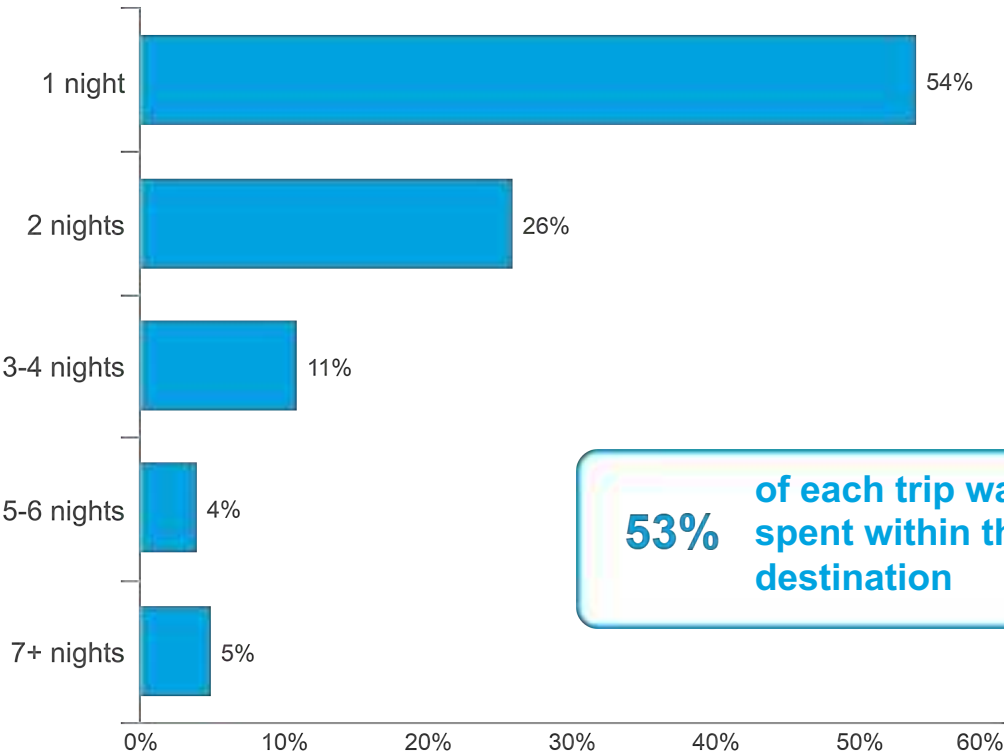
Average Nights

U.S. Norm

3.9

Average Nights

Nights Spent in Niagara Falls



53% of each trip was spent within the destination

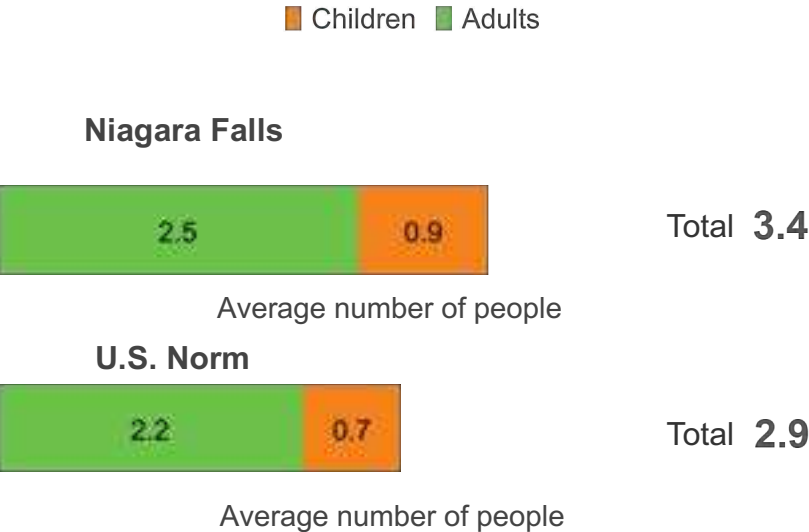
Average number of nights

2.3

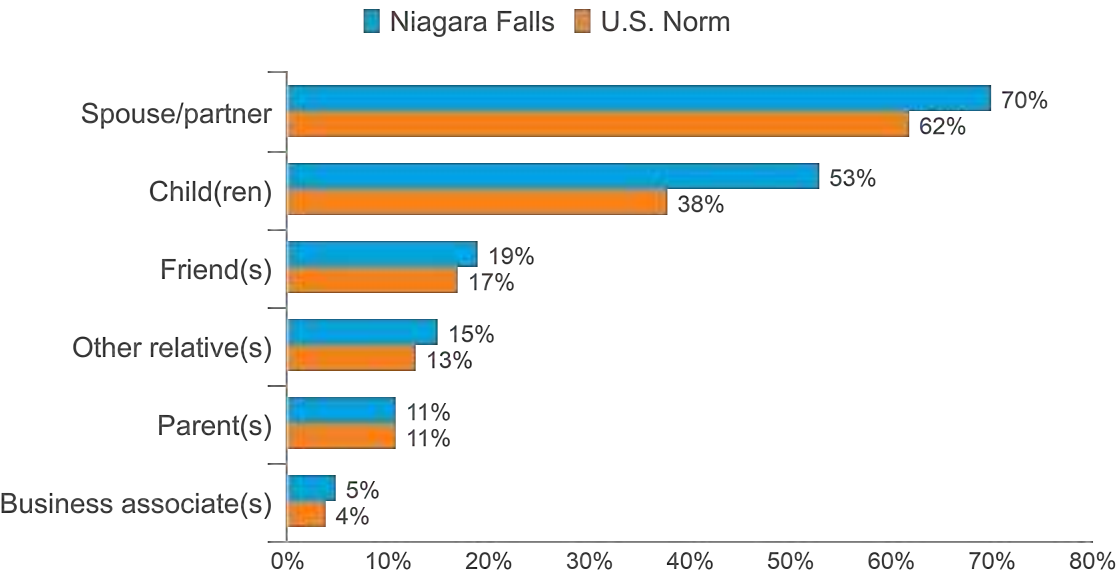
Average last year

2.3

Size of Travel Party

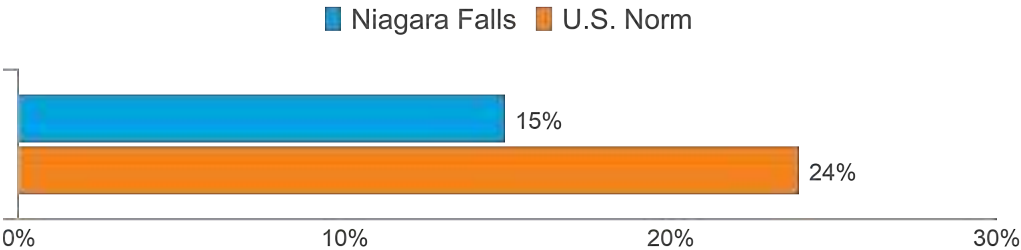


Composition of Immediate Travel Party

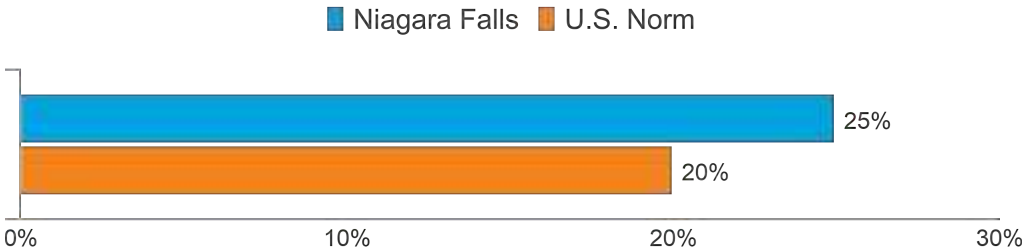


Base: 2022 Overnight Person-Trips that included more than one person

Percent Who Traveled Alone



Percent Who Had Travel Party Member with Disabilities



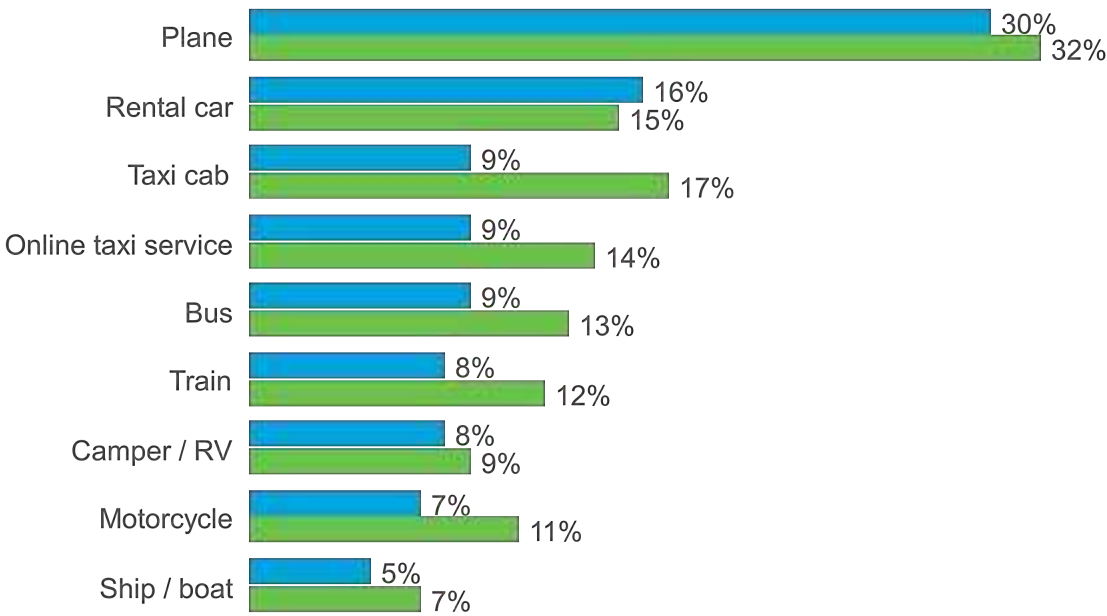
Transportation Used to get to Destination



67% of overnight travelers use own car/truck to get to their destination

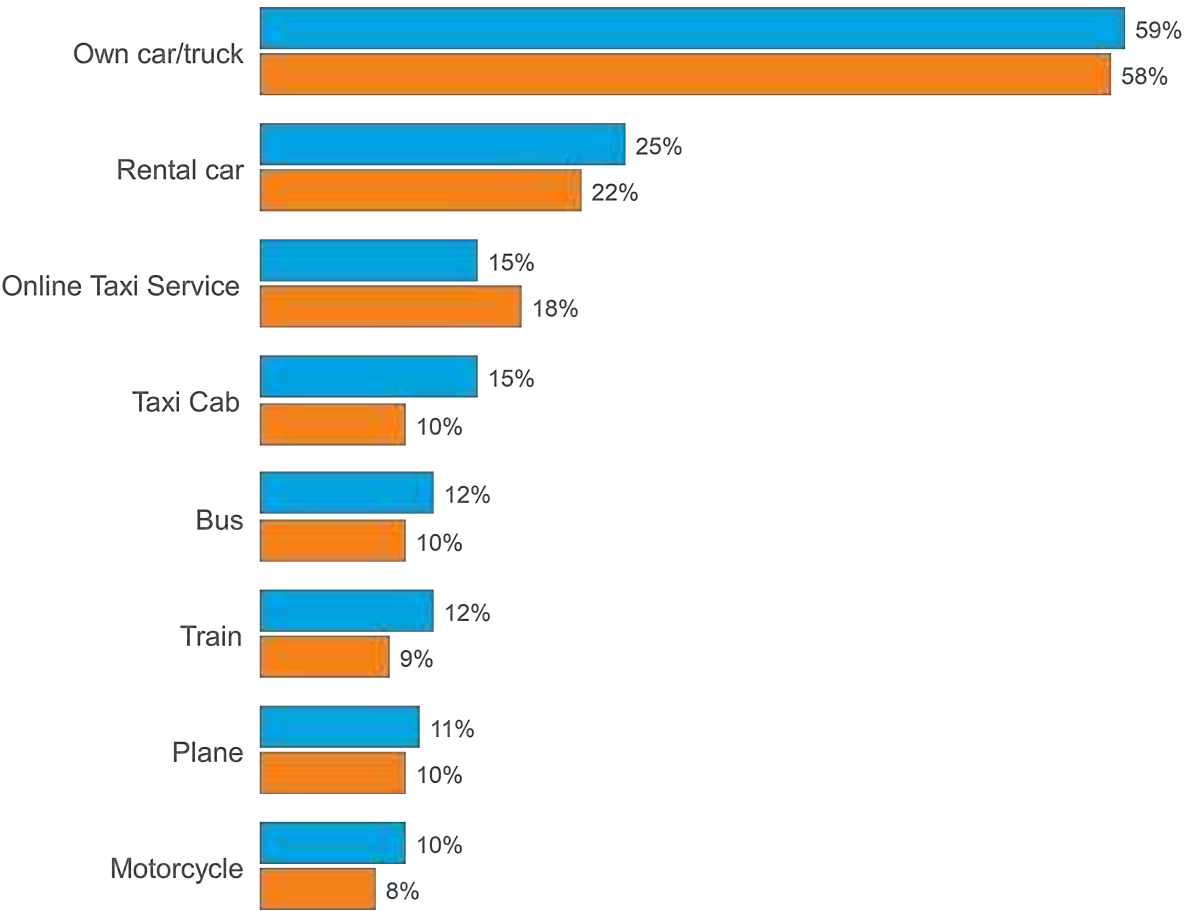
Previous year: 74%

■ 2022 ■ 2021

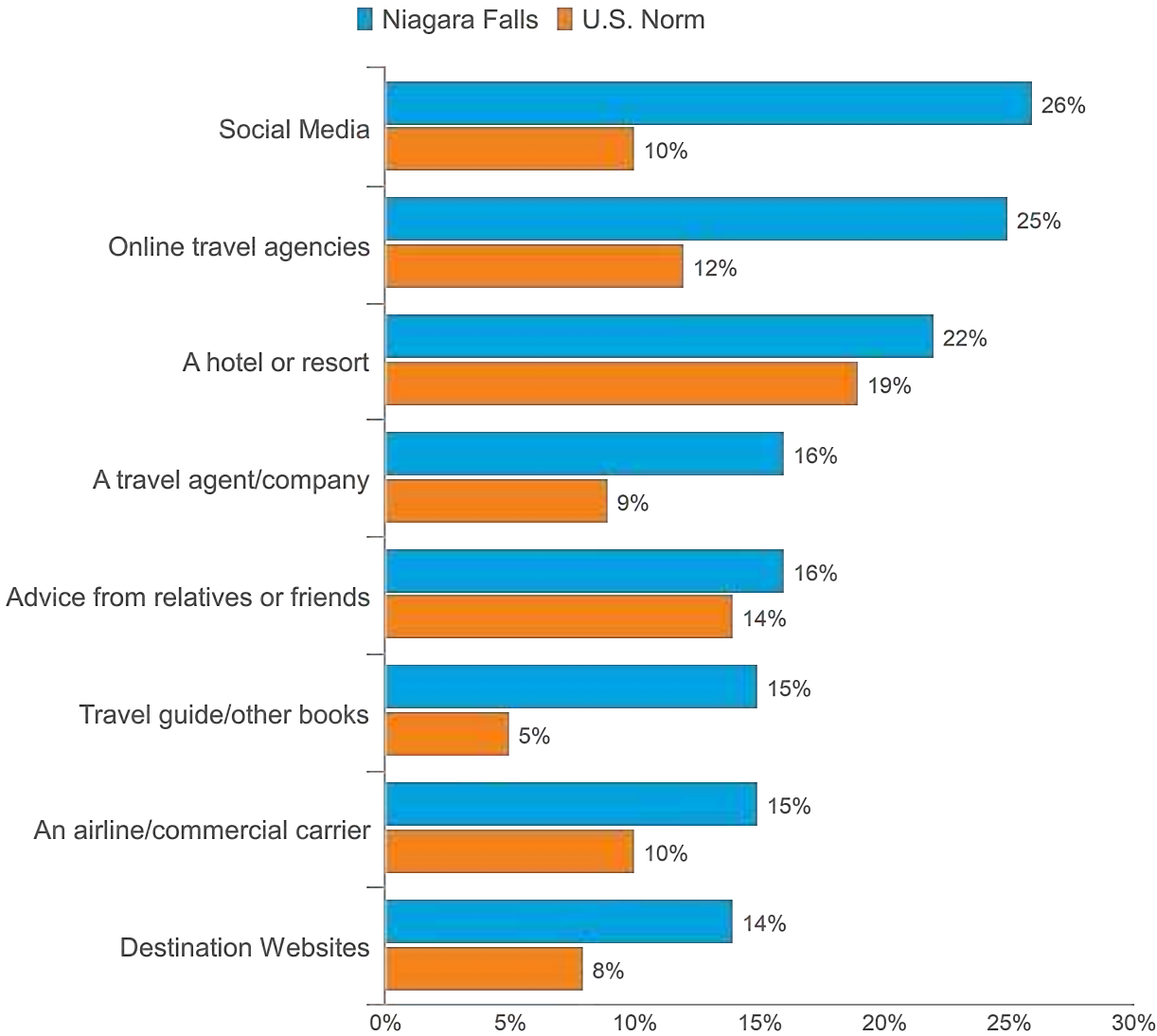


Transportation Used within Destination

■ Niagara Falls ■ U.S. Norm



Trip Planning Information Sources

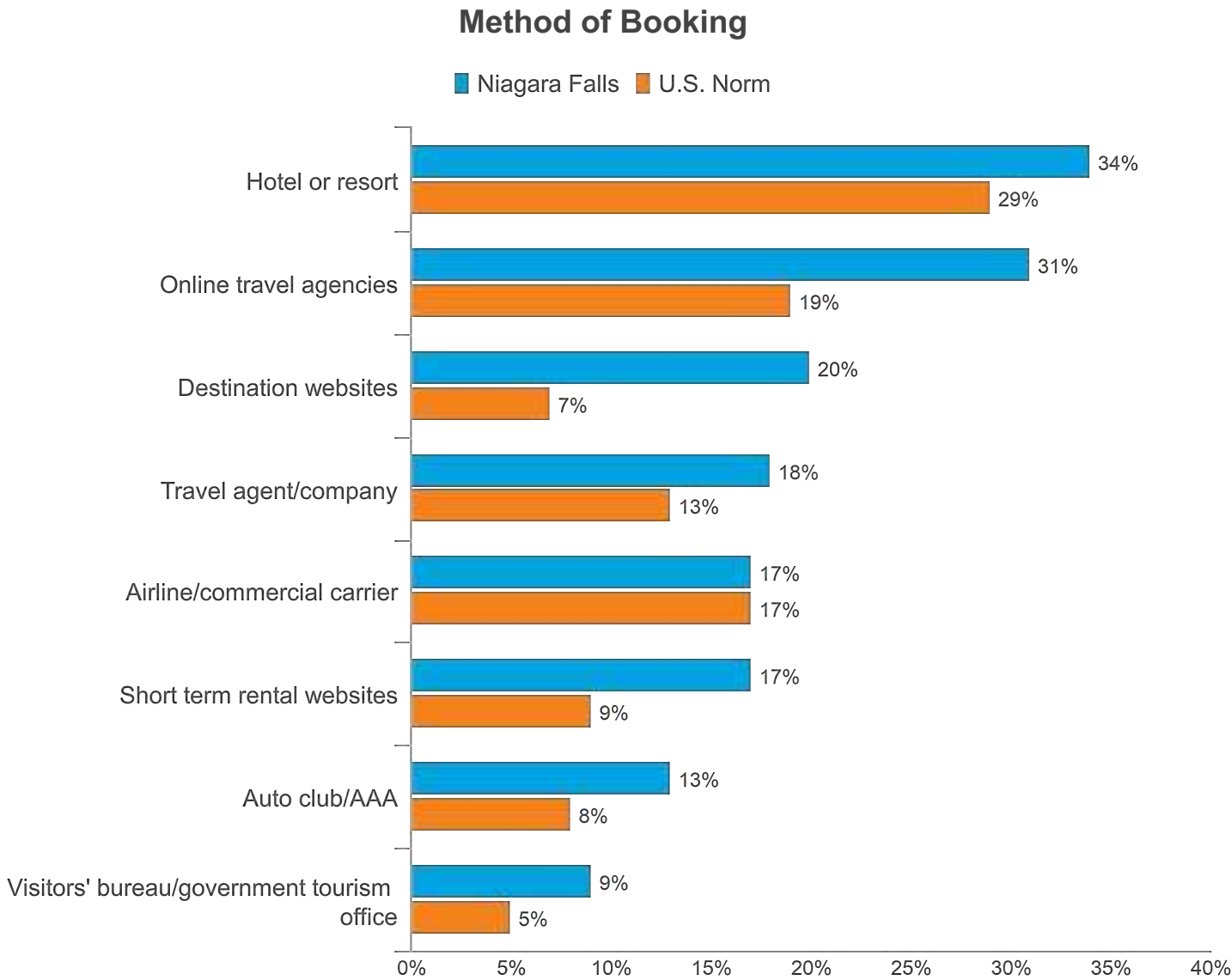









Length of Trip Planning

	Niagara Falls	U.S. Norm
1 month or less	31%	31%
2 months	20%	16%
3-5 months	23%	18%
6-12 months	14%	14%
More than 1 year in advance	7%	5%
Did not plan anything in advance	5%	16%

Niagara Falls' Overnight Trip Characteristics

Base: 2022 Overnight Person-Trips



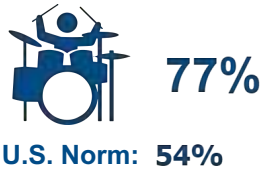
Accommodations		2022	2021
	Hotel	62%	55%
	Home of friends / relatives	21%	18%
	Motel	14%	16%
	Bed & breakfast	14%	15%
	Resort hotel	11%	18%
	Rented home / condo / apartment	9%	11%
	Campground / RV park	7%	11%

Activity Groupings

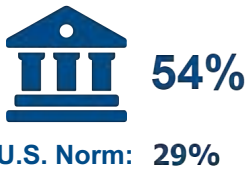
Outdoor Activities



Entertainment Activities



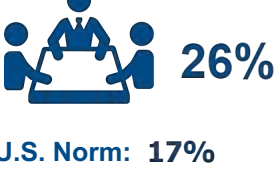
Cultural Activities



Sporting Activities



Business Activities



Activities and Experiences (Top 10)







	2022	2021
Sightseeing	37%	32%
Shopping	37%	38%
Landmark/historic site	30%	27%
Museum	25%	28%
Casino	24%	23%
National/state park	23%	24%
Attending celebration	21%	20%
Bar/nightclub	21%	15%
Swimming	20%	23%
Theme park	18%	16%

Shopping Types on Trip

		Niagara Falls	U.S. Norm
	Souvenir shopping	65%	41%
	Outlet/mall shopping	60%	48%
	Convenience/grocery shopping	51%	44%
	Big box stores (Walmart, Costco)	48%	33%
	Boutique shopping	28%	29%
	Antiquing	21%	12%

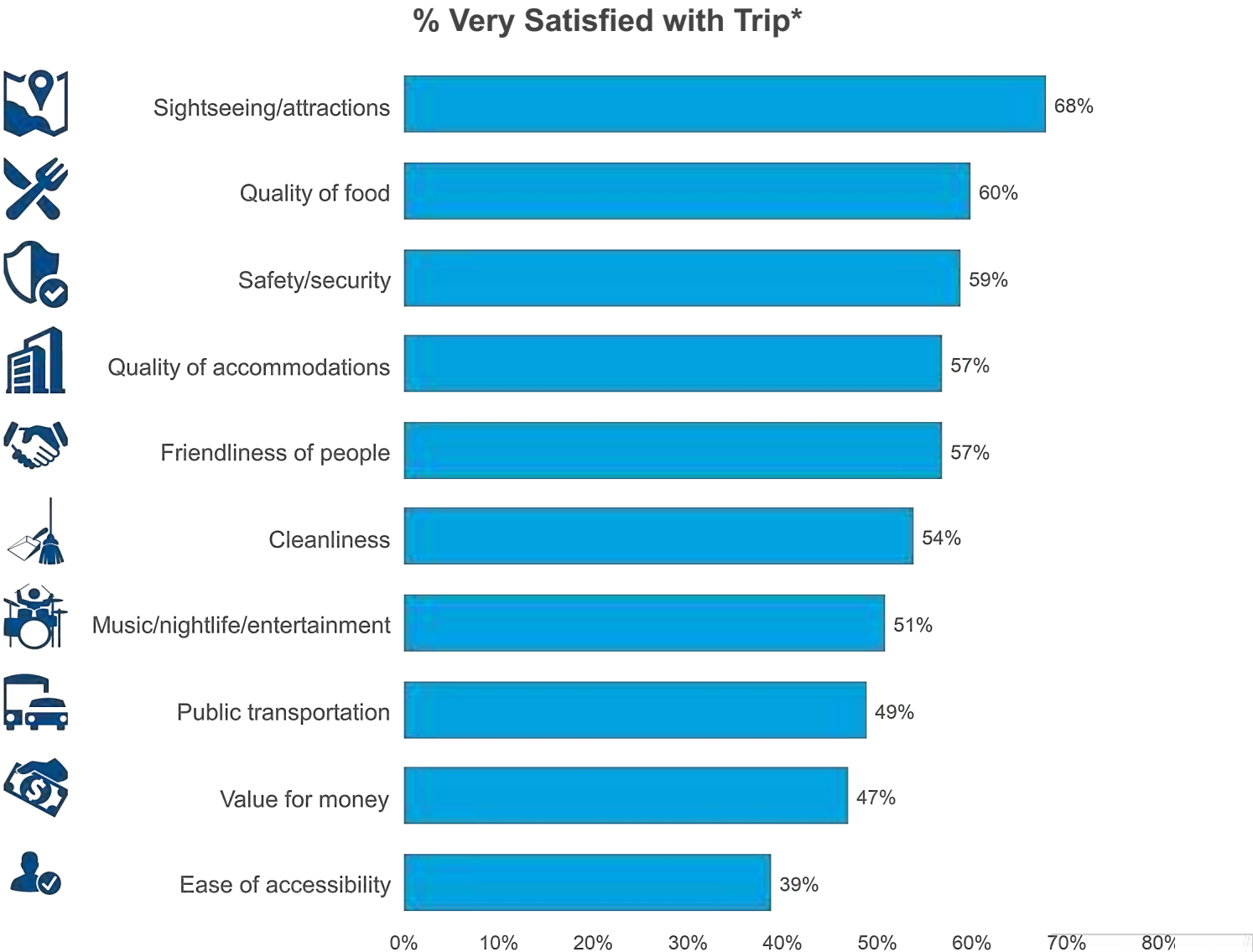
Base: 2022 Overnight Person-Trips that included Shopping

Dining Types on Trip

		Niagara Falls	U.S. Norm
	Unique/local food	59%	47%
	Food delivery service (UberEATS, DoorDash, etc.)	41%	21%
	Fine/upscale dining	37%	25%
	Street food/food trucks	32%	23%
	Picnicking	22%	13%
	Gastropubs	14%	10%



71%
of overnight travelers were
very satisfied with their overall
trip experience

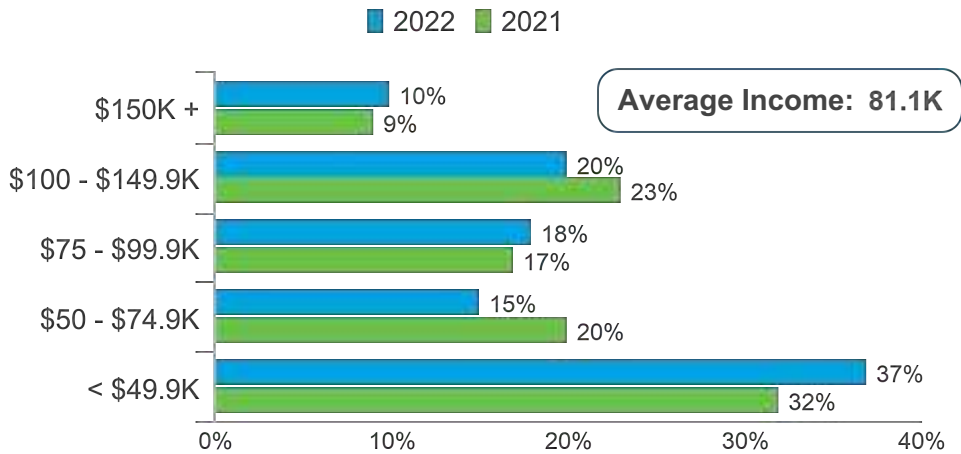


*Very satisfied = selected top box on a five point scale
Ease of Accessibility only asked to those with travel limiting disabilities within travel party

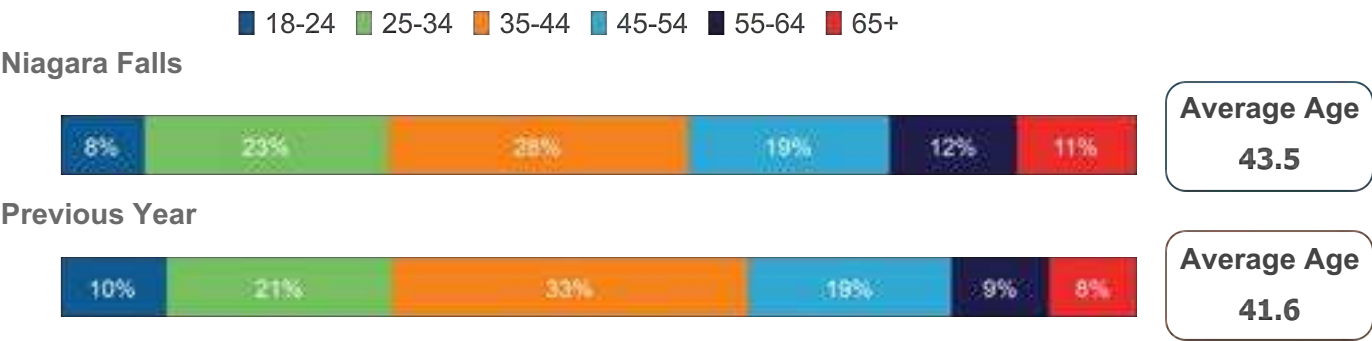
Demographic Profile of Overnight Niagara Falls Visitors

Base: 2022 Overnight Person-Trips

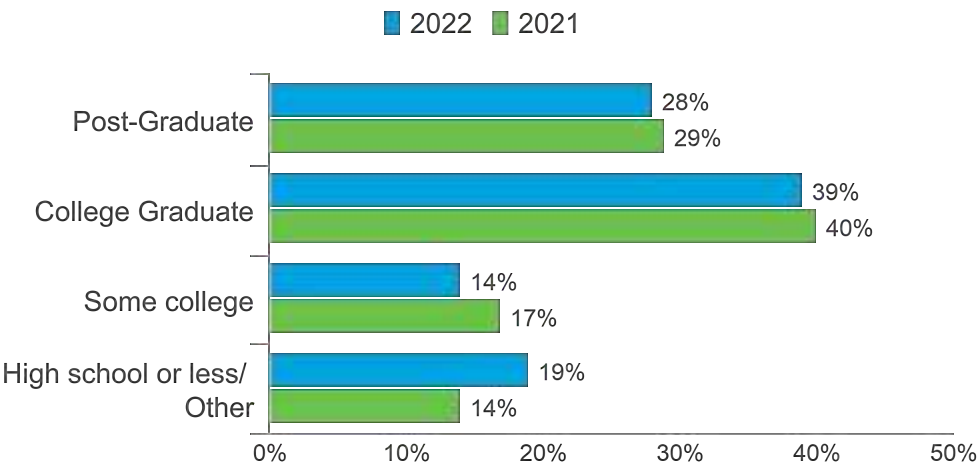
Household Income



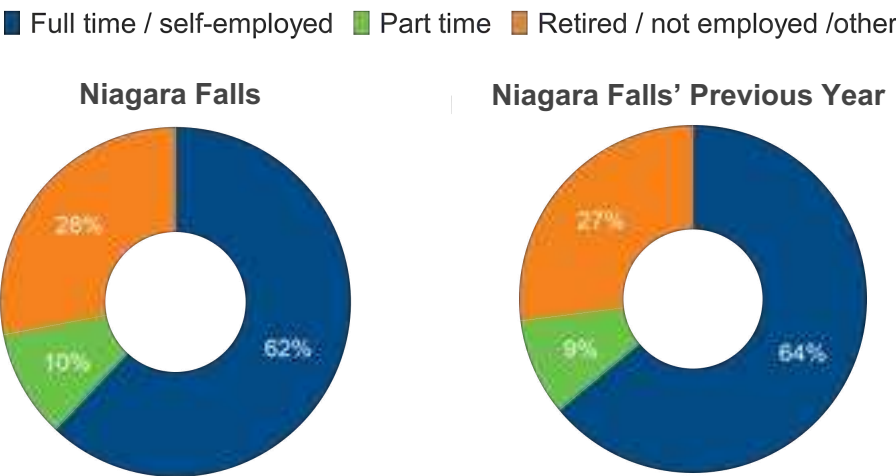
Age



Educational Attainment



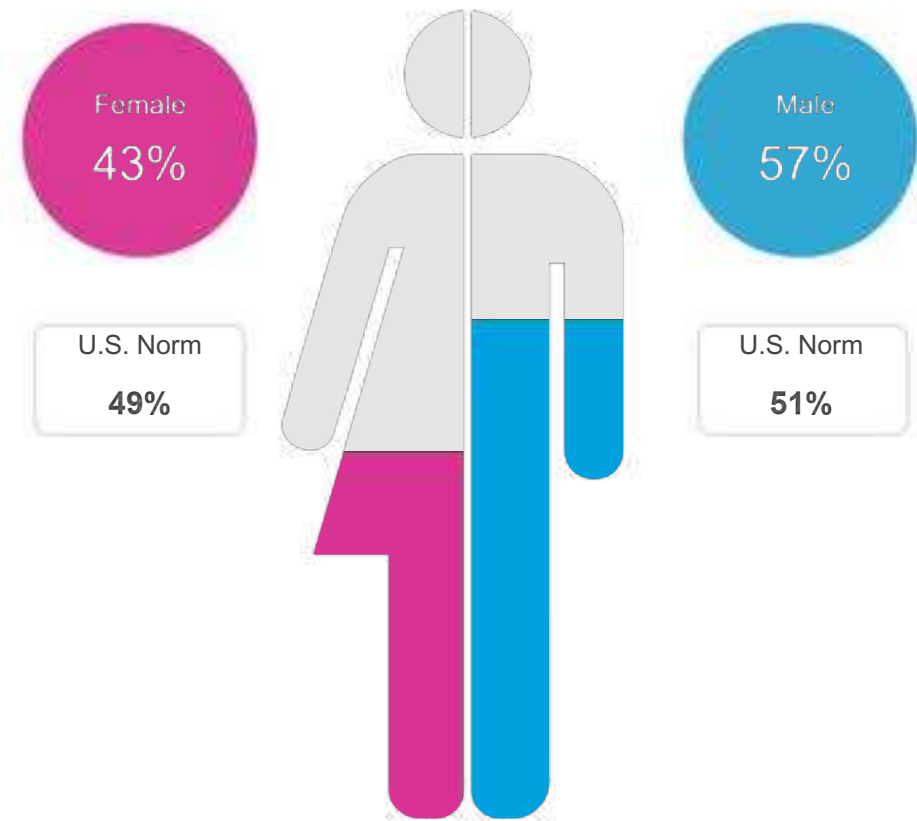
Employment



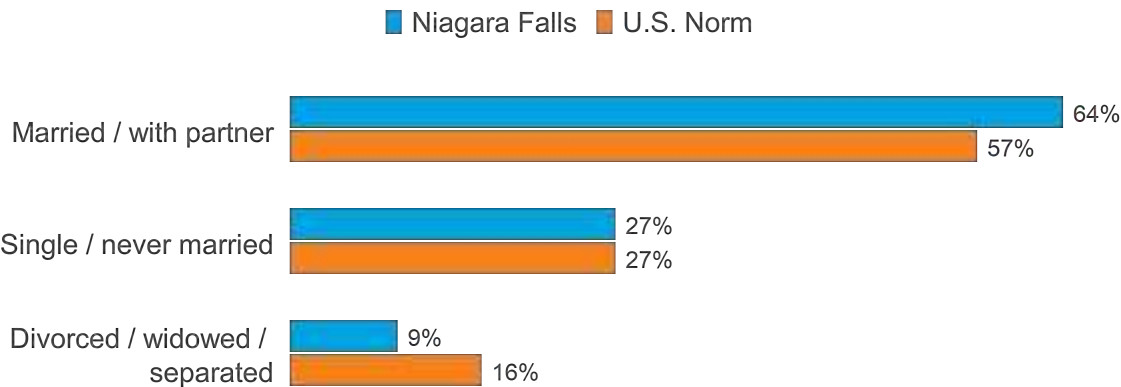
Demographic Profile of Overnight Niagara Falls Visitors

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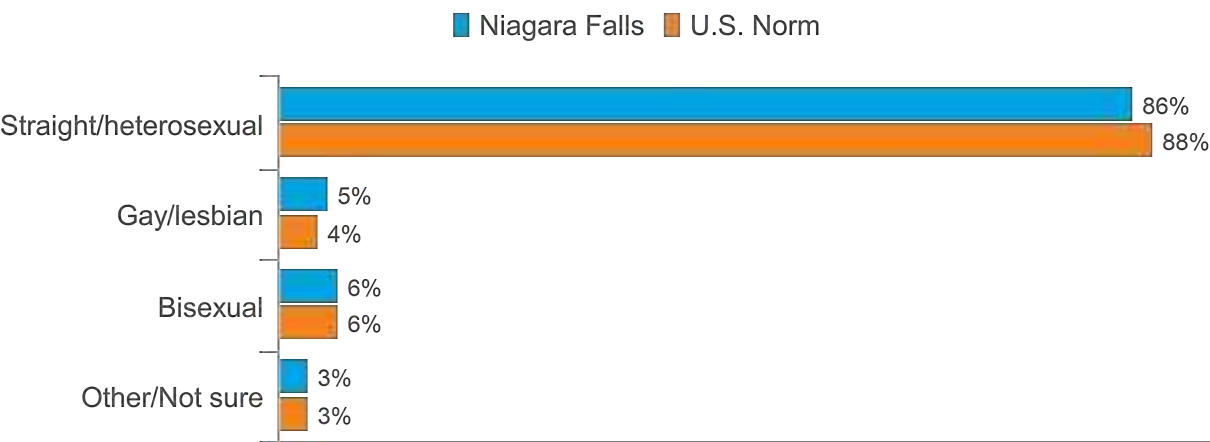
Gender



Marital Status



Sexual Orientation

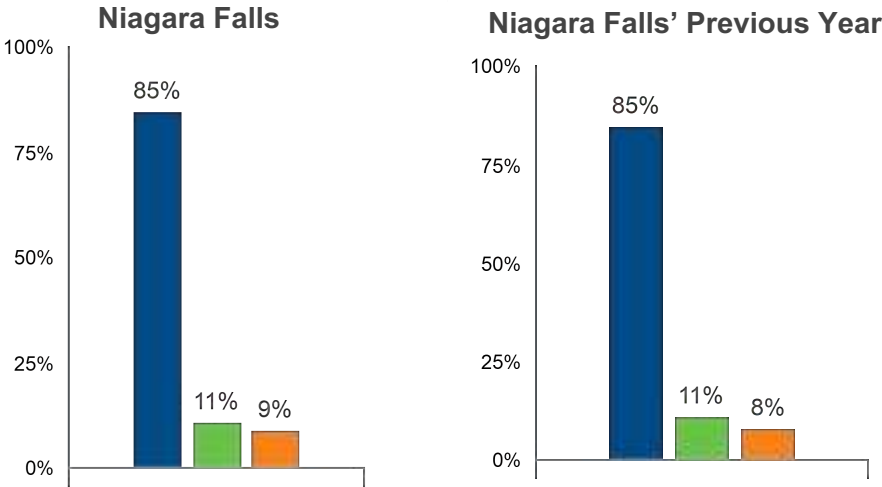


Demographic Profile of Overnight Niagara Falls Visitors

Base: 2022 Overnight Person-Trips

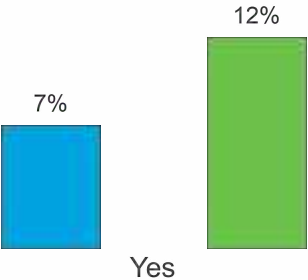
Race

White African-American Other



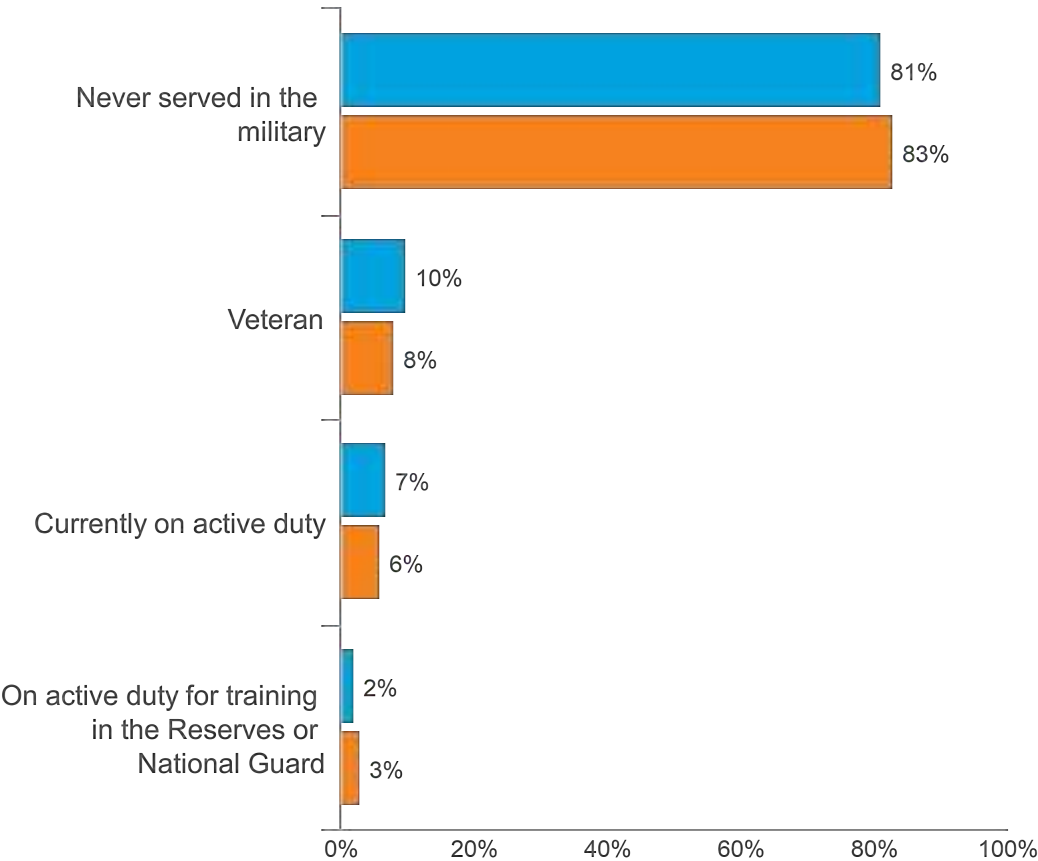
Hispanic Background

2022 2021

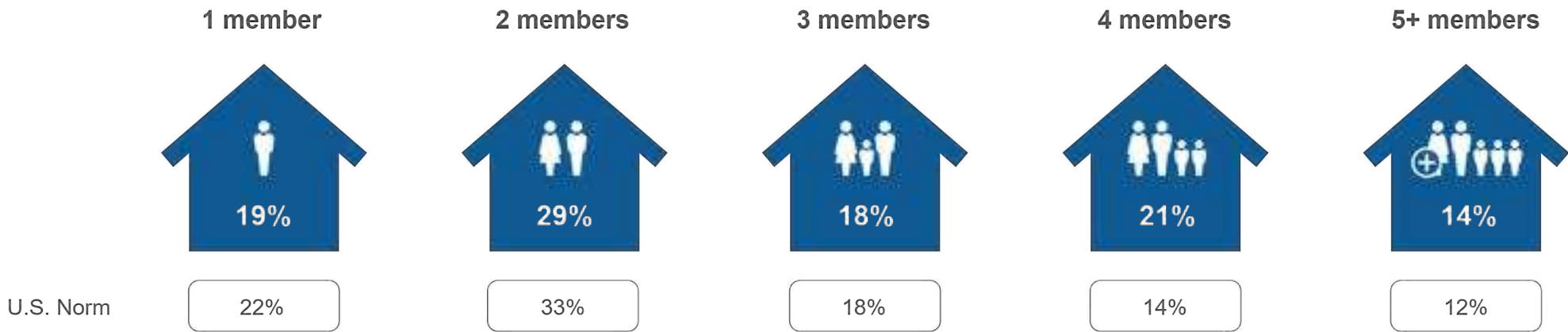


Military Status

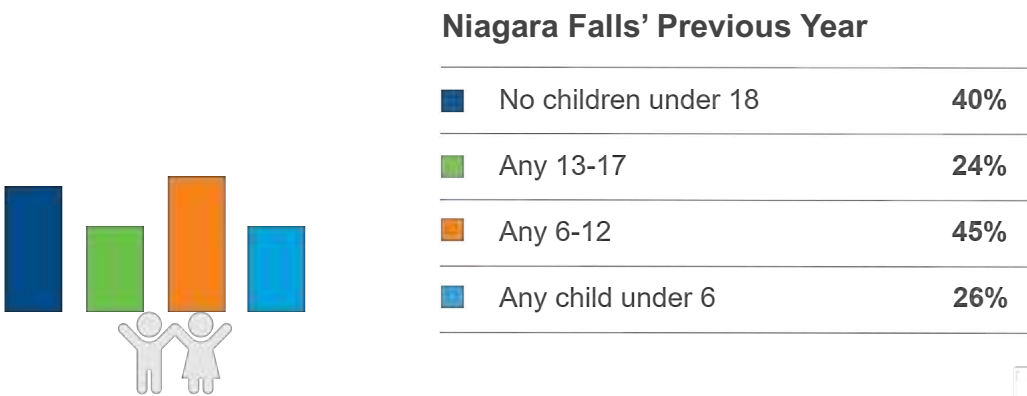
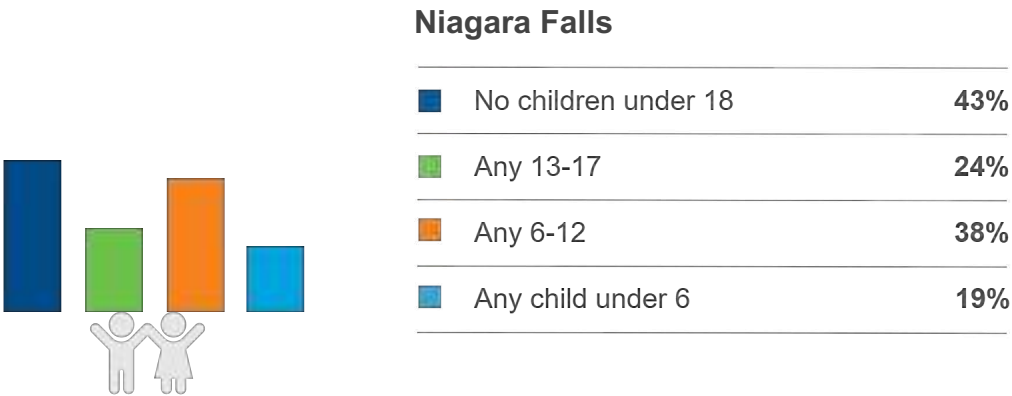
Niagara Falls U.S. Norm



Household Size



Children in Household





Travel USA Visitor Profile

Day Visitation



WHERE ADVENTURE COMES NATURALLY®

2021/2022

Introduction

- Longwoods International began tracking domestic American travelers in 1985, and has conducted large-scale syndicated visitor research quarterly since 1990.
- It is currently the largest ongoing study conducted of American travelers, providing our clients with more reliable data and greater ability to home in on key market segments of interest.
- The visitor profile data for this portion of the report is drawn directly from the survey and is a combination of 2021 and 2022 trips. This is to ensure a sufficient sample base for reliable results.
- However, visitor volumes, seasonality, and total expenditures represent 2022 only. These are based on our survey data and a careful review of other known destination data sources to ensure that our estimates are as accurate as possible, such as government data and STR reporting.

Methodology

Each quarter, a random, projectable sample of adult members (18 years of age and over) of a major U.S. consumer panel is invited to participate in the **Longwoods Travel USA®** survey. Respondents are selected to be representative of the U.S. adult population.

For Niagara Falls, the following sample was achieved in 2021/2022:



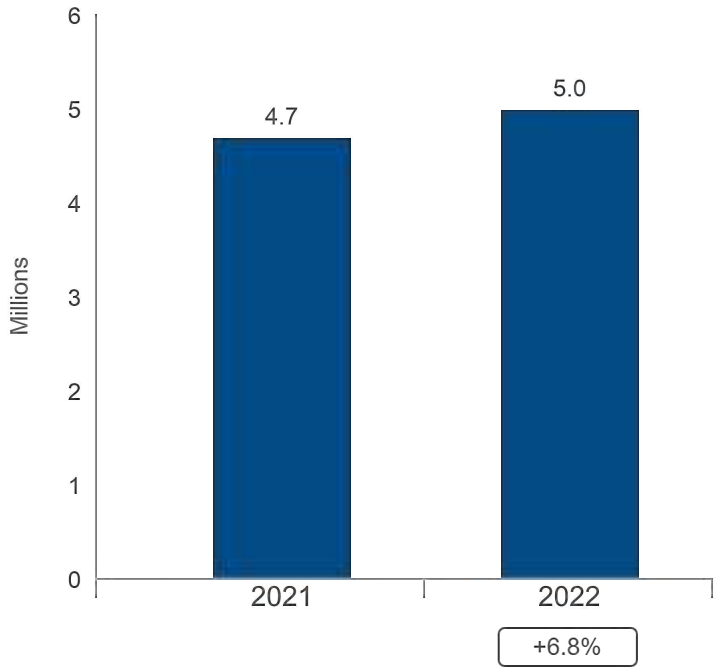
Day Base Size

239

A **day trip** is any journey for business or pleasure, outside your community and not part of your normal routine, that did not include an overnight stay. Day trips involve travel of more than 50 miles from home.

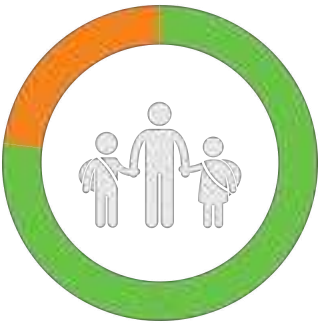
For analysis, data were weighted on key demographics to correct for any differences between the sample and U.S. population targets.

Day Trips to Niagara Falls



Size of Niagara Falls Day Travel Market - Adults vs. Children

Total Day Person-Trips
5.0 Million

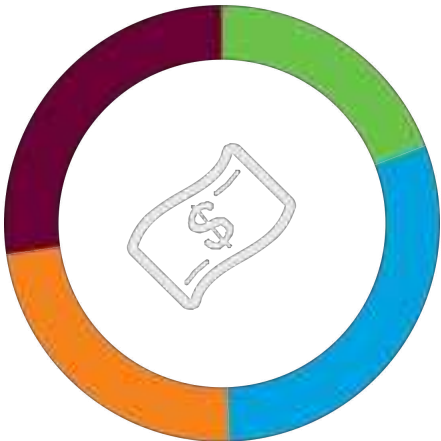


■ Adults	77%	3.9 Million
■ Children	23%	1.1 Million

Domestic Day Expenditures - by Sector

Total Spending
\$ 0.405 Billion

+21.5% vs. last year



Transportation at Destination	19%	\$77 Million
Restaurant Food & Beverage	30%	\$123 Million
Retail Purchase	23%	\$94 Million
Recreation/Entertainment	27%	\$110 Million

vs. last year

+30.0%

+18.6%

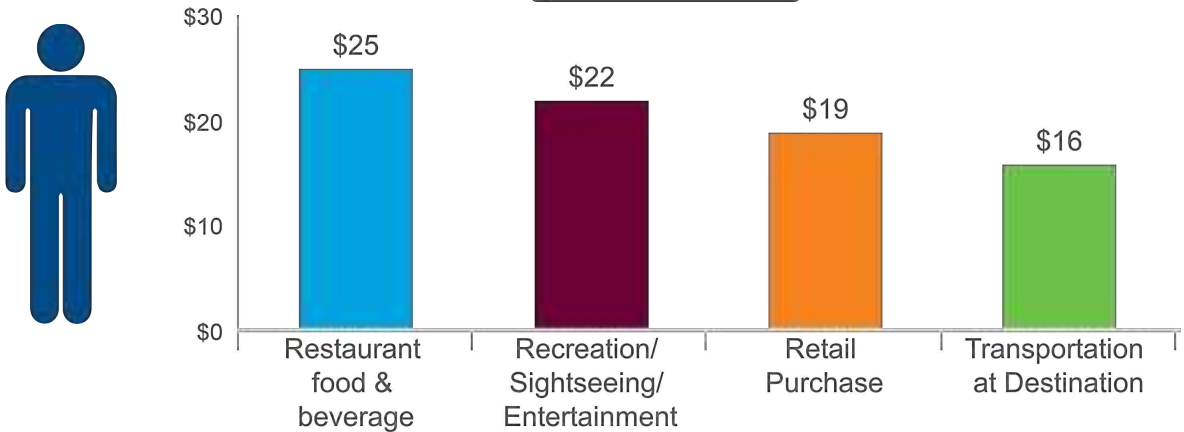
+19.1%

+21.2%












Average Per Person Per Trip Expenditures on Domestic Day Trips - by Sector

Average Per Person Per Trip: **\$ 81**

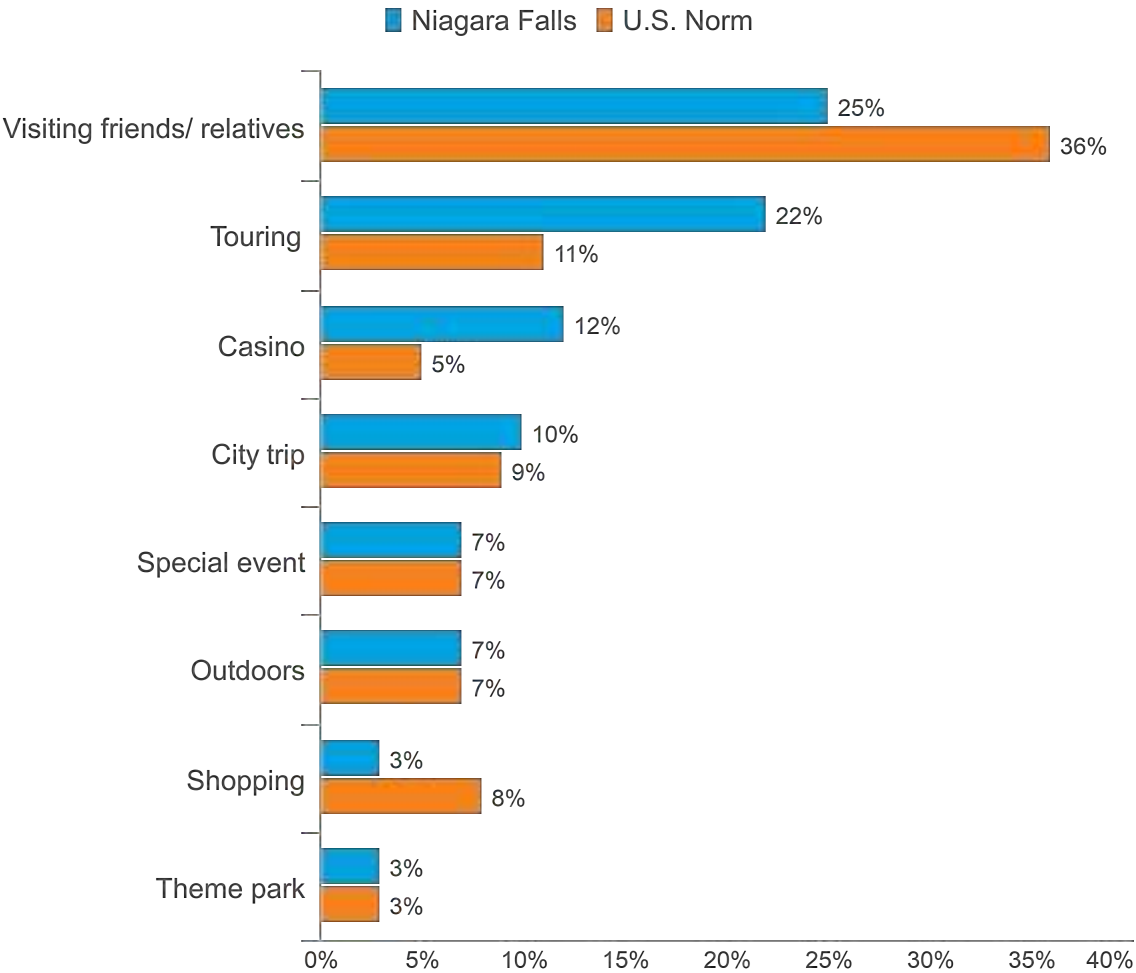
Last year: \$ 71



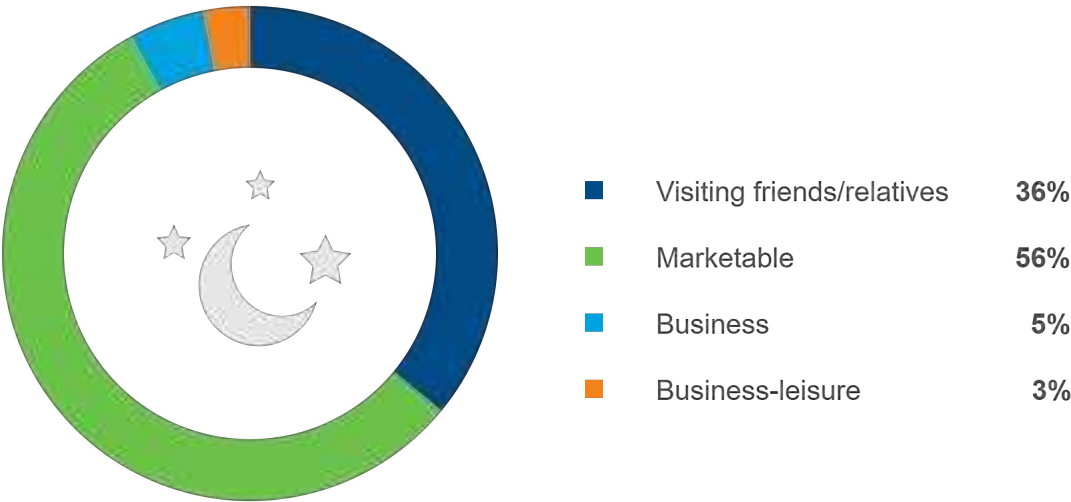
Main Purpose of Trip

 25% Visiting friends/ relatives	
 22% Touring	 2% Conference/ Convention
 12% Casino	
 10% City trip	
 7% Special event	 4% Other business trip
 7% Outdoors	
 3% Shopping	
 3% Theme park	 1% Business-Leisure

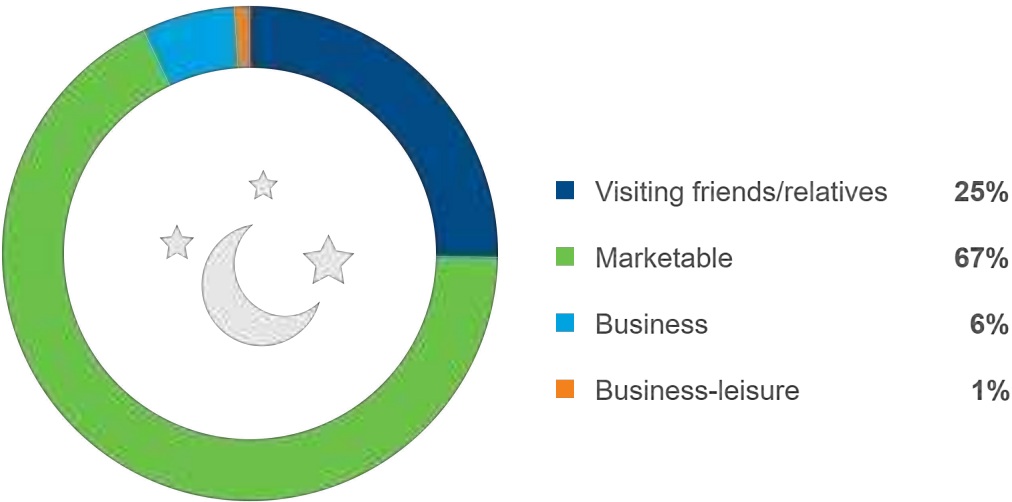
Main Purpose of Leisure Trip

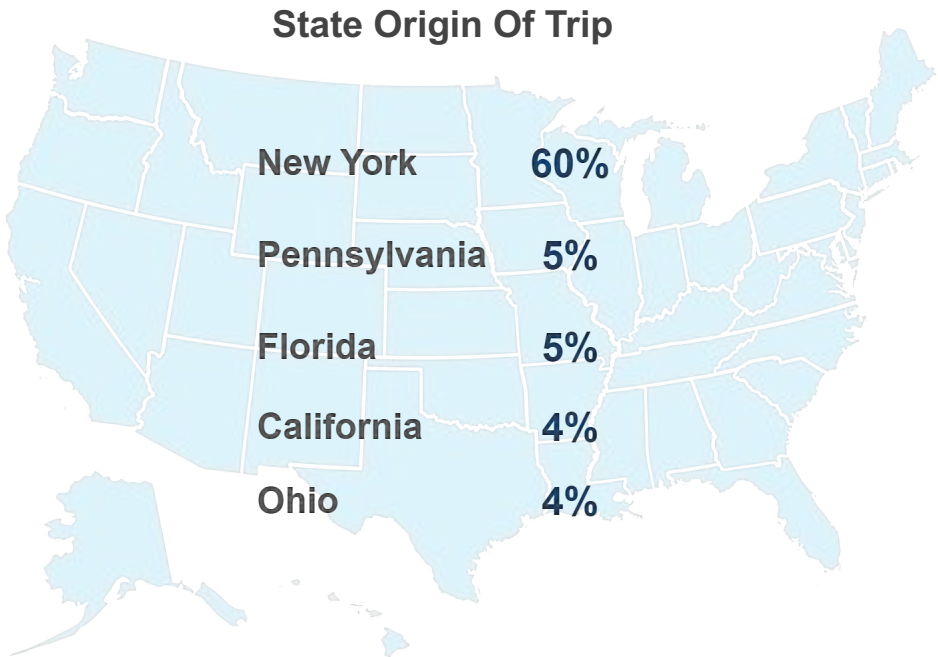


2022 U.S. Day Trips

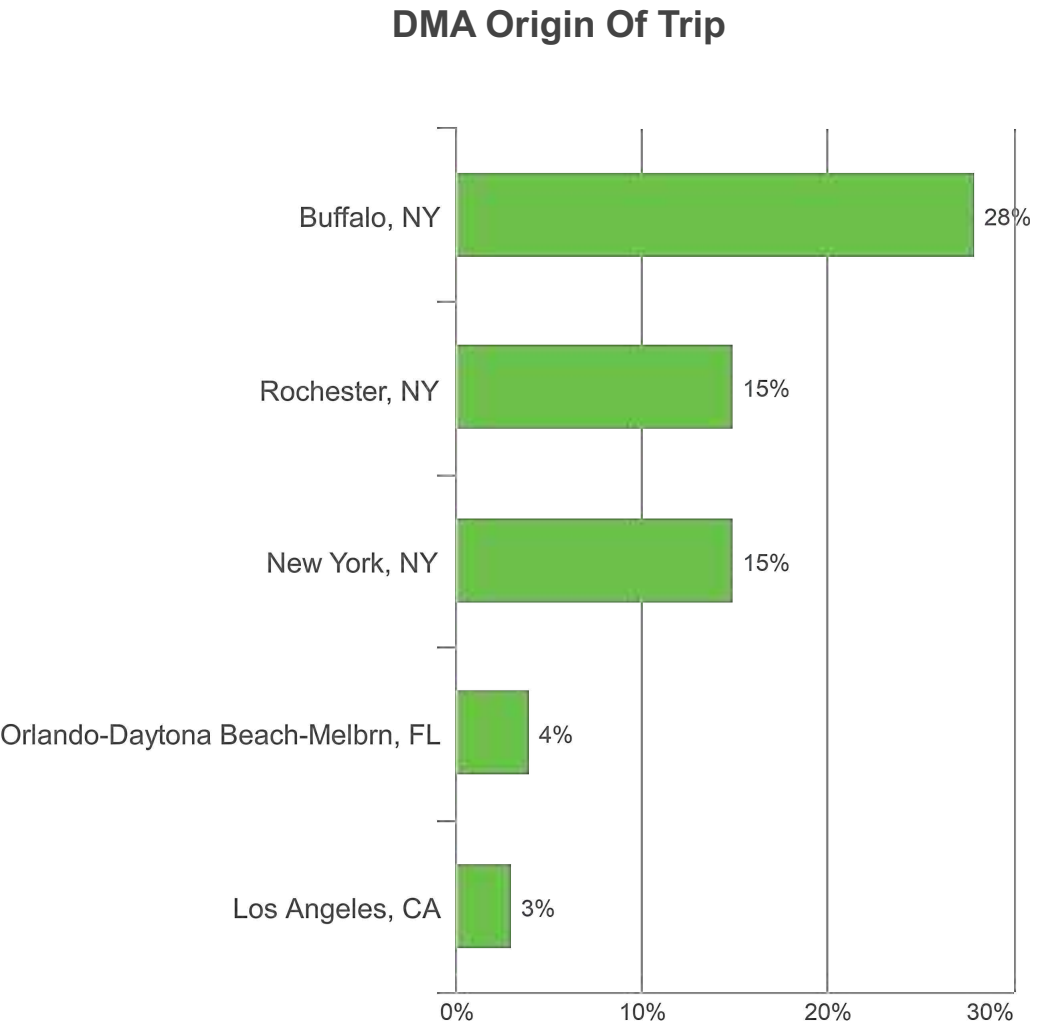


Niagara Falls Day Trips

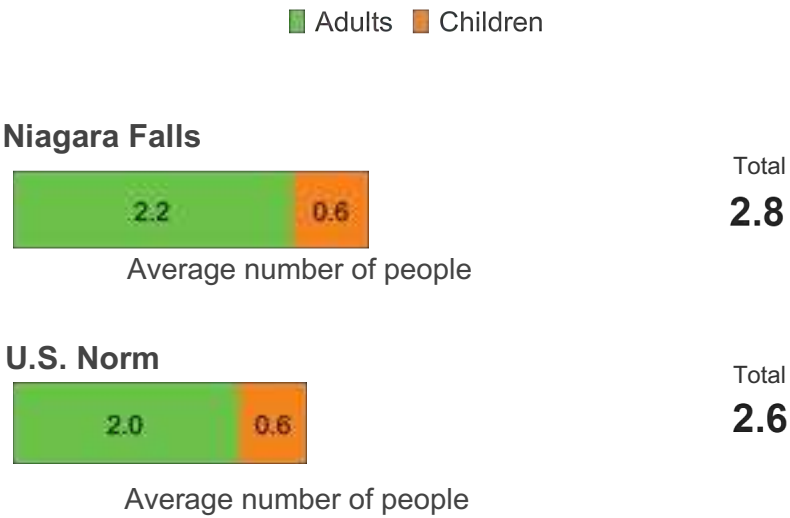




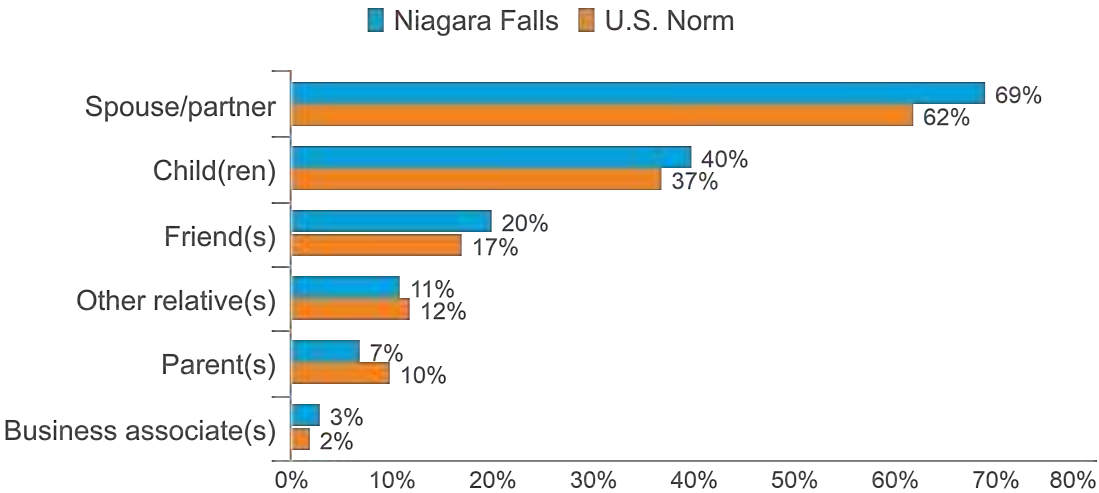
Season of Trip
Total 2022 Day Person-Trips



Size of Travel Party

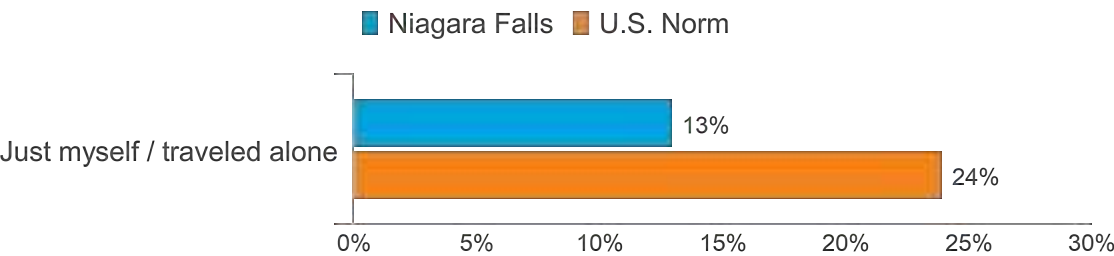


Composition of Immediate Travel Party

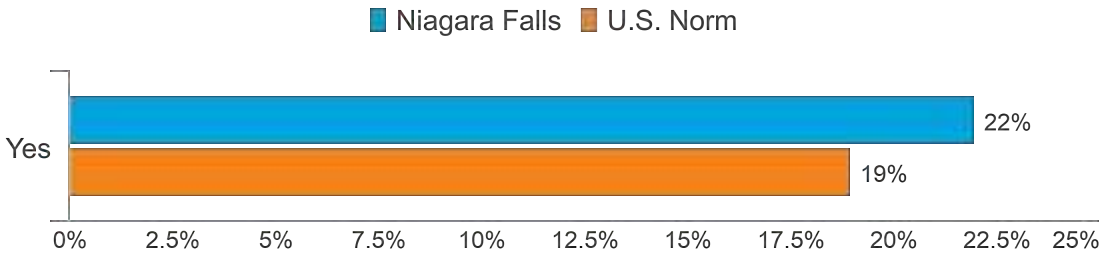


Base: 2021/2022 Overnight Person-Trips that included more than one person

Percent Who Traveled Alone



Percent Who Had Travel Party Member with Disabilities



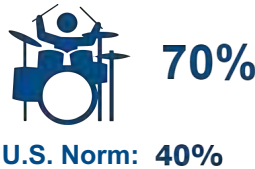
Question added in 2022, data is for 2022 only

Activity Groupings

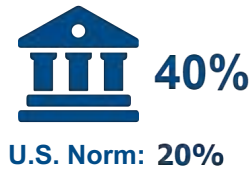
Outdoor Activities



Entertainment Activities



Cultural Activities



Sporting Activities









Business Activities



Activities and Experiences (Top 10)







		Niagara Falls	U.S. Norm
	Sightseeing	31%	13%
	Shopping	30%	21%
	Landmark/historic site	24%	8%
	Casino	23%	8%
	National/state park	21%	5%
	Museum	16%	7%
	Bar/nightclub	13%	6%
	Nature tours/wildlife viewing/birding	12%	5%
	Local parks/playgrounds	11%	6%
	Hiking/backpacking	11%	5%

Shopping Types on Trip

		Niagara Falls	U.S. Norm
	Souvenir shopping	66%	26%
	Outlet/mall shopping	43%	48%
	Boutique shopping	27%	23%
	Big box stores (Walmart, Costco)	26%	29%
	Convenience/grocery shopping	25%	28%
	Antiquing	13%	12%

Base: 2021/2022 Day Person-Trips that included Shopping

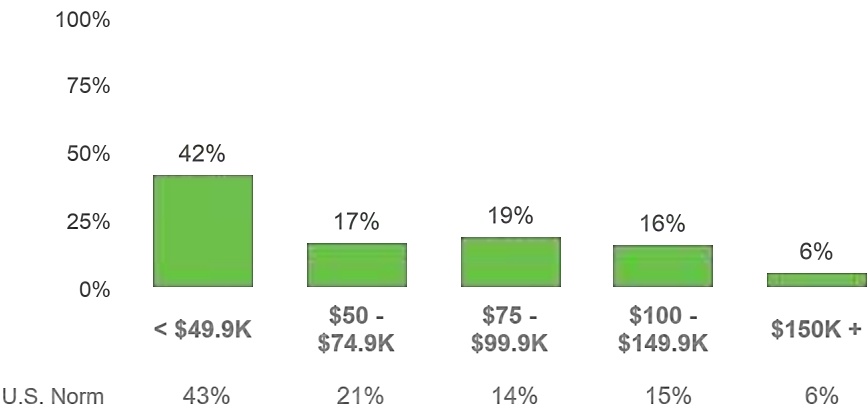
Dining Types on Trip

		Niagara Falls	U.S. Norm
	Unique/local food	47%	38%
	Street food/food trucks	26%	19%
	Fine/upscale dining	23%	15%
	Picnicking	16%	12%
	Food delivery service (UberEATS, DoorDash, etc.)	14%	13%
	Gastropubs	12%	7%

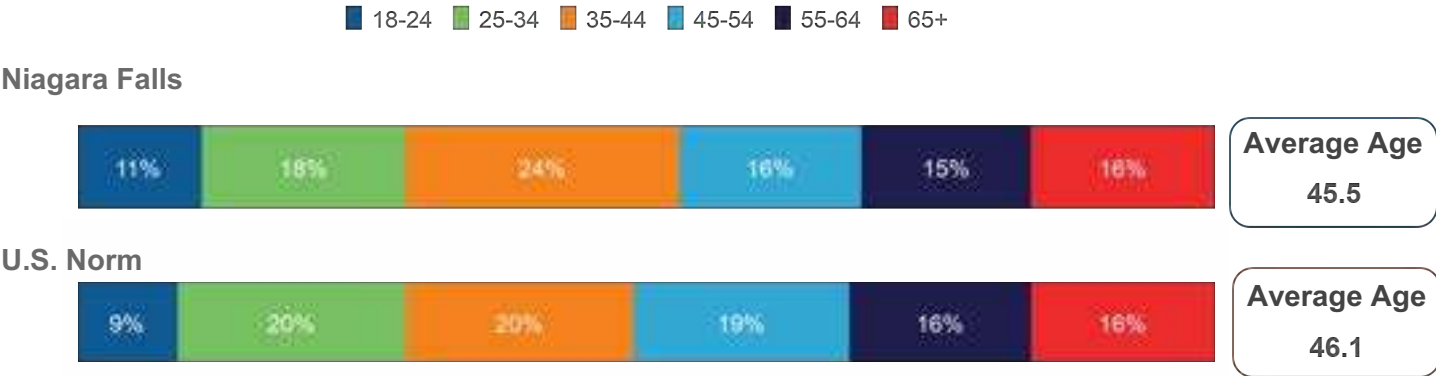
Demographic Profile of Day Niagara Falls Visitors

Base: 2021/2022 Day Person-Trips
*Caution Low Sample

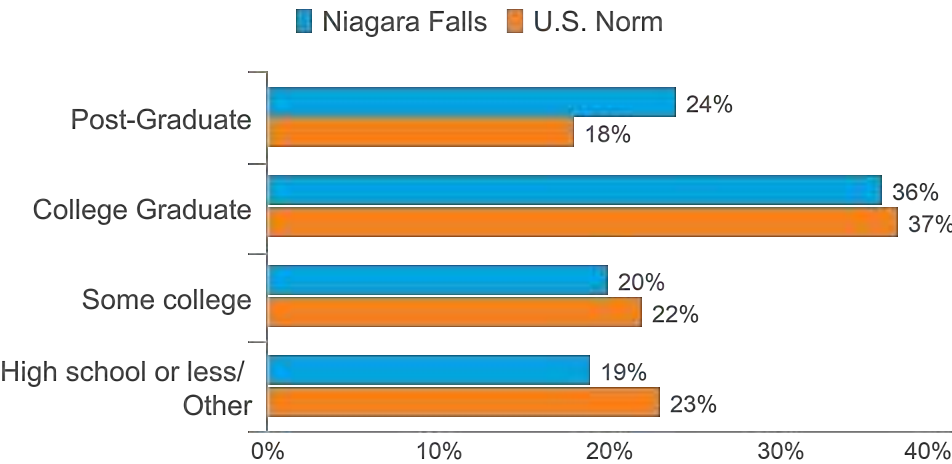
Household Income



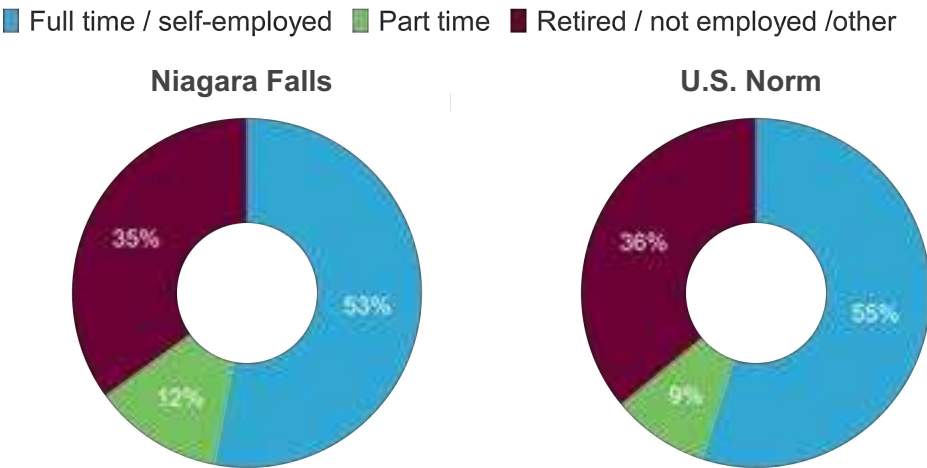
Age



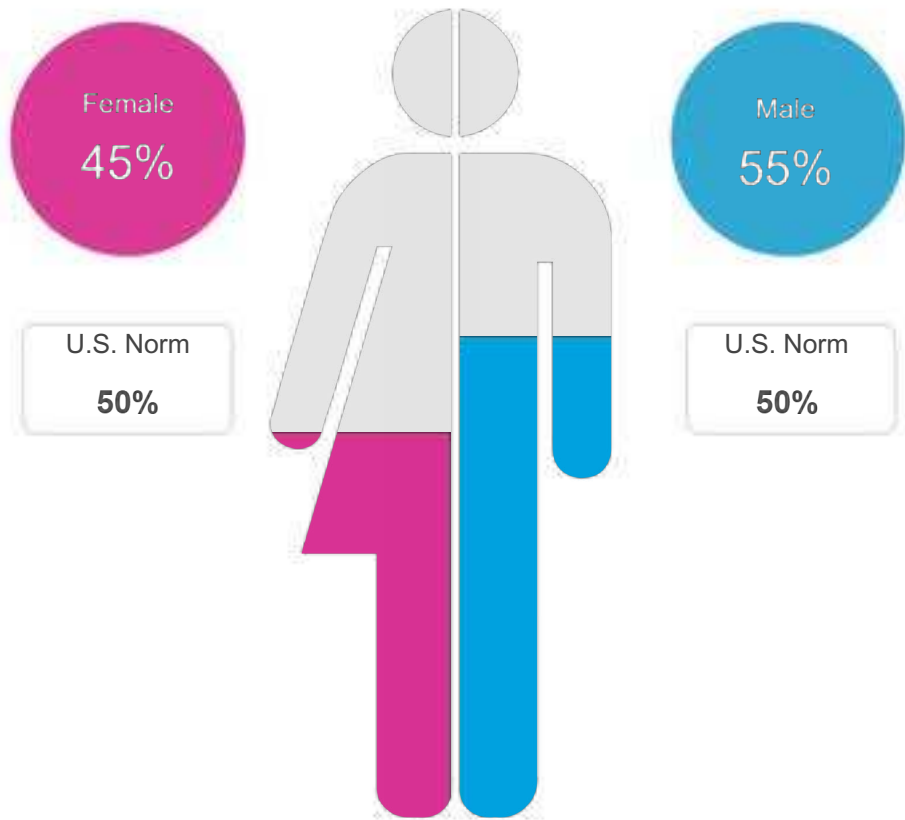
Educational Attainment



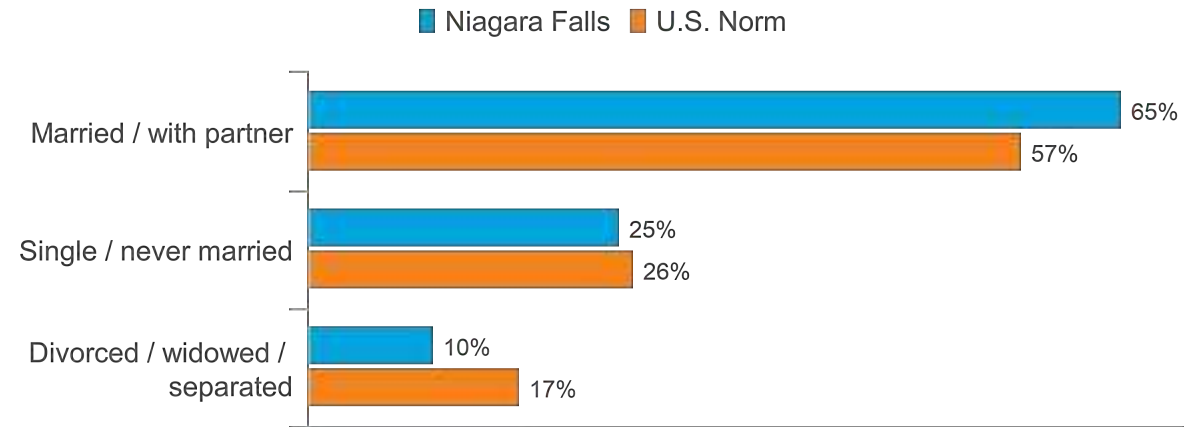
Employment



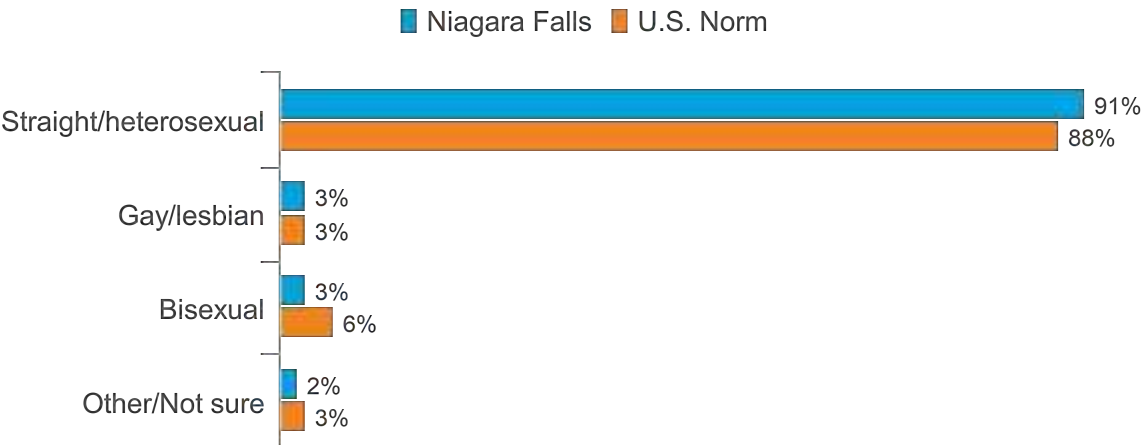
Gender



Marital Status

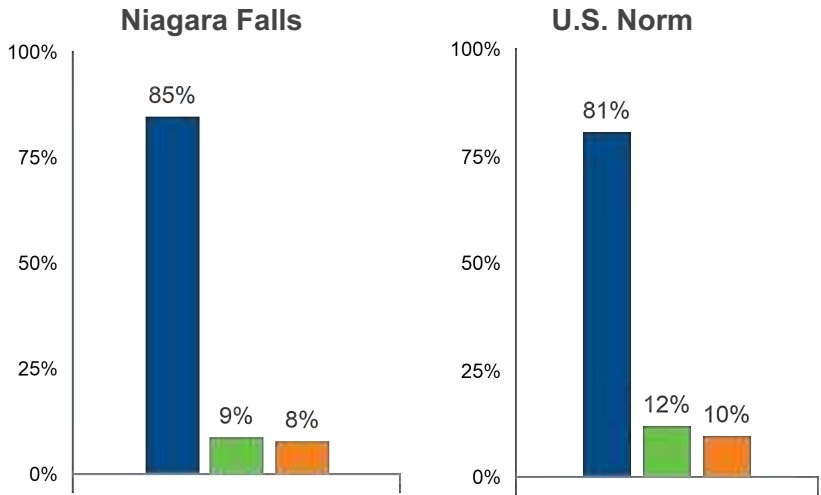


Sexual Orientation



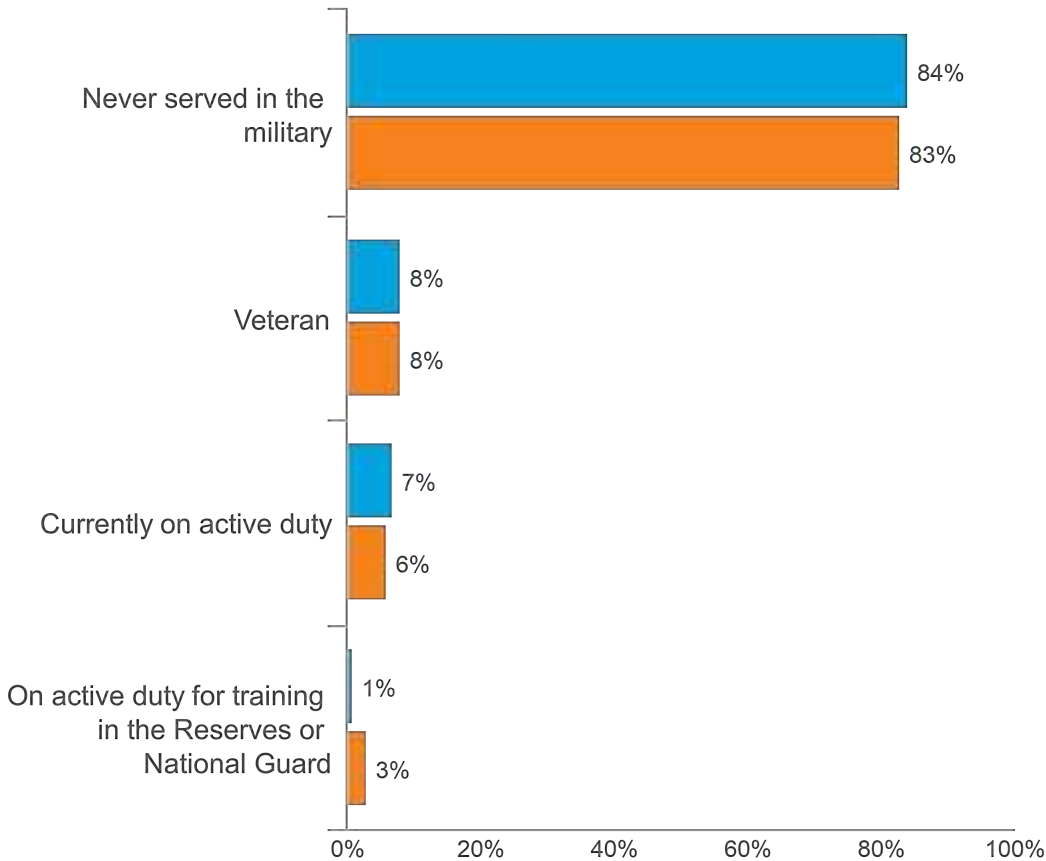
Race

White African-American Other



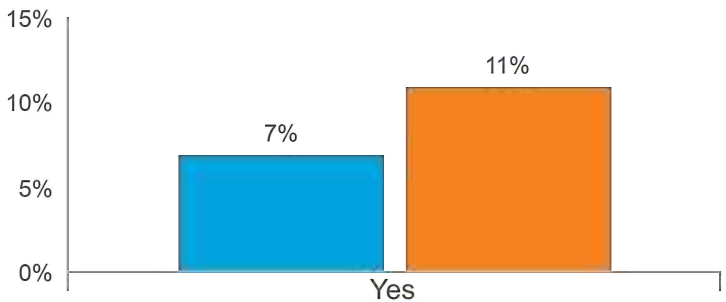
Military Status

Niagara Falls U.S. Norm



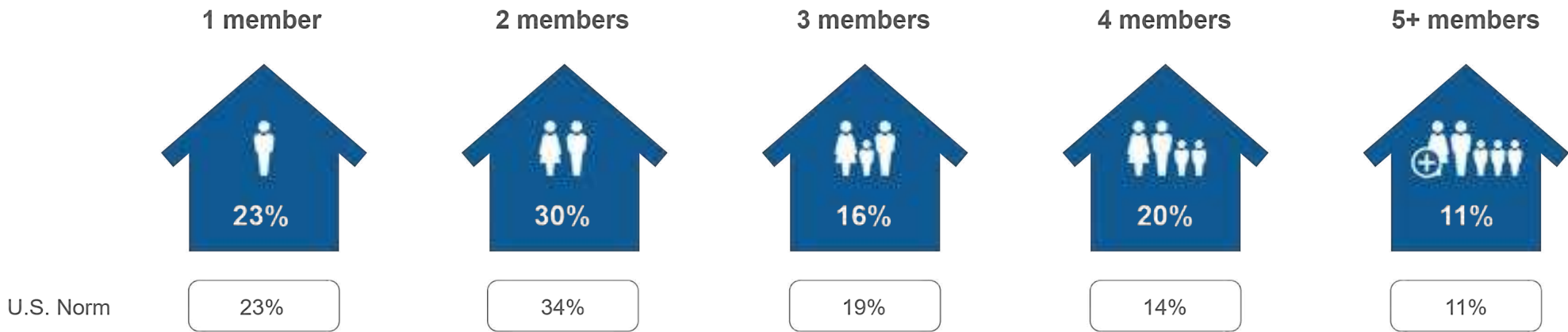
Hispanic Background

Niagara Falls U.S. Norm

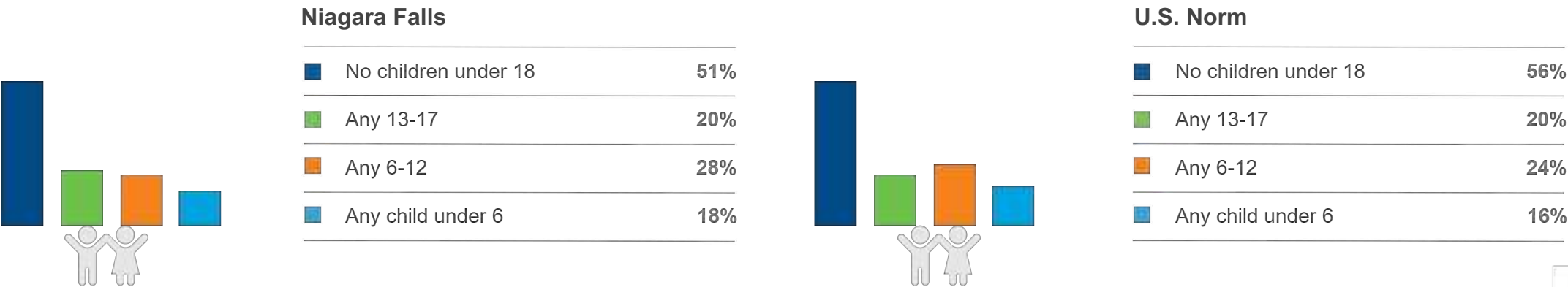


Question added in 2022, data is for 2022 only

Household Size



Children in Household









Methodology

An online survey instrument was prepared by the Young Strategies research team in collaboration with Niagara Falls USA. The survey was distributed using Niagara Falls USA consumer database and Facebook page as well as other partners in Niagara Falls that agreed to distribute the survey to their individual databases.

Young Strategies also distributed the survey to a panel of pre-certified respondents who met specific demographic and travel behavior guidelines. A total of 2,672 people were contacted and asked a series of pre-qualification questions in order to participate in the survey. Respondents from the panel had to be from New York, Ohio or Pennsylvania and reported that they have been fishing in Niagara Falls, NY.

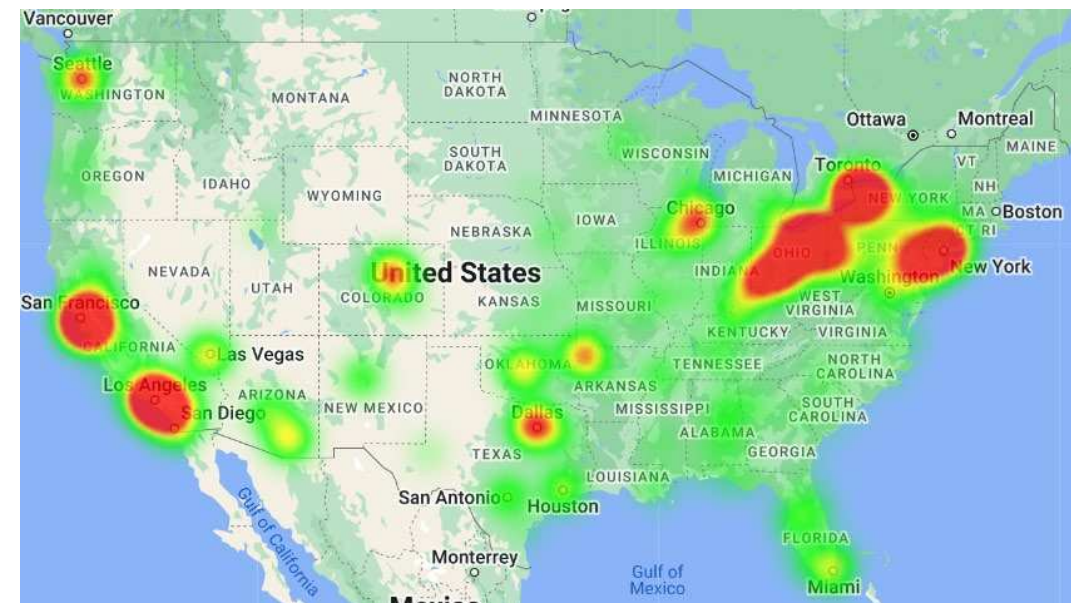
A total of 1,165 respondents qualified to complete the survey based on this criteria from both the Niagara Falls USA and partner databases as well as the panel of pre-certified respondents.

- New York – 455
- California – 168
- Pennsylvania – 156
- Ohio – 122
- Florida – 99
- Connecticut – 45
- Colorado – 40
- All other states – 503
- Canada -- 9

Key Findings

- Fishing has a significant year-round economic impact on Niagara County, NY
- Average spending per fishing party = \$2,187 with charter anglers spending most
- An average of four people in a fishing party who stay 3.6 nights
- The vast majority of survey respondents were male with the exception of those who participated in Reelin'for A Cure, a female only fishing tournament
- Anglers come primarily from the drive market but also all over the USA
- Western/southern anglers come for the combo of cold-water fishing and other activities
- High repeat visitation reveals high satisfaction with the experience
- First-time anglers reveal the impact of advertising/promotions to attract them
- Nearly all respondents expressed intent to return to Niagara County

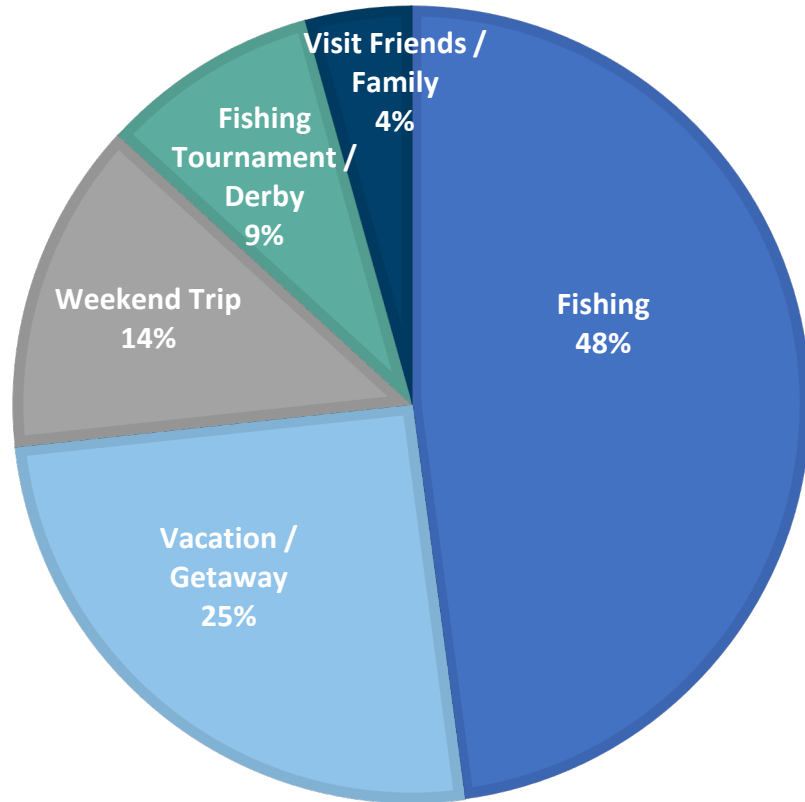
Heat Map of Survey Respondents Point of Origin





Trip Characteristics

Please tell us the MAIN purpose for your last trip to Niagara County, NY? n=1,120

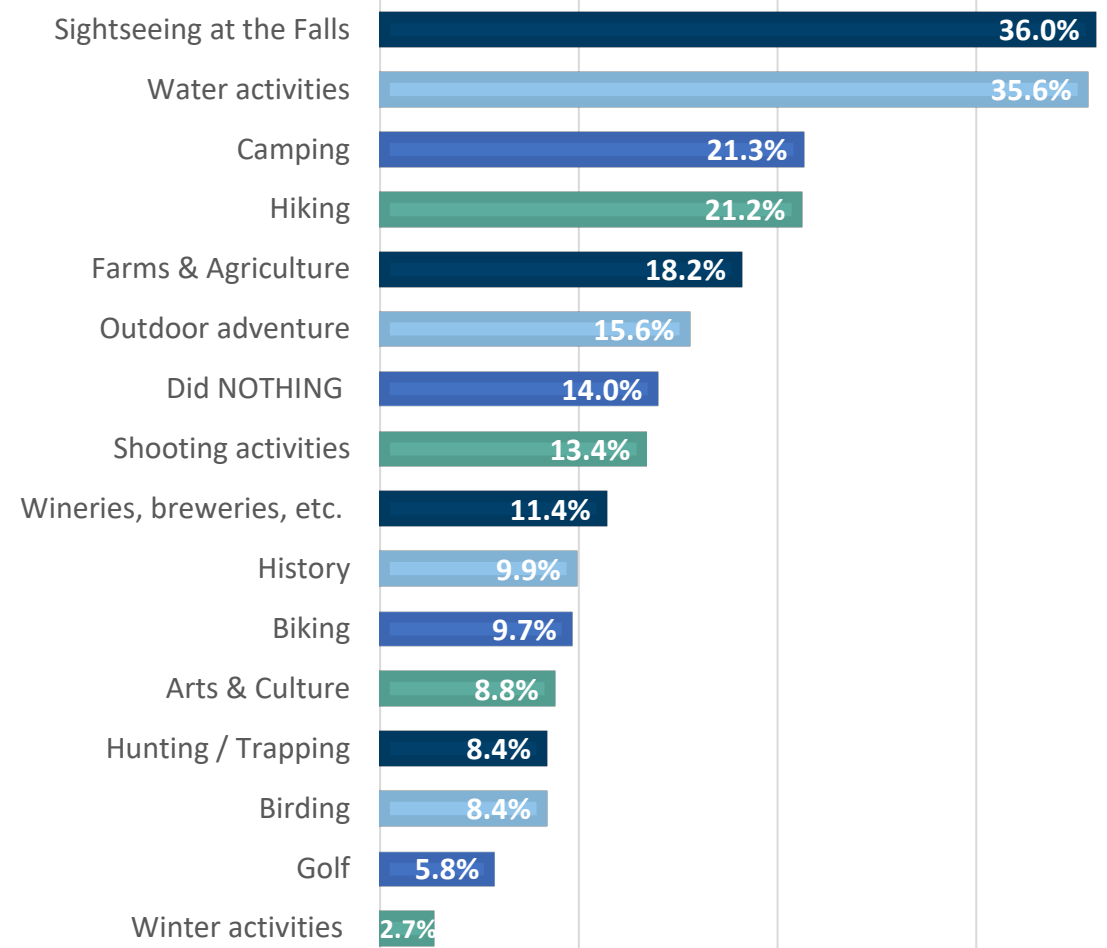


Observation:

57% of survey respondents indicated that fishing was their primary reason for visiting Niagara County. The remaining respondents indicated other primary intentions in visiting with fishing being one of their activities while in the area.

The iconic appeal of Niagara Falls broadens the fishing experience beyond just fishing.

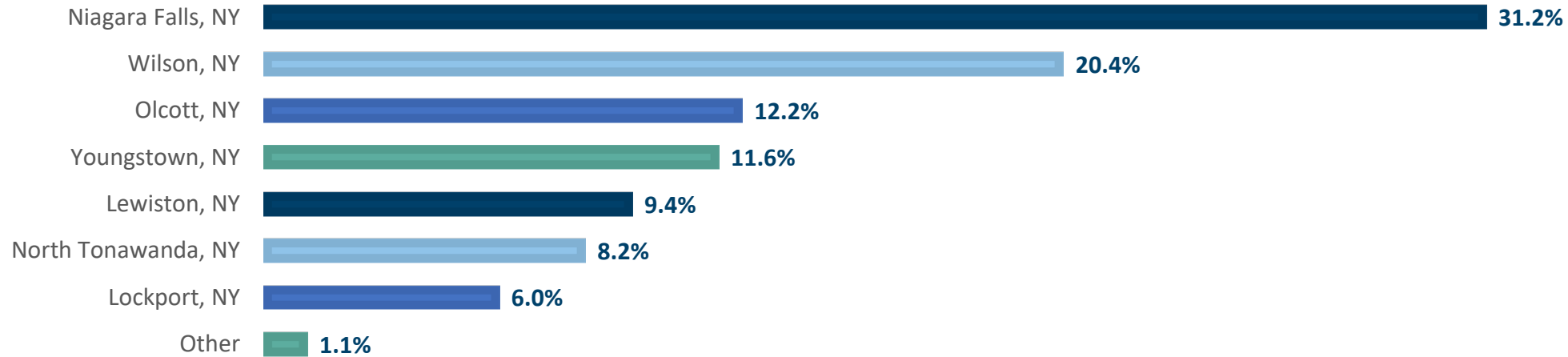
Other than fishing, what activities did you / someone in your travel party participate during your most recent fishing trip to Niagara County NY? n=1,056



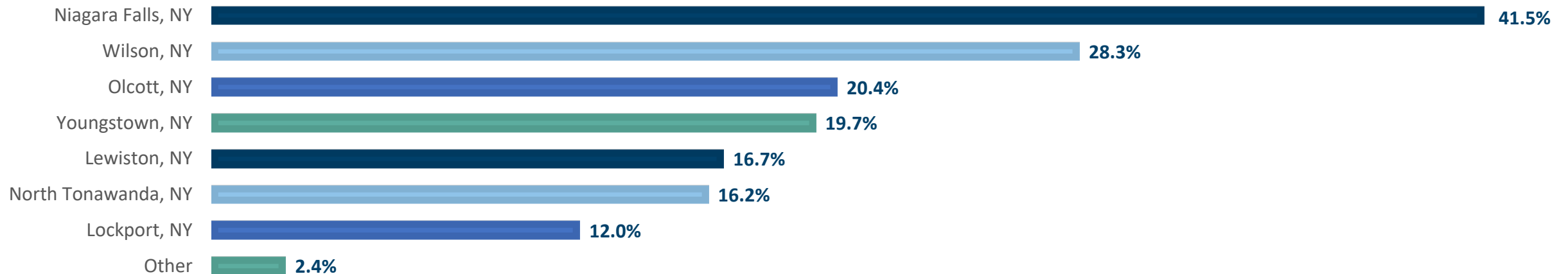


Trip Characteristics

Which town / community was the PRIMARY destination of your most recent trip to Niagara County, NY? n=1,140



Please tell us ALL towns / communities you / someone in your travel party visited during your most recent trip to Niagara County, NY? n=1,140

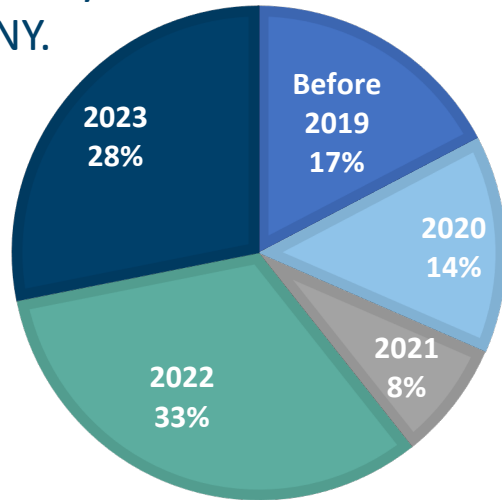




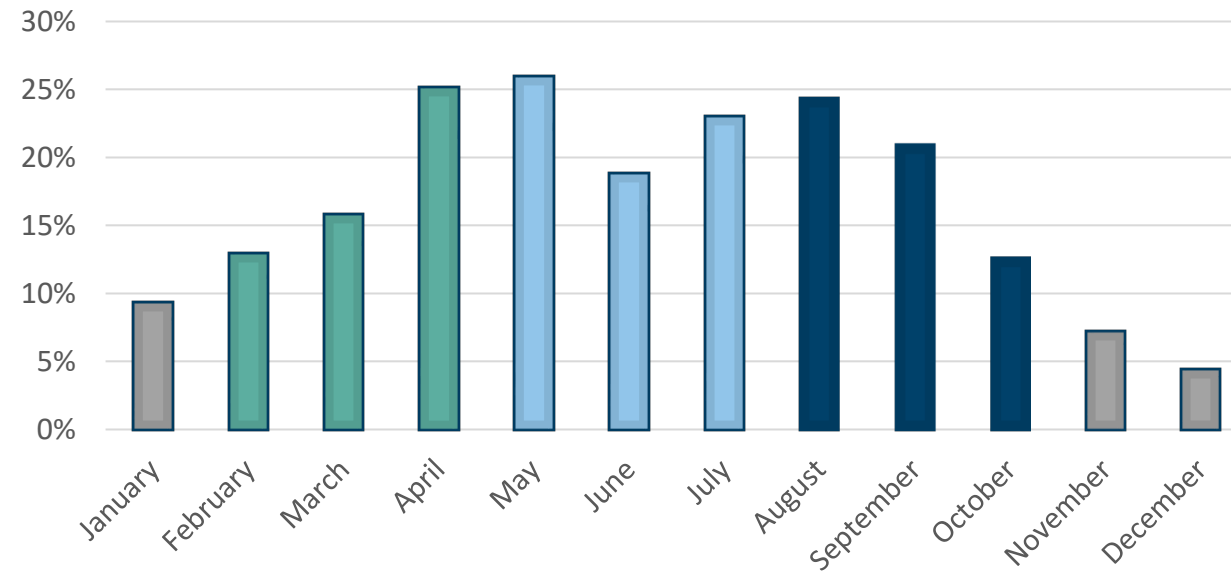
Trip Timing / Planning

Please tell us the year of your most recent fishing trip to Niagara Falls, NY.

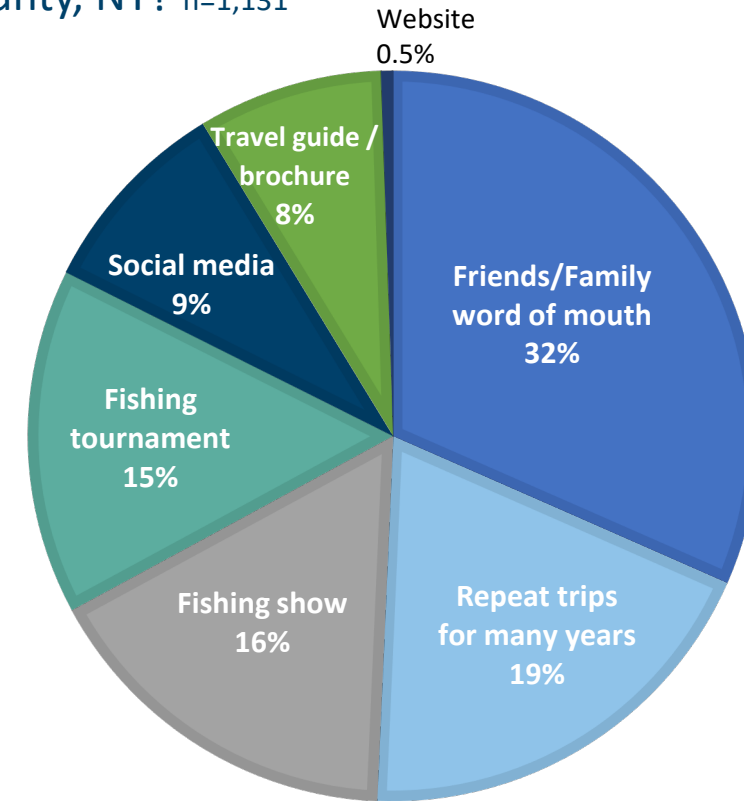
n=1,133



In which month did you fish Niagara County, NY? n=1,133



How did you first hear about fishing in Niagara County, NY? n=1,131



Almost 1/3 of anglers (31.7%) reported first hearing about fishing in Niagara County, NY from either a fishing tournament or fishing show!

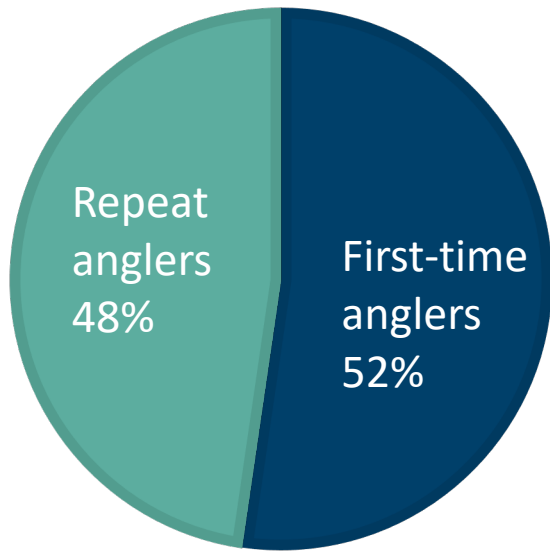
Nearly half were inspired by some form of marketing/promotion.



Repeat Anglers

Was this your first fishing trip to Niagara County, NY?

n=1,118



Observation:

High repeat visitation reveals loyalty and high satisfaction while first time visitation is the result of marketing/promotion as well as word-of-mouth.

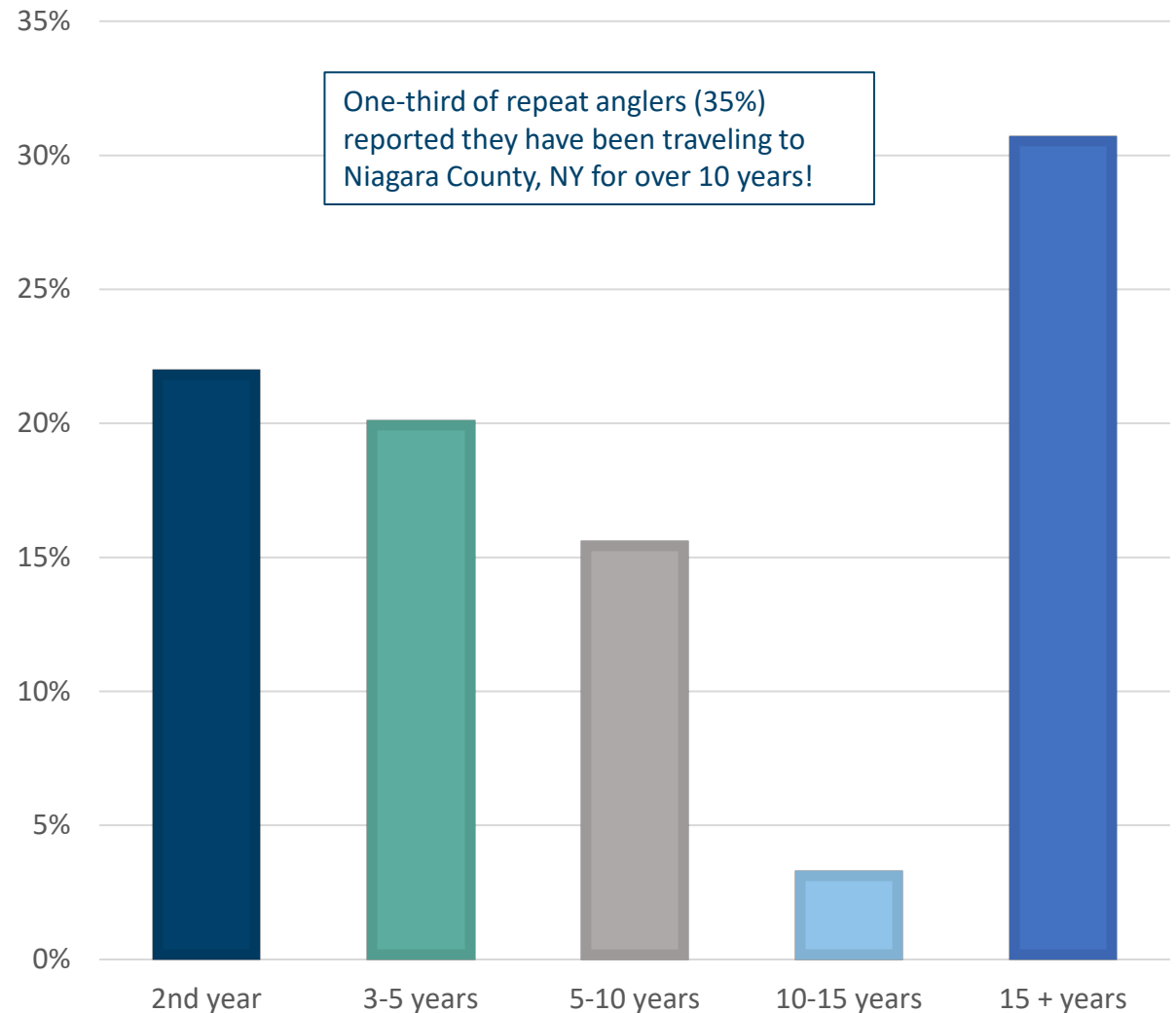
For fishing or fishing related activities, repeat anglers traveling to Niagara County, NY reported: (n=553)

- 43% travel **SEASONALLY** (3-4 times a year)
- 25% travel **ANNUALLY** (once a year)
- 22% travel **MONTHLY** (10-12 times a year)
- 10% reported **not traveling regularly** to Niagara County, NY

Repeat anglers:

74% **ALWAYS** travel to Niagara for fishing in the same season(s). (n= 541)

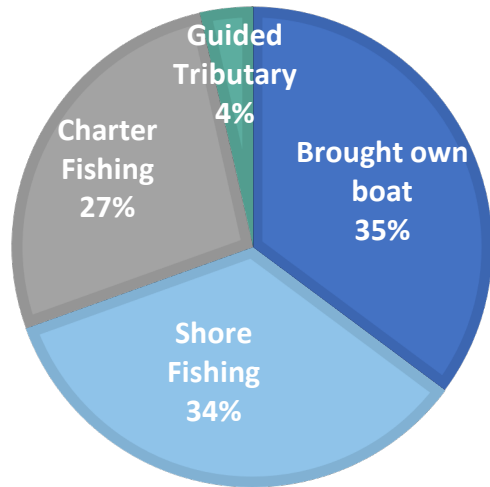
How many years have you been traveling to Niagara County, NY for fishing related activities? n=551





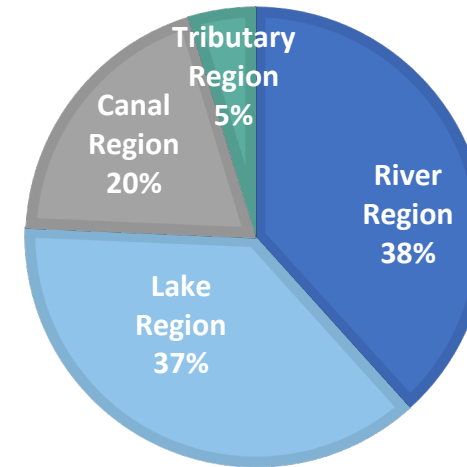
Fishing Characteristics

What type of fishing did you participate in during your most recent trip to Niagara County, NY? n=1,121

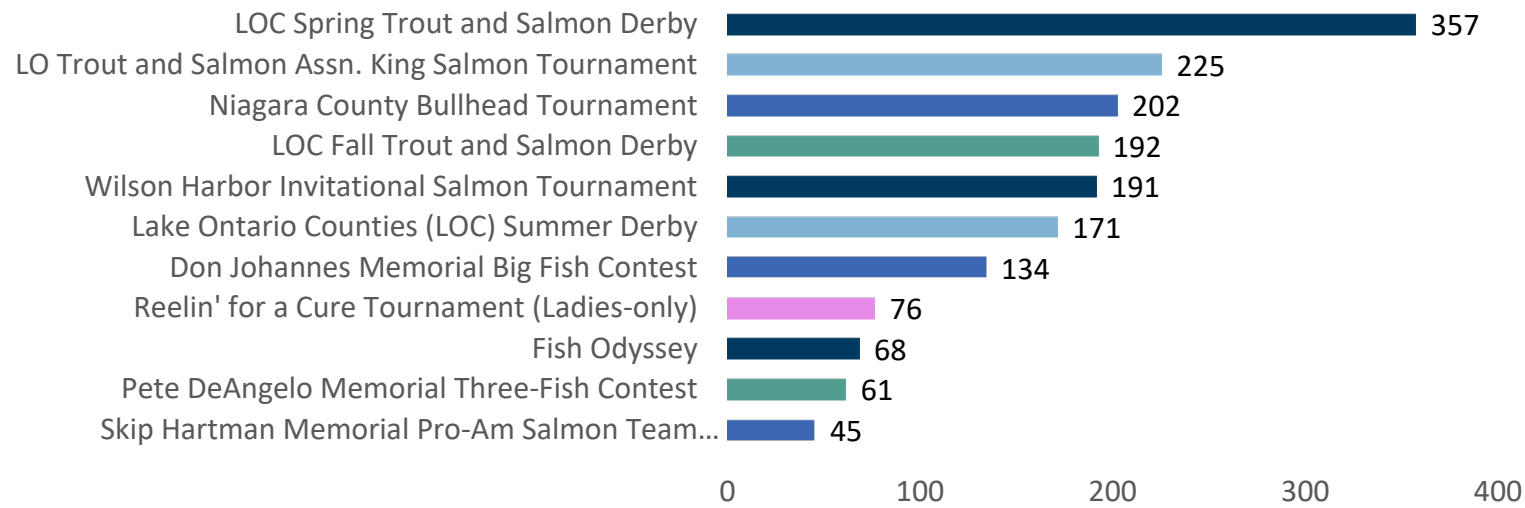


82% of anglers reported their group went out on their own, 18% reported chartering a fishing trip with an experienced captain.

Which waterway in Niagara County, NY did you fish during your most recent fishing trip? n=1,120



Did you or someone in your group participate in any of the following fishing tournaments or derbies? n=917

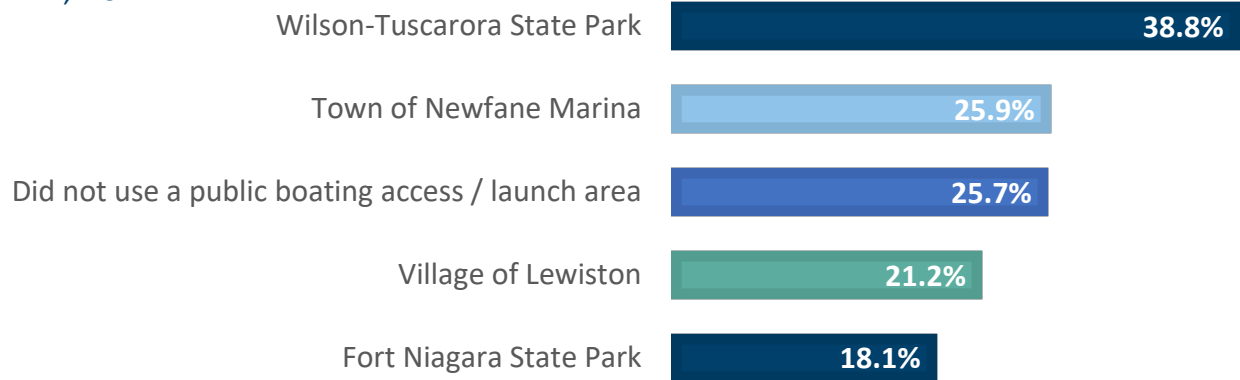




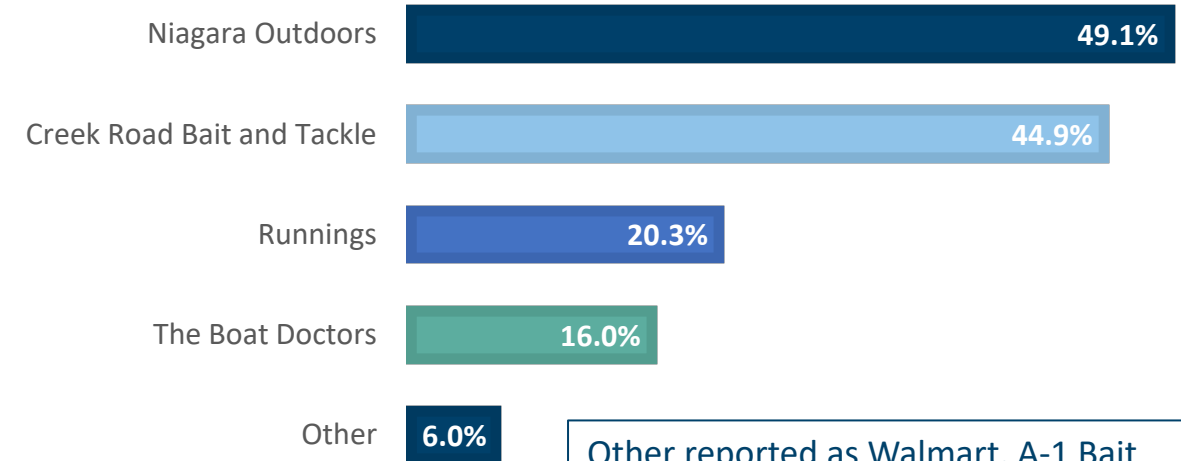
Fishing Characteristics

Did you use a public boating access / launching area on your most recent fishing trip to Niagara County NY?

n=1,119



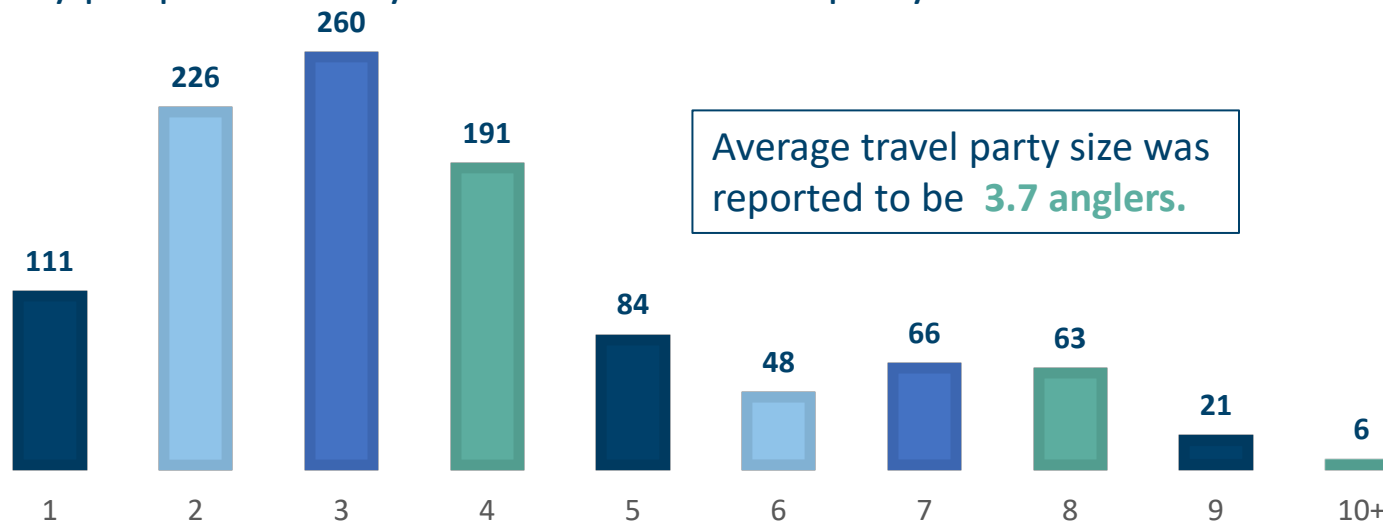
Did you visit any of the following on your most recent fishing trip to Niagara County NY? n=954



Other reported as Walmart, A-1 Bait Supply, Les Allen, Cabela's and Dick's.

How many people were in your immediate travel party?

n=1,076



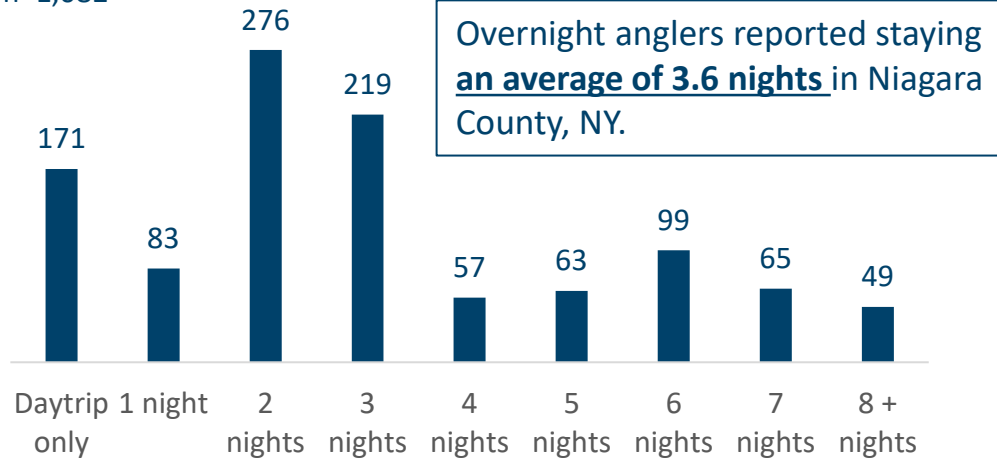
Average travel party size was reported to be **3.7 anglers.**



Trip Characteristics

How many nights did you stay in Niagara County, NY during your most recent fishing/fishing-related trip?

n=1,082



Overnight anglers: How Where did you stay during your most recent fishing / fishing related trip to Niagara County, NY? n=898

- **37%** hotel / motel
- **34%** friends or family condo / house / townhouse
- **15%** campground / RV park
- **13%** vacation rental
- **1%** bed & breakfast

The majority of overnight anglers stayed in **paid accommodation**.

Average spending immediate travel party on most recent trip to Niagara County, NY:

Average Spend	Overall n=920	Charter Fishing n=154	Independent Fishing n=766
Lodging / rental	\$733.35	\$687.52	\$790.34
Meals / dining out / groceries	\$450.93	\$415.84	\$465.52
Shopping	\$463.48	\$523.71	\$421.34
Transportation	\$377.18	\$485.25	\$234.75
Fishing- bait / tackle / gear / etc.	\$455.48	\$724.51	\$315.24
Average spend per travel party	\$2,186.65	\$2,314.67	\$1,897.25

Average spend per fishing travel party = \$2,187

- Charter fishing anglers tend to spend more during slightly shorter stays.
- Anglers coming from the western & southern states tend to fly and utilize charter fishing and guide services thus higher transportation & fishing expenses & lower lodging costs.



Future Travel Plans

What other places do you travel for fishing / fishing related activities? n=729

Lake Erie	72	Fairport	6	New Mexico	4	Youngstown	3	North Dakota	2	Barcelona, NY	1	Cayuga County	1	Easton, PA	1	Holmes Lake	1
Hawaii	50	Houston	6	Ocean City, MD	4	Alaska	2	N. Tonawanda	2	Bath	1	Cayuga Lake	1	Eire County	1	Homer Alaska	1
Florida	47	Michigan	6	Ontario	4	Allegheny	2	Ohio	2	Beach	1	Central PA	1	Elephant Island	1	Hoover Dam	1
Alaska	34	Michigan	6	Sodus	4	Arizona	2	Oregon	2	Bear Mountain	1	Charleston WV	1	Ellicott Creek	1	Idaho	1
Miss. River	26	North Carolina	6	Mississippi	4	Brown County	2	Port Clinton, OH	2	Belton Lake	1	Charleston, SC	1	Evans, NY	1	Indiana	1
Niagara Falls	17	Olcott	6	Wheatley Park	4	Buffalo	2	Porter	2	Berlin Lake	1	Chaumont Bay	1	Everglades Fl	1	Indiana	1
Kenai Peninsula	16	Oswego	6	Buffalo River	3	Cabo San Lucas	2	Pymatuning PA	2	Big Long Lake	1	Chautauqua	6	Fiji	1	Inland Lakes	1
Canada	14	Table Rock Lake	6	California	3	California Pier	2	Raystown Lake	2	Biscayne NP	1	Chicago	1	Forrest Park	1	Irondequoit Bay	1
Ohio	14	Anderson Lake	5	Canada	3	Catskill Mtns.	2	Riverside	2	Black Creek	1	Cleveland	1	Fort Niagara	1	Islamorada	1
1000 Islands	13	Bronx	5	Delaware River	3	Chesapeake	2	Rochester	2	Black Lake	1	Coco Beach	2	Fort Niagara	1	Johnson Creek	1
Pennsylvania	13	Colorado	5	Georgia	3	Chicago	2	Salmon River	2	Blackstone	1	Colorado	1	France	1	Kansas	1
Finger Lakes	12	Costa Rica	5	Harlem Meer	3	Clayton	2	Silver Creek, NY	2	Boat Harbor NY	1	Colorado River	1	Franklin Park	1	Keg Creek	1
Erie County	11	Florida Keys	5	Kona, HI	3	Delaware Cty.	2	South Carolina	2	Boating	1	Columbia	1	Ft Lauderdale	1	Kent, NY	1
Oak Orchard	11	Louisiana	5	Lake Michigan	3	Gulf Of Mexico	2	Tennessee	2	Bora Bora	1	Columbus	1	Ft Myers Beach	1	Kenya	1
Erie, PA	10	New Jersey	5	Lakes	3	Hawaii	2	Wisconsin	2	Boston Harbor	1	Conesus	1	Galveston Island	1	Kenzie	1
Kenai College	10	Oneida Lake	5	Long Island	3	Henderson Hbr	2	Willson	2	Boston	1	Coney Island	1	Galveston, Texas	1	Kinzua Dam	1
New York	10	Oregon	5	Maryland	3	Hokkaido	2	Wyoming	2	Bourne	1	Conneaut, OH	1	Gatlinburg	1	Kissena Lake	2
Detroit River	9	Seneca Lake	5	Mexico NY	3	Iowa	2	7 Lakes	1	Brown County	1	Connecticut	1	Good Year Lake	1	Lake Anna	1
Orleans County	9	Virginia	5	Newfoundland	3	Kentucky	2	Acrylic Farm	1	Buckeye Lake	1	Connecticut	1	Grand Island	1	Lake Arthur, PA	1
Oswego	9	Walmart	5	Niagara River	3	Key West	2	Altmar NY	1	Buffalo	1	Connecticut Rvr	1	Great Barrier	1	Lake Austin	1
Boating	8	Yellowstone NP	5	Niagara River	3	Kobuk River	2	Arcade	1	Buffalo Harbor	1	CT Coast	1	Green Harbor	1	Lake Erie	1
Lake Murray	8	Alabama	4	Ny	3	Lake Champlain	2	Arizona	1	Buffalo, NY	1	Cumberland	1	Grimsby	1	Lake Eufaula	1
Maine	8	Arkansas	4	Ohio River	3	Lake George	2	Aruba	1	Burt Dam	1	Dale Hollow TN	1	Gulf Coast AL	1	Lake George	1
Lake Ontario	7	California	4	Ontario, Canada	3	Lockport	2	Ashtabula River	1	Calendar Bay	1	Daytona Florida	1	Gulf Of Mexico	1	Lake George, NY	1
Lewiston	7	Central Park	4	Panama	3	Los Angeles	2	Ashville, Nc	1	Canasa	1	Deep Creek	1	Gulf Shores AL	1	Lake Huron	1
Pulaski, NY	7	Dunkirk, NY	4	Pennsylvania	3	Louisiana	2	Athens, Ohio	1	Captree NY	1	Deercreek	1	Hargus Lake	1	Lake Lewis	1
Texas	7	Florida	4	Point Breeze	3	Miami	2	Atlantic City	1	Caribbean	1	Delaware	1	Henries Lake	1	Lake Michigan	1
Wilson	7	Kentucky	4	Roscoe	3	Minnesota	2	Atlantic	1	California	1	Delta Region	1	Highland Park	1	Lake Milton	1
Adirondacks	6	Key West	4	San Diego	3	Montana	2	Bahamas	1	Catskills	1	Delu Lake	1	Hiking Hills	1	Lake Nipigon	1
Cape Cod	6	Long Island	4	Sandusky, OH	3	Myrtle Beach	2	Baltimore	1	Cattaraugus Cty.	1	Denver	1	Hilton Head, SC	1	Lake Oneida	1
Clear Lake	6	Martha's Vyrd	4	Seattle	3	Nevada	2	Bank Mail	1	Cattaraugus Crk.	1	Destin	1	Hogansburg NY	1	Lake Ontario	1
Fair Haven	6	Nebraska	4	Virginia Beach	3	Niagara	2	Barcelona Hbr.	1	Caves	1	Devils Hole SP	1	Hokkaido Japan	1	Lake Placid	1

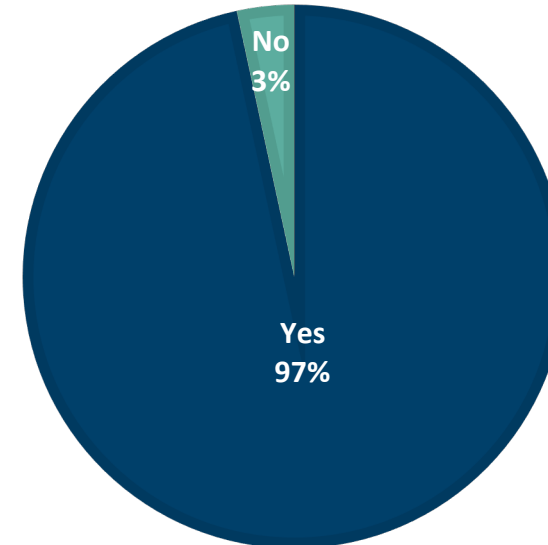


Future Travel Plans

What other places do you travel for fishing / fishing related activities? *(continued)* n=729

Lake Redman	1	New Jersey	1	Potter County	1	Syracuse	1
Lake Superior	1	New Jersey Lake	1	Presque Isle	1	Tampa Bay	1
Lakes In PA	1	New Orleans	1	Prince Edward	1	Tampa Florida	1
Lakeside Beach	1	New York	1	Promised Land	1	Tennessee	1
Lakeside SP	1	Niagara County	1	Quebec	1	The Outerbanks	1
Lewiston	1	Niagara Falls	1	Riverside Creek	1	Tributaries	1
Liverpool	1	Niagara Pro Am	1	Road Island	1	Turkey	1
LOC Fall Derby	1	Norris Lake	1	San Francisco	1	Unique	1
Long Beach	1	North Carolina	1	Santiago	1	Up The Hudson	1
Lorain, OH	1	N. Tonawanda	1	Sarasota Florida	1	Valley Forge	1
Madison River	1	Northern NY	1	Schermerhorns	1	Vermont	1
Maine/Crabbing	1	N. Ontario	1	School Tiger	1	Walnut Creek	1
Mami Beach	1	NW Ontario	1	Scioto River	1	Washington	1
Marathon Key	1	NW PA	1	Seaside	1	WA State	1
Marble Head	1	NYC	1	Season Dock	1	West Virginia	1
Mastic	1	Oberlin, OH	1	Secret Caverns	1	Westbrook	1
Mau Ming	1	Oil Creek	1	Seven Lakes	1	W. Lake Erie	1
Maxwell Bay	1	Olcott	1	Shanago Lake	1	Wild Fishing	1
Medora In	1	Old Orchard	1	Sheepeshead	1	Woods	1
Mill Basin	1	Olympic NP	1	Snake River	1	Worldwide	1
Mississippi	1	Oneida, NY	1	South Carolina	1	Yeats NP	1
Monroe Co	1	Ontario	1	South Korea	1	York, PA	1
Monroe County	1	Orange County	1	South Korea	1	Youngstown	1
Montana	1	Orlando, FL	1	South Towns	1		
Montauk NY	1	Panama City	1	S. Rhode Island	1		
Mosquito Lake	1	Peebles Island	1	Southold	1		
Nags Head	1	PEI Canada	1	Spring Water	1		
Nantucket	1	Pelham	1	Springfield	1		
Nassau	1	Philadelphia	1	St Lawrence	1		
Nesapeake Park	1	Pine Lake	1	St. Catherine's	1		
New Hampton	1	Poconos PA	1	Staten Island	1		
		Port Colborne	1	Susquehanna	1		

Do you plan to travel to Niagara County, NY for fishing / fishing related activities in the future? n=1,046



The responses to these two questions reveal:

1. The angler coming to Niagara County goes to other fishing destinations and there are MANY, lots of competition out there.
2. The vast majority, nearly ALL, indicated desire to return to Niagara County. High satisfaction with the total experience drives this high intent to return.



Charter Fishing Captains

Young Strategies also surveyed Charter Fishing Captains in Niagara County, NY. There were 26 Charter Fishing Captains that responded to our survey.

- ❖ One third of the fishing charter captains that responded reported being a resident of Niagara County, NY.
- ❖ Over half (56%) reported they offer charter fishing year-round.
- ❖ Almost two thirds (63%) of charter captains reported conducting sportfishing charters in Niagara County, NY for more than 10 years and 90% reported they have been conducting Sportfishing Charters for 5+ years.
- ❖ 77% of charter fishing captains reported conducting Sportfishing Charters full-time.
- ❖ Most reported their charter fishing clients stayed in Niagara County, NY for two nights (48%) or one night (24%).
 - ❖ Of these, 74% reported their clients typically stay in a hotel/motel.
- ❖ Charter fishing captains reported a typical travel party size of three (48%) or four (33%) anglers.
- ❖ Primary destination of clients reported by the charter fishing captains was Lewiston (44%) followed by Wilson (30%).
- ❖ Majority (81%) of charter captains reported the most fished waterway was the Lake Region (trout, salmon) followed by the River Region (salmon, trout, bass, muskie, walleye, etc.).
- ❖ Other than fishing, charter captains reported their clients also participated in sightseeing at the Falls (92%), visiting wineries/breweries (69%), camping (42%) and golf (42%).

Are there any additional sales or marketing efforts you would like to see Destination Niagara USA implement to promote charter fishing? (Ex. where to advertise, shows to attend, etc.) n=7

- Facebook/social media ads, Billboards in Niagara Falls
- I think word needs to be spread to the saltwater groups and west coast salmon groups about how good Lake Ontario is
- No
- No. We already get enough visitors.
- Nothing particular
- Promote more in state of PA. Promote variety of species in Lake Ontario to catch.





2022 Economic Impacts of Fishing in Niagara County, NY

YSI estimates fishing generated \$58.55M in 2022 visitor spending in Niagara County, NY (6% of total 2022 visitor spending).

2022 Charter Fishing Economic Impact Calculation

44 charters on website, 29 year-round, 15 seasonal,
31 Charter Captains responded to YSI survey

15 Seasonal Charter Services – 7 months Apr – Oct 28 weeks

- Fri – Sun = 84 days out of 210 days available or 420 half days
 - Estimate 140 days booked with 3.9 ppl = 546 ppl per boat
 - Estimate 175 bookings X \$2,315 = \$405,125 total visitor spending per boat
 - 2,625 total charters booked among 15 seasonal captains
- 15 seasonal charters generate \$6,076,875 in total visitor spending

29 Year-Round Charter Services – 12 months 365 days

- Estimate 208 days booked X 3.9 = 811 ppl per boat
 - 240 bookings X \$2315 = \$555,600
 - 6,960 total charters booked among 29 year-round captains
- 29 year-round charters generate \$16,112,400 in total visitor spending

2022 Charter fishing 9,900 fishing parties generated \$22,189,275 in total visitor spending (2.3% of \$969M overall visitor spending)

Niagara County Fishing Survey Data Summary

Survey Data n= 1,165	Charter Fishing	Independent Fishing
Average spend per travel party	\$2,314.67	\$1,897.25
Length of stay	3.0 nights	2.9 nights
Fishing party size	3.9 people	4.1 people

2022 Independent Fishing Economic Impact Calculation

- 766 independent anglers responded to the fishing survey
- Fishing Survey - 82% of anglers reported their group went out on their own, 18% reported chartering a fishing trip with an experienced captain.
- YSI conservatively estimates there are twice as many independent fishing parties (19,170) as compared to charter fishing parties (9,585).
- 19,170 independent fishing parties X \$1,897 average spending per party = \$37,560,600

2022 Independent fishing generated \$36,365,490 in total visitor spending (3.7% of \$969M overall visitor spending)

Economic Impact Miscellaneous Background Data

2022 Total Visitor Spending – Niagara County, NY (Tourism Economics)

- 2022 Traveler Spend, Niagara = \$969m
- Tourism generated labor income: direct \$301.4m, total \$471.4m
- Niagara County was the most dependent on tourism wage income among all counties in the Niagara region as 13.7% of all labor income in the county is generated by visitors
- 2022 State taxes: \$44,185,000
- 2022 Local taxes: \$54,816,000

Niagara County Lodging

2017 Niagara County lodging guest segmentation = 58% leisure (YSI survey of Niagara County lodging)
2022 STR data – demand 612,141 (+7%) = 355,041 leisure demand estimate
Total 2022 STR Reported Lodging Revenue = \$86.5M

Sporting/Fishing License Sales

- 2021/22 Sporting License Sales By County (NYS Dept. of Environmental Conservation website)
- Niagara – 52,779 licenses, \$812,375
- Erie – 144,775 licenses, \$2,254,340
- 2021/22 Statewide non-resident 7-day fishing licenses 65,031, \$1,820,868

Fishing Survey

- Fishing parties report 3-night typical stay, longer than typical leisure travelers to Niagara County, the majority of overnight fishing parties stay in paid overnight accommodations

ECONOMIC IMPACT OF VISITORS IN NEW YORK 2022

Greater Niagara Focus

September 2023



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INTRODUCTION PROJECT BACKGROUND

The travel sector is an integral part of the New York economy. Visitors generate significant economic benefits to households, businesses, and government alike and represent a critical driver of the state's future. In 2022, tourism-supported jobs accounted for 7.2% of all jobs in the state.

By monitoring the visitor economy, policymakers can inform decisions regarding the funding and prioritization of the sector's development. They can also carefully monitor its successes and future needs. This is particularly true for New York as it builds upon its visitor economy.

By establishing a timeline of economic impacts, the industry can track its progress.

To quantify the significance of the visitor economy in New York, Tourism Economics developed a comprehensive model detailing the far-reaching impacts arising from visitor spending. The results of this study show the scope of the visitor economy in terms of direct visitor spending, along with total economic impacts, jobs, and fiscal (tax) impacts in the broader economy.

METHODOLOGY AND DATA SOURCES

An IMPLAN input-output model was constructed for the state of New York. The model traces the flow of visitor-related expenditures through the state's economy and their effects on employment, wages, and taxes. IMPLAN also quantifies the indirect (supplier) and induced (income) impacts of tourism. Tourism Economics then cross-checked these findings with employment and wage data for each sector to ensure the findings are within reasonable ranges.

Visitors included those who stayed overnight or traveled more than 50 miles to the destination.

The primary source of the employment and wage data is the Regional Economic Information System (REIS), maintained by the Bureau of Economic Analysis.

This is more comprehensive than Bureau of Labor Statistics (ES202/QCEW) data because sole-proprietors do not require unemployment insurance and are not counted in the ES202 data.

The analysis draws on the following data sources:

- Longwoods International: survey data, including spending and visitor profile characteristics for visitors to New York
- Bureau of Economic Analysis and Bureau of Labor Statistics: employment and wage data, by industry
- STR lodging performance data, including room demand, room rates, occupancy, and room revenue, for hotels
- Tax collections: Lodging and sales tax receipts
- US Census: business sales by industry and seasonal second homes inventory
- Tourism Economics: international travel data for overseas, Canadian, and Mexican travel to New York based on aviation, survey, and credit card information

ECONOMIC IMPACTS

KEY FINDINGS

VISITOR SPENDING

In 2022, visitors to New York spent \$79 billion across the state economy. Visitor spending increased nearly \$27 billion, surpassing 2019 levels for the first time.

TOTAL ECONOMIC IMPACT

The direct visitor spending impact of \$79 billion generated a total economic impact of \$123 billion in New York in 2022 including indirect and induced impacts. This total economic impact generated \$10 billion in state and local tax revenues in 2022.



\$123 BILLION

Total Economic Impact of Tourism in New York in 2022



\$79B

Direct Visitor
Spending



\$123B

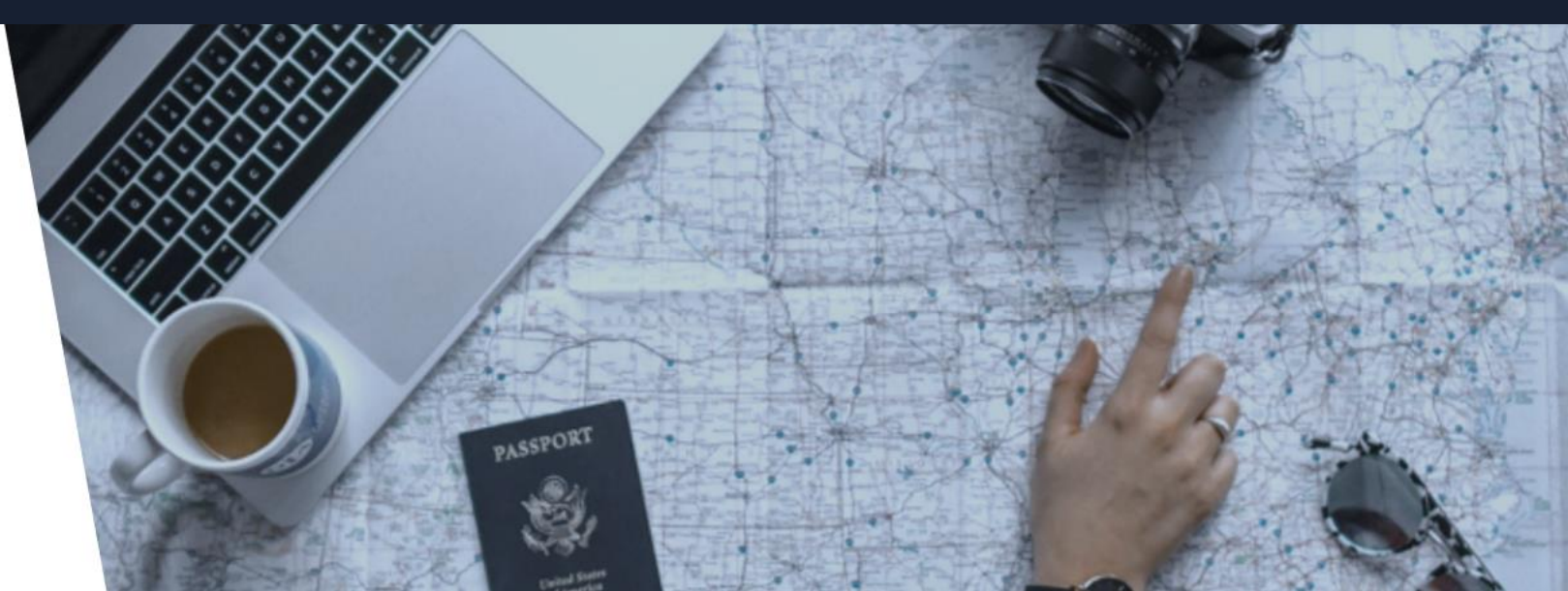
Total
Economic
Impact



\$10B

State & Local
Taxes
Generated

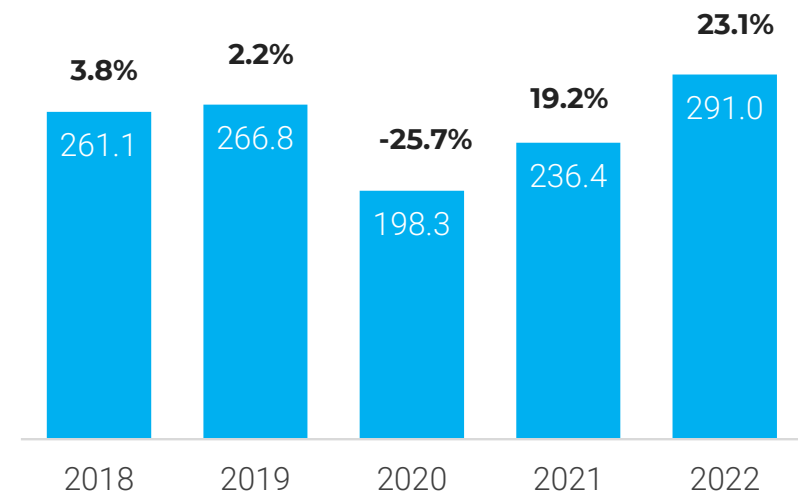




VISITS & VISITOR SPENDING

New York saw both visitor volumes and visitor spending fully recover in 2022. Reaching 291 million visitors, including both domestic and international, volumes increased 23% year-over-year and surpassed 2019 levels by 9%. An increase of nearly \$27 billion over the previous year, visitor spending in New York surpassed 2019 spending levels for the first time, registering 7% growth above 2019 with \$79 billion.

New York visitor volumes
Amounts in millions



Source: Longwoods International, Tourism Economics

VISITOR SPENDING

Visitors to New York spent **\$79 billion across a range of sectors in 2022.**

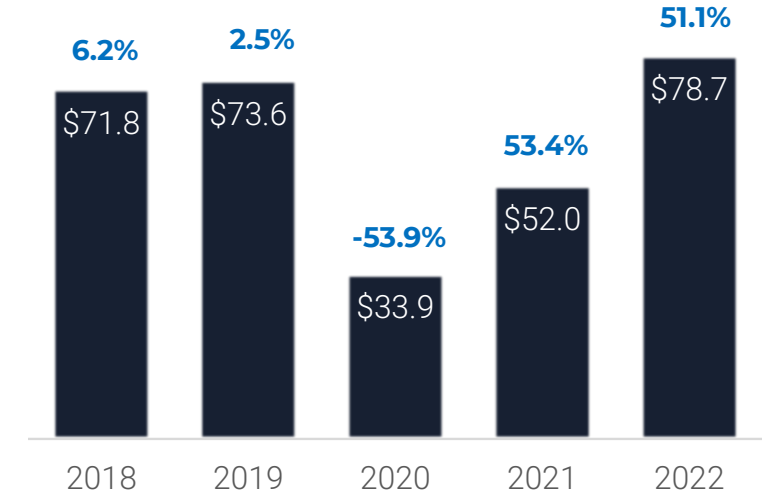
Visitor spending expanded 51% in 2022, recovering to 107% of 2019 levels.

Of the \$79 billion spent in New York in 2022 by visitors, lodging, including the value of second homes, accounted for \$26 billion, 33% of all visitor spending. Spending on food and beverages resulted in \$20 billion.

Retail, including spending at service stations, captured 18%, a total of \$14 billion.

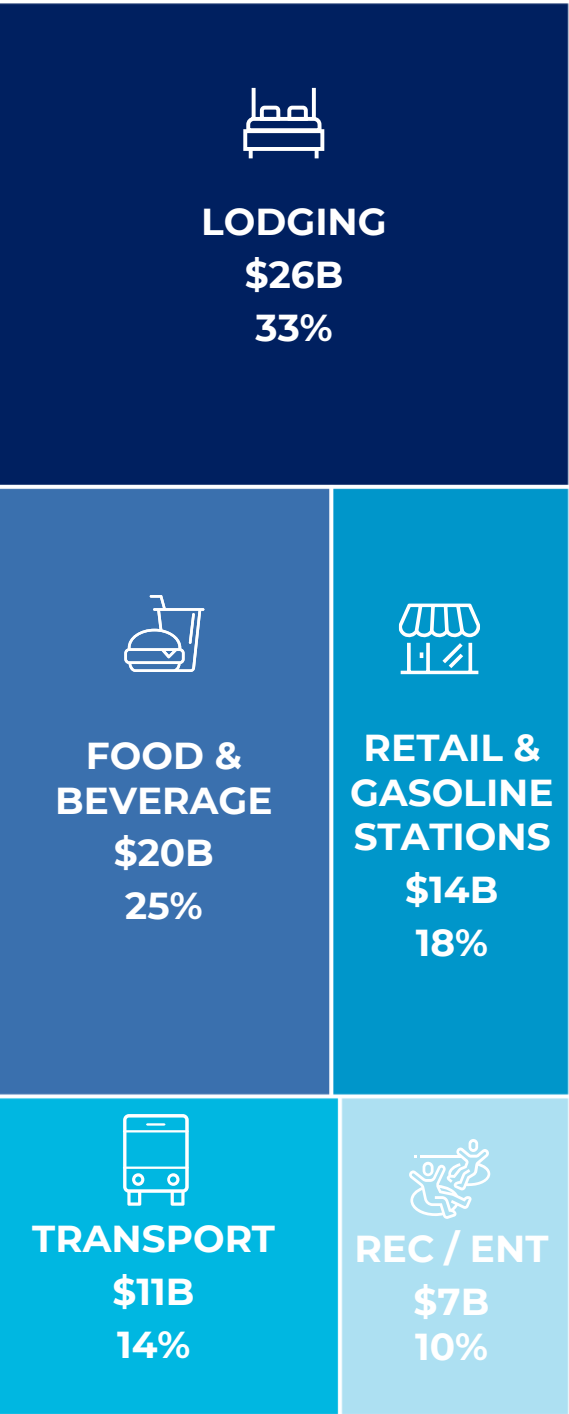
Transportation, including both air and transportation within the destination, comprised 14%, with recreation spending registering 10% of each visitor’s budget.

New York visitor spending
Amounts in \$ billions



Source: Longwoods International, Tourism Economics

\$79 BILLION 
Total Visitor Spending in 2022



Source: Tourism Economics

Note: Lodging spending is calculated as an industry. Spending also includes dollars spent on second homes. Transport includes both air and local transportation.

SPENDING TRENDS

Visitor spending increased 51% in 2022, a second consecutive year of double-digit growth. Spending grew across all sectors, driven by continued strong demand and increases in prices of key commodities.

Lodging spending, including second homes, increased 58% as overnight visitors faced strong ADR growth versus 2021. Indeed, average room rates across New York hotels increased 33% in comparison to the prior year, pushing lodging to 22% above 2019 levels.

Transportation increased 55% in 2022, recovering to 81% of 2019 levels.

While domestic visitor spending remains the dominant force to New York’s visitor economy, spending growth from Canadian and overseas visitors outpaced that of domestic. Canadian and overseas inbound arrivals and spending remained depressed but continued to gain ground, with spending reaching 74% and 54% of 2019 levels, respectively.

New York visitor spending

Amounts in \$ millions, 2022 percent change and percent compared to 2019

	2018	2019	2020	2021	2022	2022 Growth	% compared to 2019
Total visitor spending	\$71.82	\$73.62	\$33.94	\$52.05	\$78.65	51.1%	6.8%
Lodging*	\$21.21	\$21.39	\$9.69	\$16.45	\$26.02	58.2%	21.7%
Food & beverages	\$17.14	\$17.86	\$9.32	\$13.92	\$19.80	42.2%	10.9%
Retail & Service Stations	\$13.15	\$13.35	\$6.40	\$9.49	\$14.13	49.0%	5.9%
Transportation**	\$13.24	\$13.72	\$5.24	\$7.19	\$11.17	55.4%	-18.6%
Recreation	\$7.08	\$7.31	\$3.30	\$5.00	\$7.52	50.3%	2.9%

Source: Longwoods International, Tourism Economics

* Lodging includes second home spending

** Transportation includes both ground and air transportation

New York visitor spending, by market

Amounts in \$ billions, 2022 % change, and % compared to 2019

	2018	2019	2020	2021	2022	2022 Growth	% compared to 2019
Total visitor spending	\$71.82	\$73.62	\$33.94	\$52.05	\$78.65	51.1%	6.8%
Domestic	\$51.27	\$52.97	\$29.79	\$47.39	\$67.13	41.7%	26.7%
Canada	\$1.60	\$1.42	\$0.40	\$0.73	\$1.06	44.4%	-25.9%
Overseas	\$18.95	\$19.22	\$3.75	\$3.93	\$10.46	166.2%	-45.6%

Source: Longwoods International, Tourism Economics



ECONOMIC IMPACT METHODOLOGY

Our analysis of the New York visitor economy begins with direct visitor spending and analyzes the downstream effects of this spending on the broader economy. To determine total economic impact, we input direct spending into a model of the New York economy, constructed using an IMPLAN input-output (I-O) model. The model traces the full extent of industry impacts as dollars flow through the local economy.

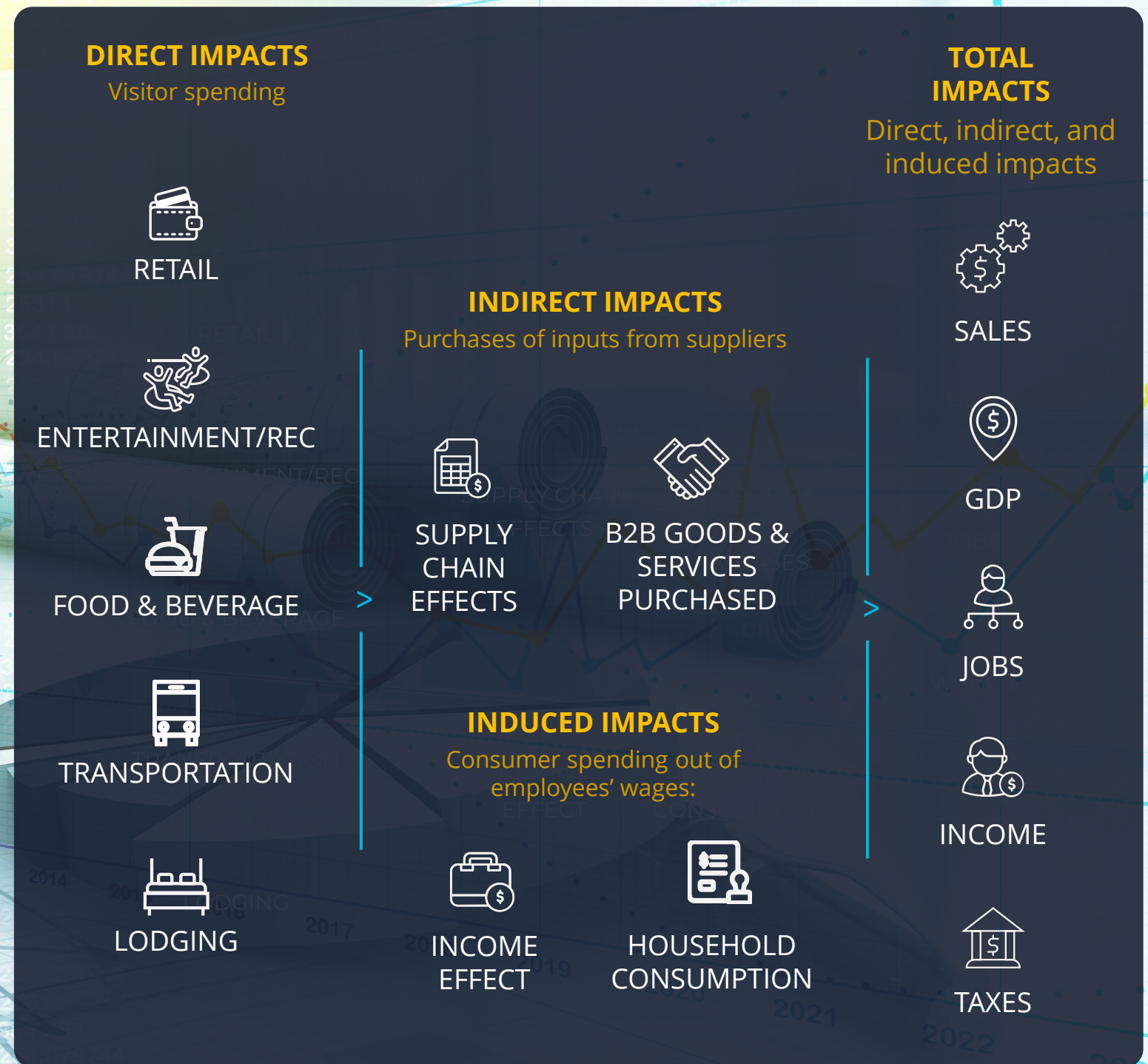
An I-O model represents a profile of an economy by measuring the relationships among industries and consumers and quantifies three levels of impact:

- 1. Direct impacts:** Visitor spending creates direct economic value within a discrete group of sectors (such as recreation and transportation). This supports a relative proportion of spending, jobs, wages, and taxes within each sector.
- 2. Indirect impacts:** Each directly affected sector also purchases goods and services as inputs (e.g. food wholesalers, utilities) into production. These impacts are called indirect impacts or supply-chain effects.
- 3. Induced impacts:** Lastly, the induced impact is generated when employees whose wages are generated either directly or indirectly by visitor spending spend those wages in the local economy. This is called the induced impact or income effect.

The Tourism Economics model calculates these three levels of impact - direct, indirect and induced - for a broad set of indicators, including:

- Spending
- Wages
- Employment
- Federal Taxes
- State Taxes
- Local Taxes

ECONOMIC IMPACT FRAMEWORK





ECONOMIC IMPACT FINDINGS

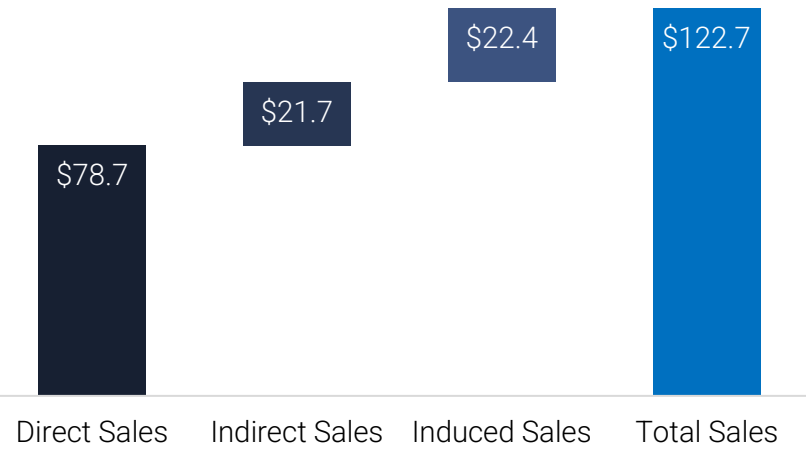
BUSINESS SALES IMPACTS

Visitors contributed a direct impact of \$79 billion in 2022. This direct impact generated \$44 billion in indirect and induced impacts, resulting in a total economic impact of \$123 billion in the New York economy, 44% more than a year earlier.

Outside of direct impacts, significant benefits accrue in sectors like finance, insurance, and real estate, and business services.

Summary Economic impacts (2022)

Amounts in \$ billions



Source: Tourism Economics

Business sales impacts by industry (2022)

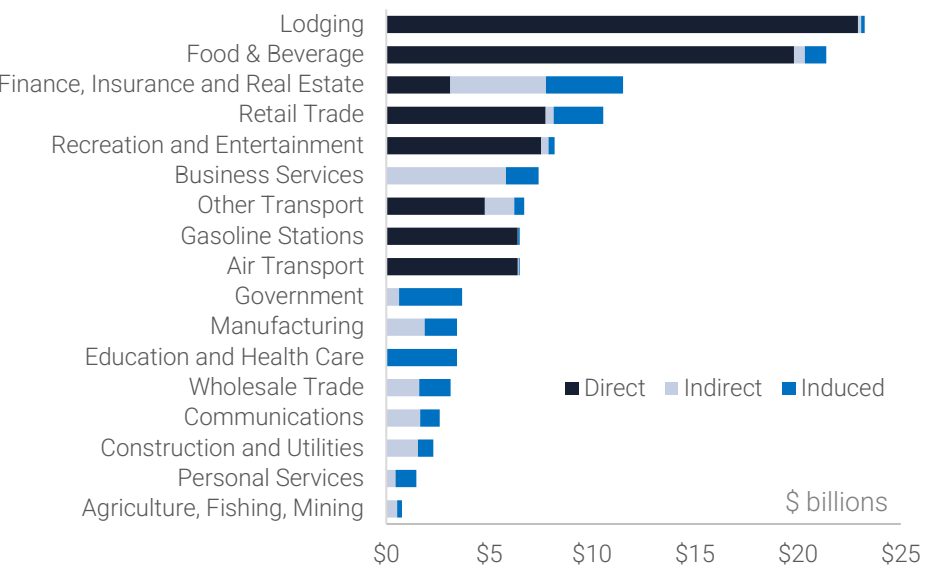
Amounts in \$ millions

	Direct Business Sales	Indirect Business Sales	Induced Business Sales	Total Business Sales
Total, all industries	\$78,654	\$21,669	\$22,374	\$122,696
Lodging	\$22,916	\$157	\$176	\$23,250
Food & Beverage	\$19,803	\$539	\$1,036	\$21,378
Finance, Insurance and Real Estate	\$3,108	\$4,648	\$3,751	\$11,507
Retail Trade	\$7,743	\$392	\$2,398	\$10,532
Recreation and Entertainment	\$7,520	\$366	\$285	\$8,172
Business Services		\$5,813	\$1,578	\$7,391
Other Transport	\$4,790	\$1,428	\$488	\$6,706
Gasoline Stations	\$6,390	\$15	\$84	\$6,488
Air Transport	\$6,384	\$46	\$58	\$6,488
Government		\$612	\$3,075	\$3,687
Manufacturing		\$1,867	\$1,572	\$3,439
Education and Health Care		\$28	\$3,410	\$3,438
Wholesale Trade		\$1,601	\$1,521	\$3,121
Communications		\$1,644	\$949	\$2,593
Construction and Utilities		\$1,539	\$744	\$2,284
Personal Services		\$441	\$1,018	\$1,459
Agriculture, Fishing, Mining		\$533	\$231	\$764

Source: Tourism Economics

Visitor economy business sales impacts by industry (2022)

Amounts in \$ billions



Source: Tourism Economics

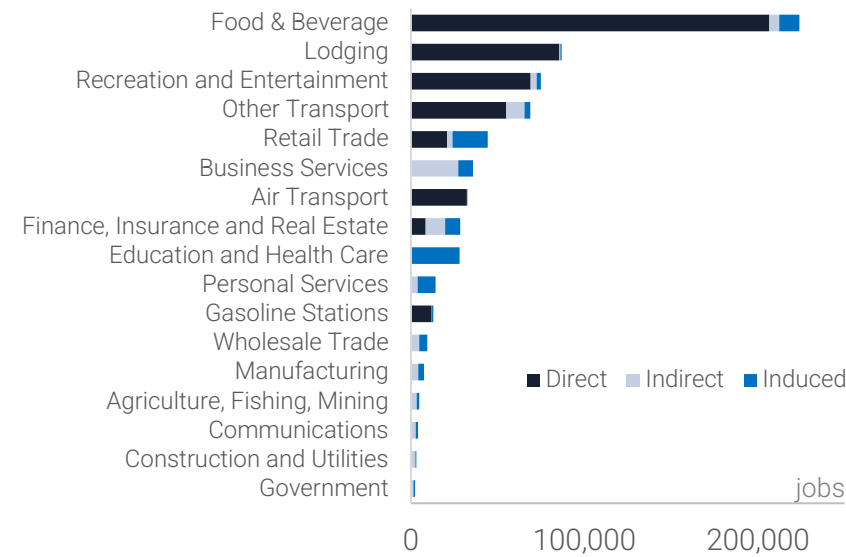
EMPLOYMENT IMPACTS

Visitor spending supports the largest number of jobs in the food & beverage industry (224,021).

Spending by businesses directly impacted by visitor spending supports 27,284 jobs in the business services industry – in areas like accounting, advertising and building services.

Tourism Job Impacts by Industry (2022)

Amounts in number of jobs



Source: Tourism Economics



Summary Employment Impacts by Industry (2022)

Amounts in number of jobs

	Direct Jobs	Indirect Jobs	Induced Jobs	Total Jobs
Food & Beverage	206,580	5,800	11,641	224,021
Lodging	85,546	572	693	86,811
Recreation and Entertainment	68,986	3,539	2,590	75,114
Other Transport	55,081	10,531	3,200	68,812
Retail Trade	20,867	3,154	20,207	44,228
Business Services		27,284	8,604	35,888
Air Transport	32,403	136	190	32,730
Finance, Insurance and Real Estate	8,549	11,161	8,755	28,465
Education and Health Care		224	27,899	28,123
Personal Services		3,916	10,349	14,265
Gasoline Stations	12,089	133	752	12,975
Wholesale Trade		4,795	4,660	9,456
Manufacturing		4,355	3,258	7,613
Agriculture, Fishing, Mining		3,276	1,478	4,755
Communications		2,816	1,330	4,146
Construction and Utilities		2,553	569	3,122
Government		1,527	919	2,446

Source: Tourism Economics



LABOR INCOME IMPACTS

Visitor activity generated \$25 billion in direct labor income and a total of \$40 billion when including indirect and induced impacts. Total tourism-generated income in New York in 2022 increased 23% above the prior year.

Summary labor income impacts (2022)

Amounts in \$ billions

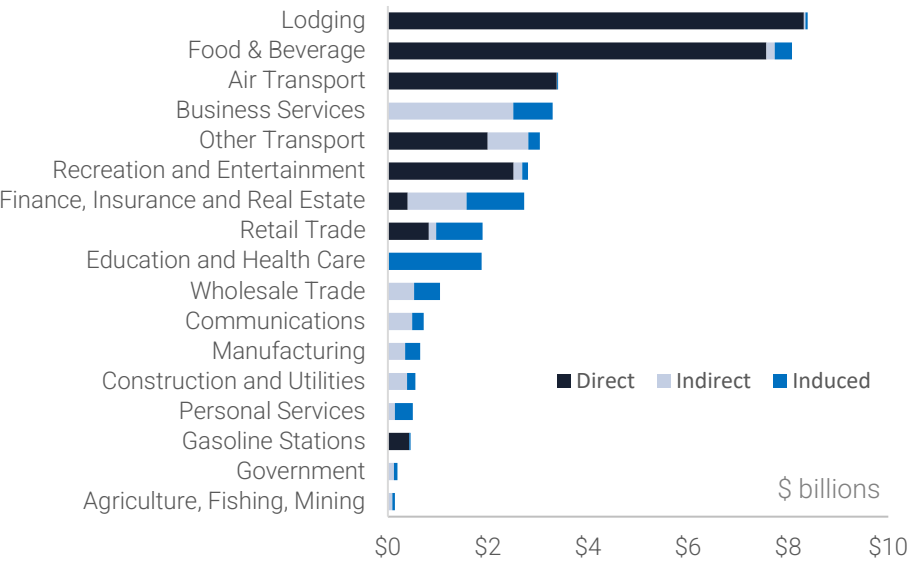


Source: Tourism Economics

There are 10 industries in which visitor activity supports more than \$1 billion in personal income. These range from the obvious—food & beverage and lodging, to the less obvious—business services and education & healthcare.

Tourism labor income Impacts by Industry (2022)

Amounts in \$ billions



Source: Tourism Economics



Summary labor income impacts (2022)

Amounts in \$ millions

	Direct Labor Income	Indirect Labor Income	Induced Labor Income	Total Labor Income
Total, all industries	\$25,418	\$7,162	\$7,175	\$39,756
Lodging	\$8,312	\$35	\$40	\$8,387
Food & Beverage	\$7,566	\$170	\$341	\$8,076
Air Transport	\$3,375	\$13	\$18	\$3,406
Business Services		\$2,511	\$781	\$3,293
Other Transport	\$1,997	\$817	\$228	\$3,042
Recreation and Entertainment	\$2,518	\$174	\$116	\$2,808
Finance, Insurance and Real Estate	\$398	\$1,176	\$1,152	\$2,727
Retail Trade	\$823	\$145	\$924	\$1,892
Education and Health Care		\$12	\$1,861	\$1,873
Wholesale Trade		\$529	\$514	\$1,043
Communications		\$485	\$231	\$716
Manufacturing		\$347	\$299	\$645
Construction and Utilities		\$388	\$163	\$551
Personal Services		\$143	\$359	\$502
Gasoline Stations	\$429	\$5	\$26	\$459
Government		\$121	\$70	\$192
Agriculture, Fishing, Mining		\$90	\$52	\$142

Source: Tourism Economics

ECONOMIC IMPACT FINDINGS

FISCAL (TAX) IMPACTS

Visitor spending, visitor supported jobs, and business sales generated \$20 billion in government revenues.

State and local taxes alone tallied \$10 billion in 2022.

Each household in New York would need to be taxed an additional \$1,300 to replace the visitor-generated taxes received by New York state and local governments in 2022.

Visitors generated \$4 billion in state taxes, an increase of 37% over the prior year.

Local visitor-supported taxes, sustained mainly through property taxes, registered \$6 billion in 2022.

Fiscal (tax) impacts

Amounts in \$ millions

	Total
Total Tax Revenues	\$20,044
Federal Taxes	\$10,248
Personal Income	\$3,668
Corporate	\$1,773
Indirect Business	\$748
Social Insurance	\$4,058
State and Local Taxes	\$9,796
Sales	\$2,917
Personal Income	\$1,586
Corporate	\$1,830
Social Insurance	\$146
Excise and Fees	\$383
Property	\$2,932

Source: Tourism Economics

Fiscal (tax) impacts

Amounts in \$ millions

	2019	2020	2021	2022	2022 Growth	% relative to 2019
Total State & Local Tax Revenues	\$9,134	\$5,862	\$7,457	\$9,796	31.4%	107.2%
State Taxes	\$4,036	\$2,330	\$3,039	\$4,156	36.7%	103.0%
Personal Income	\$1,260	\$894	\$1,019	\$1,271	24.7%	100.8%
Corporate	\$766	\$385	\$540	\$774	43.5%	101.1%
Sales	\$1,641	\$824	\$1,193	\$1,731	45.1%	105.5%
Excise and Fees	\$222	\$123	\$168	\$233	38.5%	105.2%
State Unemployment	\$147	\$104	\$119	\$146	23.4%	99.9%
Local Taxes	\$5,099	\$3,532	\$4,417	\$5,640	27.7%	110.6%
Personal Income	\$313	\$222	\$253	\$315	24.7%	100.8%
Corporate	\$1,044	\$524	\$736	\$1,056	43.5%	101.1%
Sales	\$1,124	\$565	\$818	\$1,186	45.1%	105.5%
Property	\$2,475	\$2,142	\$2,503	\$2,932	17.2%	118.5%
Excise and Fees	\$143	\$79	\$108	\$150	38.5%	105.2%

Source: Tourism Economics



ECONOMIC IMPACTS

JOB & LABOR INCOME IMPACTS

Direct visitor spending of \$79 billion generated tourism's total economic impact of \$123 billion, with associated labor income of approximately \$40 billion in 2022.



\$123B

Total Economic Impact



\$79B

Direct Visitor Spending



\$40B

Total Labor Income Impact

FISCAL IMPACTS

TAX REVENUES

The economic impacts attributable to visitors generate significant fiscal (tax) impacts as they ripple through the regional economy. Visitor activity generated \$10 billion in state and local tax revenues in 2022.



\$10B

Total State & Local Tax Revenues



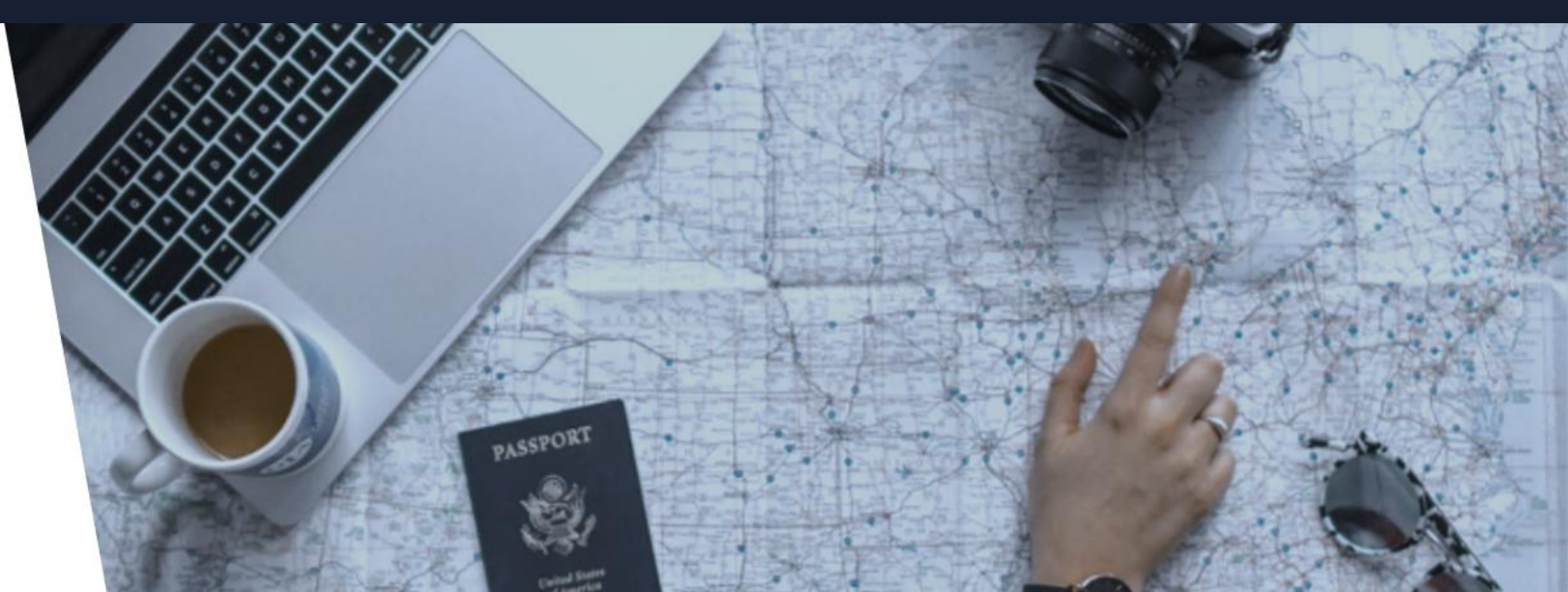
\$3B

Sales Tax Revenues



\$3B

Property Tax Revenues

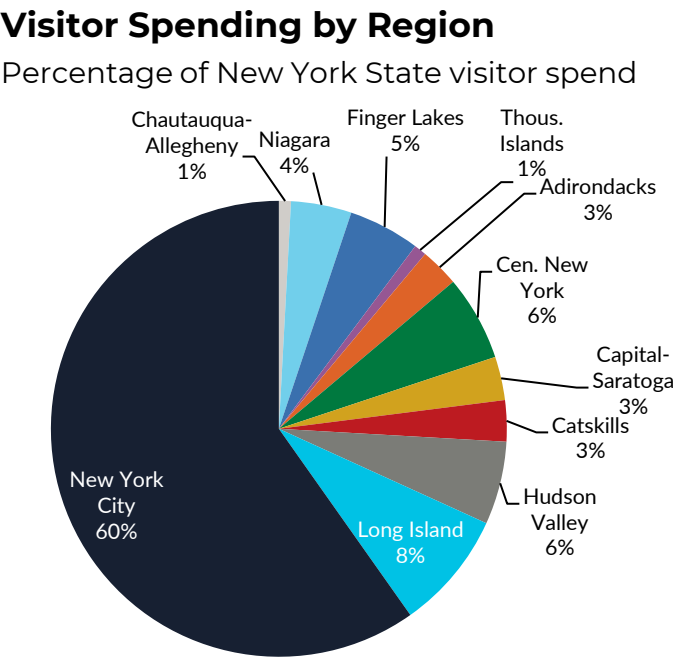


REGIONAL SUMMARY

VISITOR SPENDING BY REGION

New York State is divided into 11 economic regions.

Visitor spending grew markedly in each region as travel confidence rebounded. New York City was the largest tourism region in 2022 (60% of state-wide spending) and saw the largest increase in visitor spending as travelers returned to cities.



Source: Tourism Economics

Traveler spending

Amounts in \$ millions

	2018	2019	2020	2021	2022	2022 % relative Growth	2022 % relative to 2019
Total visitor spending	\$71,819	\$73,618	\$33,941	\$52,049	\$78,654	51.1%	106.8%
1. Chautauqua-Allegheny	\$589	\$596	\$408	\$602	\$671	11.3%	112.5%
2. Greater Niagara	\$2,778	\$2,828	\$1,593	\$2,784	\$3,380	21.4%	119.5%
3. Finger Lakes	\$3,169	\$3,261	\$1,963	\$3,187	\$3,981	24.9%	122.1%
4. Thousand Islands	\$564	\$575	\$424	\$576	\$693	20.2%	120.5%
5. Adirondacks	\$1,491	\$1,541	\$1,310	\$1,936	\$2,170	12.1%	140.8%
6. Central New York	\$2,473	\$2,578	\$2,035	\$3,668	\$4,756	29.7%	184.5%
7. Capital-Saratoga	\$2,136	\$2,207	\$1,250	\$1,922	\$2,429	26.4%	110.1%
8. Catskills	\$1,469	\$1,576	\$1,181	\$1,937	\$2,296	18.5%	145.6%
9. Hudson Valley	\$4,366	\$4,466	\$2,574	\$3,848	\$4,635	20.4%	103.8%
10. Long Island	\$6,135	\$6,310	\$3,999	\$5,787	\$6,619	14.4%	104.9%
11. New York City	\$46,650	\$47,679	\$17,205	\$25,801	\$47,024	82.3%	98.6%

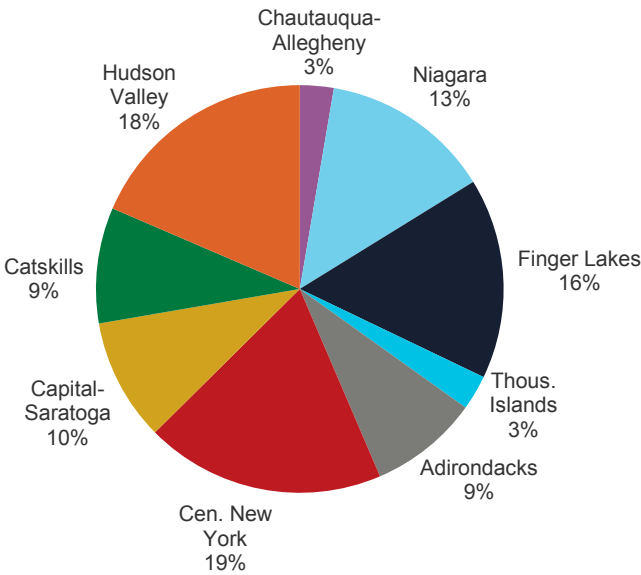
Source: Tourism Economics

Traveler spending across the upstate regions of New York, excluding New York City and Long Island, is more evenly distributed.

In Upstate New York, visitor spending was largest in Central New York (19%), followed by Hudson Valley (18%) and the Finger Lakes (16%).

Upstate Visitor Spending by Region

Percentage of Upstate New York visitor spend

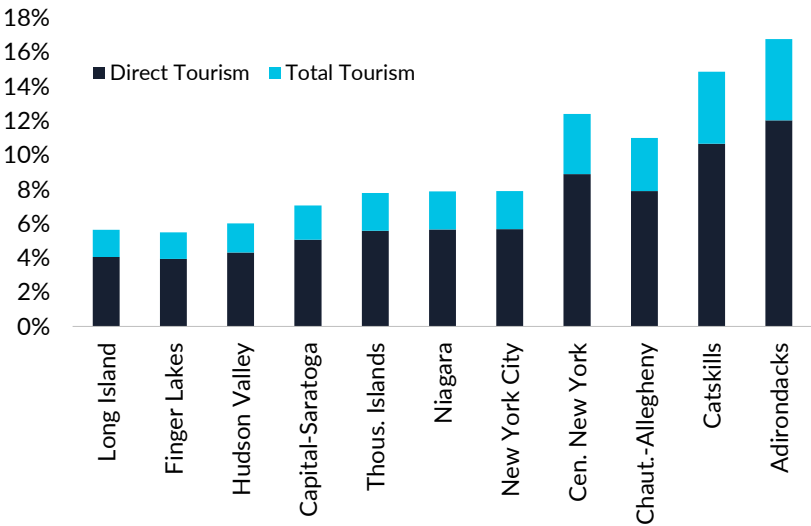


Source: Tourism Economics

RELIANCE ON TOURISM

Tourism is an integral part of each region’s economy, generating from 5% to 18% of total employment. The industry is most important to the Adirondacks and Catskills, encompassing 17% and 15% of total employment, respectively. Despite the strong recovery in spending, the recovery in visitor-supported jobs has been slower as pandemic related labor force distortions continue to affect tourism-centric industries.

Tourism share of regional employment



Source: Tourism Economics

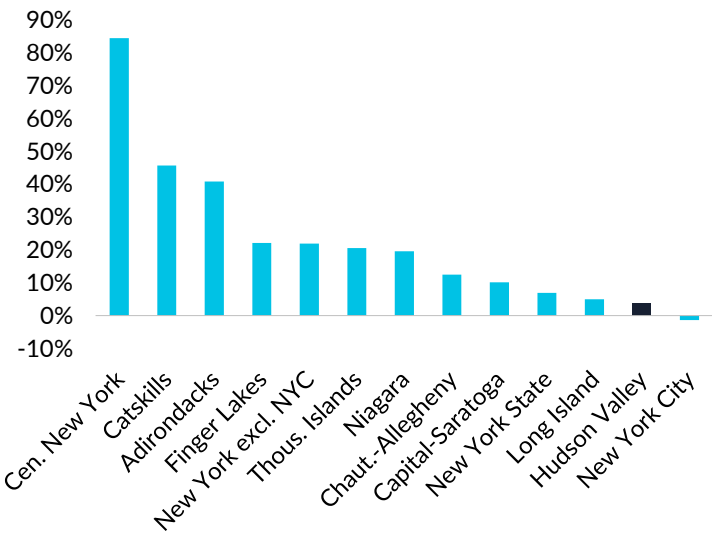
TRAVELER SPENDING GROWTH

In 2022, all regions recorded robust growth versus 2021. Increases were most significant in New York City (82%), followed by Central New York (30%).

Overall state spending reached 107% vs 2019 levels. Excluding New York City, state spending reached 122% of 2019 levels . Spending in Central New York (185%), the Adirondacks (141%), and the Catskills (146%), were well above pre-pandemic levels.

Growth in traveler spending (2022)

% change versus 2019



Source: Tourism Economics

Tourism Economic Impact

Amounts in \$ millions, employment in persons
Combined direct, indirect, and induced

	Direct Sales	Labor Income	Employment, Persons	Local Taxes	State Taxes
Total	\$78,654	\$39,756	682,972	\$5,640	\$4,156
1. Chautauqua-Allegheny	\$671	\$291	10,049	\$48	\$38
2. Greater Niagara	\$3,380	\$1,751	46,451	\$202	\$164
3. Finger Lakes	\$3,981	\$1,769	51,346	\$270	\$215
4. Thousand Islands	\$693	\$279	8,558	\$47	\$37
5. Adirondacks	\$2,170	\$830	19,063	\$138	\$117
6. Central New York	\$4,756	\$1,908	37,030	\$229	\$253
7. Capital-Saratoga	\$2,429	\$1,210	33,098	\$159	\$131
8. Catskills	\$2,296	\$799	17,306	\$129	\$125
9. Hudson Valley	\$4,635	\$2,276	51,241	\$331	\$249
10. Long Island	\$6,619	\$3,517	72,606	\$464	\$350
11. New York City	\$47,024	\$25,126	336,225	\$3,623	\$2,477

Source: Tourism Economics

Tourism Economic Impact

Regional shares

	Direct Sales	Labor Income	Employment	Local Taxes	State Taxes
Total	100%	100%	100%	100%	100%
1. Chautauqua-Allegheny	1%	1%	1%	1%	1%
2. Greater Niagara	4%	4%	7%	4%	4%
3. Finger Lakes	5%	4%	8%	5%	5%
4. Thousand Islands	1%	1%	1%	1%	1%
5. Adirondacks	3%	2%	3%	2%	3%
6. Central New York	6%	5%	5%	4%	6%
7. Capital-Saratoga	3%	3%	5%	3%	3%
8. Catskills	3%	2%	3%	2%	3%
9. Hudson Valley	6%	6%	8%	6%	6%
10. Long Island	8%	9%	11%	8%	8%
11. New York City	60%	63%	49%	64%	60%

Source: Tourism Economics



REGIONAL DETAIL: GREATER NIAGARA

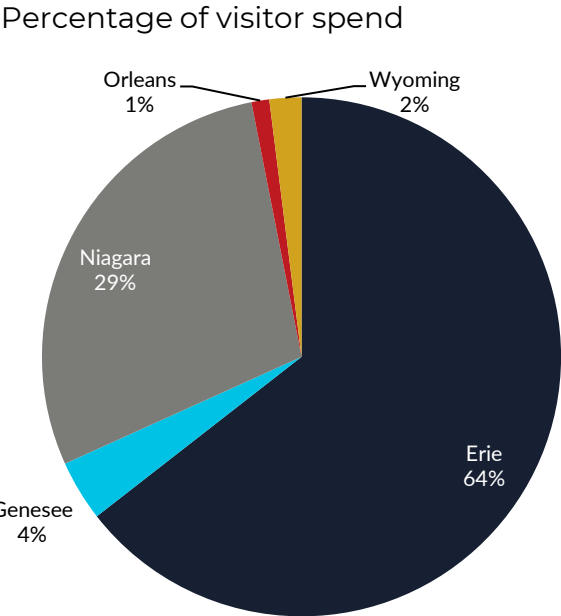
COUNTY DISTRIBUTION

In 2022, visitor spending and tourism-related employment grew to \$3.4 billion and 46,451 jobs, respectively. Visitor spending in the Greater Niagara region increased by 21% to reach 120% of 2019 levels. Leading the overall spending improvement was Erie County which recorded 24% growth versus 2021. Relative to 2019, traveler spending was up most in Wyoming County at 133% of 2019 levels.

Erie County represents 64% of the region’s tourism sales, with \$2.2 billion in direct tourism spending.

The share of visitor spending accounted for by Niagara County was 29% in 2022.

Visitor Spending by County



Source: Tourism Economics

Traveler spending

Amounts in \$ millions

	Lodging	Recreation	F&B	Retail & Svc Stations	Transport	Second Homes	Total
Total	\$603	\$508	\$1,329	\$679	\$210	\$51	\$3,380
Erie	\$401	\$230	\$930	\$442	\$153	\$22	\$2,179
Genesee	\$21	\$17	\$56	\$21	\$11	\$3	\$128
Niagara	\$167	\$245	\$309	\$199	\$44	\$5	\$969
Orleans	\$2	\$7	\$13	\$6	\$1	\$9	\$37
Wyoming	\$11	\$10	\$20	\$12	\$1	\$13	\$67

Source: Tourism Economics

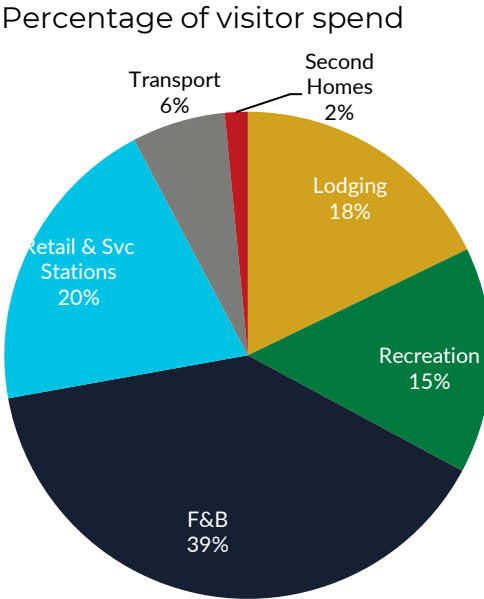
TRAVELER SPENDING

Travelers spent \$3.4 billion in the Greater Niagara region in 2022 across a diverse range of sectors.

Spending on food & beverages and lodging comprised 39% and 18% of total, respectively.

Retail and service stations also generated significant economic activity in the region, tallying \$679 million (20% of total spend).

Visitor Spending by Sector



Source: Tourism Economics



ECONOMIC IMPACTS

Tourism Economic Impact

Amounts in \$ millions, employment in persons
Combined direct, indirect, and induced

	Direct Sales	Labor Income	Employment, Persons	Local Taxes	State Taxes
Total	\$3,380	\$1,751	46,451	\$202	\$164
Erie	\$2,179	\$1,167	27,399	\$132	\$107
Genesee	\$128	\$65	2,430	\$8	\$7
Niagara	\$969	\$471	15,169	\$55	\$44
Orleans	\$37	\$16	553	\$2	\$2
Wyoming	\$67	\$32	900	\$4	\$4

Source: Tourism Economics

REGIONAL GROWTH

Traveler Spend	2018	2019	2020	2021	2022	2022 Growth	% relative to 2019
Amounts in \$ millions							
Total	\$2,778	\$2,828	\$1,593	\$2,784	\$3,380	21.4%	119.5%
Erie	\$1,844	\$1,879	\$994	\$1,757	\$2,179	24.0%	116.0%
Genesee	\$103	\$108	\$58	\$106	\$128	20.2%	117.9%
Niagara	\$753	\$761	\$475	\$831	\$969	16.5%	127.3%
Orleans	\$29	\$29	\$24	\$31	\$37	21.1%	128.1%
Wyoming	\$50	\$51	\$41	\$59	\$67	14.2%	132.5%

State Taxes	2018	2019	2020	2021	2022	2022 Growth	% relative to 2019
Amounts in \$ thousands							
Total	\$151,506	\$155,040	\$97,910	\$136,585	\$164,456	20.4%	106.1%
Erie	\$100,564	\$103,004	\$61,112	\$87,593	\$107,137	22.3%	104.0%
Genesee	\$5,612	\$5,943	\$3,585	\$5,208	\$6,754	29.7%	113.6%
Niagara	\$41,051	\$41,709	\$29,198	\$38,542	\$44,185	14.6%	105.9%
Orleans	\$1,573	\$1,602	\$1,469	\$1,804	\$2,077	15.1%	129.7%
Wyoming	\$2,705	\$2,782	\$2,546	\$3,438	\$4,303	25.2%	154.7%

Local Taxes	2018	2019	2020	2021	2022	2022 Growth	% relative to 2019
Amounts in \$ thousands							
Total	\$184,503	\$184,602	\$147,910	\$186,853	\$201,543	7.9%	109.2%
Erie	\$122,721	\$125,098	\$95,807	\$121,545	\$132,452	9.0%	105.9%
Genesee	\$7,047	\$7,237	\$5,822	\$7,359	\$8,036	9.2%	111.0%
Niagara	\$49,859	\$47,293	\$41,717	\$52,099	\$54,816	5.2%	115.9%
Orleans	\$1,817	\$1,854	\$1,694	\$2,171	\$2,345	8.0%	126.4%
Wyoming	\$3,059	\$3,121	\$2,870	\$3,678	\$3,895	5.9%	124.8%

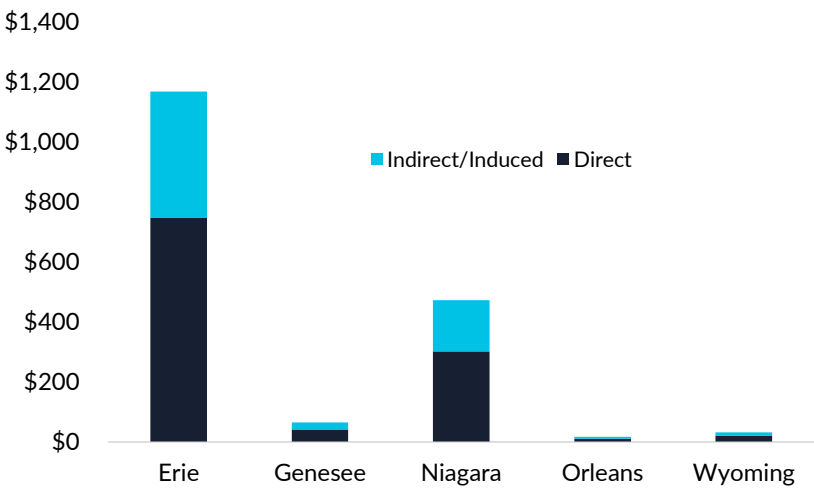
Source: Tourism Economics

LABOR INCOME

Tourism in the Greater Niagara region generated \$1.1 billion in direct labor income and \$1.8 billion including indirect and induced impacts. Total labor income including indirect and induced impacts was the most significant in Erie County at \$1.2 billion.

Tourism-Generated Labor Income

Amounts in \$ millions



Source: Tourism Economics

Tourism-Generated Labor Income

Amounts in \$ millions

	Direct	Total (Direct, Indir., Induced)	Share (Direct)	Share (Total)
Total	\$1,119.4	\$1,750.8	3.3%	5.2%
Erie	\$745.9	\$1,166.7	2.7%	4.2%
Genesee	\$41.4	\$64.8	3.5%	5.5%
Niagara	\$301.4	\$471.4	8.8%	13.7%
Orleans	\$10.4	\$16.3	1.7%	2.7%
Wyoming	\$20.2	\$31.6	2.7%	4.2%

Source: Tourism Economics



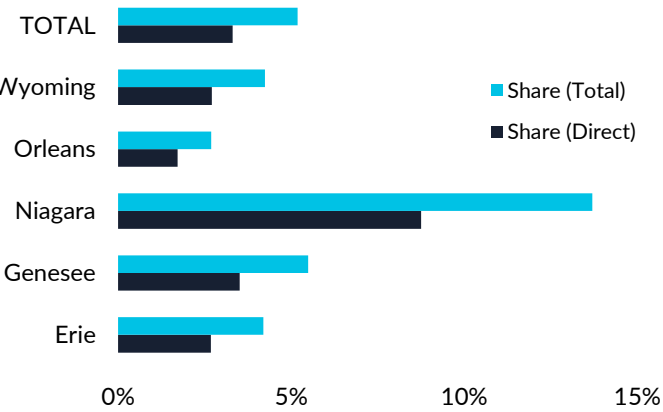
In 2022, 5.2% of all labor income in the Greater Niagara region was generated by tourism, compared with 4.9% in 2021.

Niagara County was the most dependent on tourism wage income as 13.7% of all labor income in the county is generated by visitors.

Tourism in Genesee County accounted for 5.5% of all labor income in 2022.

Tourism-Generated Labor Income

Share of economy



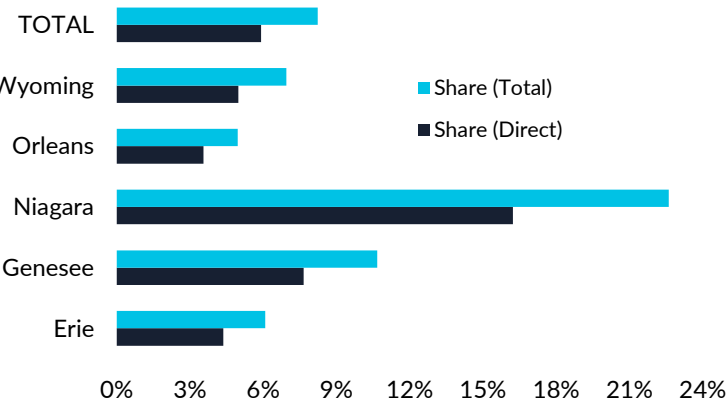
Source: Tourism Economics

TOURISM EMPLOYMENT

In 2022, total tourism-generated employment registered 46,451 jobs, 8.2% of all jobs within the region. Direct employment in tourism accounted for 5.9% of all jobs.

Tourism-Generated Employment

Share of economy



Source: Tourism Economics

Tourism-Generated Employment

Amounts in number of jobs and share of economy

	Direct	Total (Direct, Indir., Induced)	Share (Direct)	Share (Total)
Total	33,333	46,451	5.9%	8.2%
Erie	19,662	27,399	4.4%	6.1%
Genesee	1,744	2,430	7.7%	10.7%
Niagara	10,885	15,169	16.2%	22.6%
Orleans	397	553	3.6%	5.0%
Wyoming	645	900	5.0%	6.9%

Source: Tourism Economics

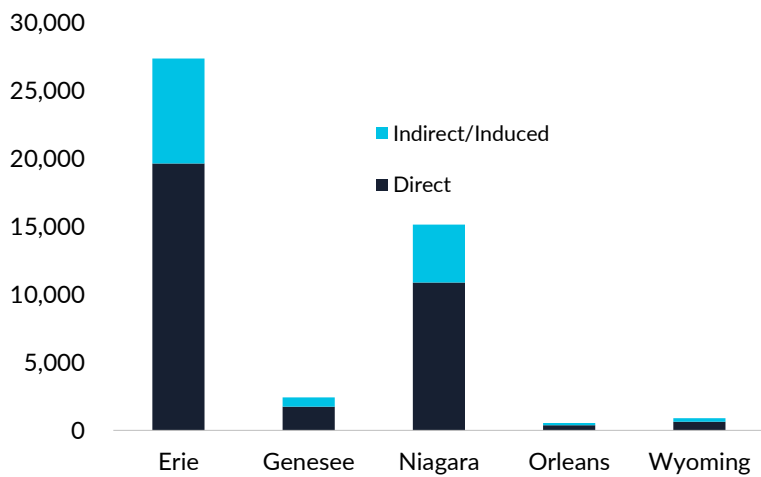


Niagara County was again the most dependent upon tourism, with 22.6% of all employment sustained by visitors.

Erie County produced the most tourism-related jobs in the Greater Niagara region (27,399 jobs).

Tourism-Generated Employment

Amounts in number of jobs



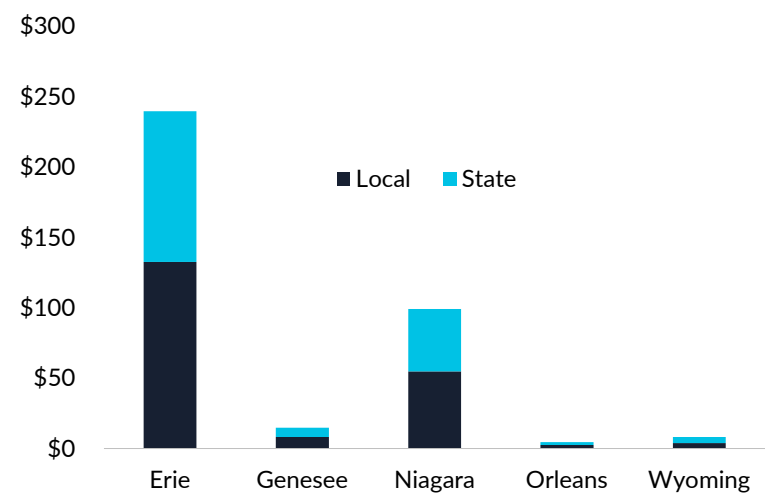
Source: Tourism Economics

TOURISM TAXES

Tourism in Greater Niagara generated \$366 million in state and local taxes in 2022. Sales, property, and hotel bed taxes contributed \$202 million in local taxes. Erie County constituted 65.5% of the region’s tourism tax base.

Tourism-Generated Taxes

Amounts in \$ millions



Source: Tourism Economics

Were it not for tourism-generated state and local taxes, the average household in the region would have to pay an additional \$666 to maintain the same level of government revenue, already hard hit by the pandemic.

Tourism-Generated Taxes

Amounts in \$ thousands

	Local Taxes	State Taxes	Total	Regional Share	Tax Savings per Household
Total	\$201,543	\$164,456	\$365,999	100.0%	\$666
Erie	\$132,452	\$107,137	\$239,589	65.5%	\$594
Genesee	\$8,036	\$6,754	\$14,789	4.0%	\$605
Niagara	\$54,816	\$44,185	\$99,001	27.0%	\$1,100
Orleans	\$2,345	\$2,077	\$4,422	1.2%	\$273
Wyoming	\$3,895	\$4,303	\$8,198	2.2%	\$517

Source: Tourism Economics



Glossary – Spending Definitions

Term	Description
Lodging	Includes visitor spending in the accommodation sub-sector. This includes food and other services provided by hotels, rentals and similar establishments.
Food and beverage	Includes all visitor spending on food & beverages, including at restaurants, bars, grocery stores and other food providers.
Recreation	Includes visitor spending within the arts, entertainment and recreation sub-sector.
Shopping	Includes visitor spending in all retail sub-sectors within the local economy.
Local transport	Includes visitor spending on local transport services such as taxis, limos, trains, rental cars, buses, and the local share of air transportation spending.
Service stations	Visitor spending on gasoline.
Second homes	Where applicable, spending associated with the upkeep of seasonal second homes for recreational use as defined by the Census Bureau.

Glossary – Economic Impact Definitions

Term	Description
Direct Impact	Impacts (business sales, jobs, income, and taxes) created directly from spending by visitors to a destination within a discreet group of tourism-related sectors (e.g. recreation, transportation, lodging).
Indirect Impact	Impacts created from purchase of goods and services used as inputs (e.g. food wholesalers, utilities, business services) into production by the directly affected tourism-related sectors (i.e. economic effects stemming from business-to-business purchases in the supply chain).
Induced Impact	Impacts created from spending in the local economy by employees whose wages are generated either directly or indirectly by visitor spending.
Employment	Jobs directly and indirectly supported by visitor activity (includes part-time and seasonal work). One job is defined as one person working at least one hour per week for fifty weeks during the calendar year.
Labor income	Income (wages, salaries, proprietor income and benefits) supported by visitor spending.
Value Added (GDP)	The economic enhancement a company gives its products or services before offering them to customers.
Local Taxes	City and County taxes generated by visitor spending. This includes any local sales, income, bed, usage fees, licenses and other revenues streams of local governmental authorities – from transportation to sanitation to general government.
State Taxes	State tax revenues generated by visitor spending. This will include sales, income, corporate, usage fees and other assessments of state governments.

ABOUT TOURISM ECONOMICS

Tourism Economics is an Oxford Economics company with a singular objective: combine an understanding of the travel sector with proven economic tools to answer the most important questions facing our clients. More than 500 companies, associations, and destination work with Tourism Economics every year as a research partner. We bring decades of experience to every engagement to help our clients make better marketing, investment, and policy decisions. Our team of highly-specialized economists deliver:

- Global travel data-sets with the broadest set of country, city, and state coverage available
- Travel forecasts that are directly linked to the economic and demographic outlook for origins and destinations
- Economic impact analysis that highlights the value of visitors, events, developments, and industry segments
- Policy analysis that informs critical funding, taxation, and travel facilitation decisions
- Market assessments that define market allocation and investment decisions

Tourism Economics operates out of regional headquarters in Philadelphia and Oxford, with offices in Belfast, London, Frankfurt, Ontario, and Sydney.

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STATE OF NEW YORK

1140

2023-2024 Regular Sessions

IN ASSEMBLY

January 13, 2023

Introduced by M. of A. VANEL -- read once and referred to the Committee on Housing

AN ACT to amend the multiple dwelling law, the tax law and chapter 161 of the laws of 1970, relating to enabling any city having a population of one million or more to impose and collect taxes on the occupancy of hotel rooms in such city, in relation to the regulation of short-term rental units

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph 1 of paragraph a of subdivision 8 of section 4
2 of the multiple dwelling law, as amended by chapter 225 of the laws of
3 2010, is amended to read as follows:

4 (1) (A) occupancy of such dwelling unit for fewer than thirty consec-
5 utive days by other natural persons living within the household of the
6 permanent occupant such as house guests or lawful boarders, roomers or
7 lodgers; ~~[or]~~

8 (B) incidental and occasional occupancy of such dwelling unit for
9 fewer than thirty consecutive days by other natural persons when the
10 permanent occupants are temporarily absent for personal reasons such as
11 vacation or medical treatment, provided that there is no monetary
12 compensation paid to the permanent occupants for such occupancy; or

13 (C) occupancy of such dwelling as a short-term rental unit pursuant to
14 article seven-D of this chapter.

15 § 2. The multiple dwelling law is amended by adding a new article 7-D
16 to read as follows:

ARTICLE 7-D

SHORT-TERM RENTAL UNITS

19 Section 288. Definitions.

20 289. Short-term rental units authorized.

21 290. Registration.

22 291. Requirements of hosting platforms.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD03798-01-3



1 292. Regulations.

2 § 288. Definitions. For the purposes of this article, the following
3 terms shall have the following meanings:

4 1. "Short-term rental unit" means an entire dwelling unit, or a room,
5 group of rooms, other living or sleeping space, or any other space, made
6 available for rent by guests for less than thirty consecutive days.

7 2. "Short-term rental host" means an owner or tenant of a short-term
8 rental unit who rents such unit to guests.

9 3. "Hosting platform" means a person or entity who, pursuant to an
10 agreement with an operator of a hotel, facilitates the occupancy of a
11 hotel. A person "facilitates the occupancy of a hotel" by, in exchange
12 for a fee, either: (A) providing the forum in which an operator can list
13 or advertise a hotel for occupancy; or (B) providing the forum, in
14 which, or by means of which, the offer for occupancy is accepted.

15 § 289. Short-term rental units authorized. 1. A short-term rental host
16 may operate a dwelling unit as a short-term rental unit provided such
17 dwelling unit:

18 (a) is registered in accordance with section two hundred ninety of
19 this article;

20 (b) is not used to provide single room occupancy as defined by subdi-
21 vision sixteen of section four of this chapter;

22 (c) includes a conspicuously posted evacuation diagram identifying all
23 means of egress from the unit and the building in which it is located;

24 (d) includes a conspicuously posted list of emergency phone numbers
25 for police, fire, and poison control;

26 (e) is not subject to the emergency housing rent control law, chapter
27 seven of subtitle S of title nine of New York's compilation of codes,
28 rules and regulations, the rent and rehabilitation law of the city of
29 New York enacted pursuant to the local emergency housing rent control
30 law, the emergency tenant protection act of nineteen seventy-four, the
31 public housing law, or otherwise rent subsidized, rent controlled, rent
32 stabilized, or considered affordable housing; and

33 (f) is insured for at least five hundred thousand dollars to protect
34 against third party claims of property damage or bodily injury that
35 arise out of the operation of a short-term rental unit. Insurance
36 provided by hosting platforms can satisfy this requirement.

37 2. A short-term rental host shall not operate more than one class A
38 multiple dwelling unit as a short-term rental unit unless the units are
39 at the same address, including apartment number, if applicable.

40 3. Occupancies of a short-term rental unit shall be subject to taxes
41 and fees pursuant to articles twenty-eight and twenty-nine of the tax
42 law and applicable local laws.

43 4. Short-term rental hosts shall maintain records related to guest
44 stays for one year, including the date of each booking and the identity
45 and number of guests, and records related to their registration as
46 short-term rental hosts with the division of housing and community
47 renewal.

48 5. Hosting platforms shall maintain records related to guest stays for
49 one year, including the date of each booking and the identity and number
50 of guests. Hosting platforms shall make all relevant records available
51 to the division of housing and community renewal consistent in response
52 to valid legal process.

53 § 290. Registration. 1. Short-term rental hosts shall be required to
54 register each short-term rental unit with the division of housing and
55 community renewal.



1 2. Registrations shall be valid for two years, after which time the
2 short-term rental host may renew his or her registration in a manner
3 prescribed by the division of housing and community renewal. The divi-
4 sion of housing and community renewal may revoke the registration of a
5 short-term rental host upon a determination that the short-term rental
6 host has violated any provision of this article at least three times in
7 two calendar years, and may determine that the short-term rental host
8 shall be ineligible for registration for a period of up to twelve months
9 from the date the third violation is determined to have occurred.

10 3. The division of housing and community renewal shall set a fee for
11 short-term rental registration not to exceed one hundred dollars.

12 4. Hosting platforms are authorized to facilitate the registration
13 process by collecting the required application information and transmit-
14 ting it to the division of housing and community renewal for processing
15 if the platform has obtained short-term rental host consent.

16 § 291. Requirements of hosting platforms. Hosting platforms shall:

17 1. create a dedicated means by which complaints can be submitted by
18 short-term rental hosts, guests, and community members. These means
19 shall be available twenty-four hours a day, seven days a week.

20 2. maintain records of all transactions in cities with a population of
21 a million or more for a period of twelve months.

22 3. inform short-term rental hosts of the registration requirement and
23 regulations under this article.

24 § 292. Regulations. The division of housing and community renewal
25 shall promulgate regulations necessary and appropriate to enforce this
26 article, including regulations to facilitate the registration of short-
27 term rental hosts and to facilitate information sharing between and
28 among the division, hosting platforms, and other enforcement agencies.

29 § 3. Section 304 of the multiple dwelling law is amended by adding a
30 new subdivision 1-b to read as follows:

31 1-b. a. Every person who shall violate or assist in the violation of
32 any provision of sections two hundred eighty-nine or two hundred ninety
33 of this chapter shall be guilty of an offense, and any person found to
34 have committed three or more offenses of such sections may be prohibited
35 from operating a short-term rental unit for a period of one year.

36 b. The maximum fine for violating section two hundred eighty-nine or
37 two hundred ninety of this chapter shall be five hundred dollars for a
38 first offense; and one thousand dollars for the second or any subsequent
39 offense.

40 c. Any violation under this subdivision shall not be a crime and the
41 penalty or punishment imposed therefor shall not be deemed for any
42 purpose a penal or criminal penalty or punishment, and shall not impose
43 any disability upon or affect or impair the credibility as a witness, or
44 otherwise, of any person convicted thereof.

45 § 4. Subdivision (c) of section 1101 of the tax law, as added by chap-
46 ter 93 of the laws of 1965, paragraphs 2, 3, 4 and 6 as amended by
47 section 2 and paragraph 8 as added by section 3 of part AA of chapter 57
48 of the laws of 2010, and paragraph 5 as amended by chapter 575 of the
49 laws of 1965, is amended to read as follows:

50 (c) When used in this article for the purposes of the tax imposed
51 under subdivision (e) of section eleven hundred five, and subdivision
52 (a) of section eleven hundred four, the following terms shall mean:

53 (1) Hotel. A building or portion of it which is regularly used and
54 kept open as such for the lodging of guests. The term "hotel" includes
55 an apartment hotel, a motel, boarding house or club, whether or not
56 meals are served, short-term rental units as defined in paragraph nine



1 of this subdivision, and a bungalow or similar furnished living unit
2 that is limited to a single family occupancy and does not provide house-
3 keeping, food, or other common hotel services, including but not limited
4 to entertainment or planned activities.

5 (2) Occupancy. The use or possession, or the right to the use or
6 possession, of any room in a hotel. "Right to the use or possession"
7 includes the rights of a room remarketer as described in paragraph eight
8 of this subdivision.

9 (3) Occupant. A person who, for a consideration, uses, possesses, or
10 has the right to use or possess, any room in a hotel under any lease,
11 concession, permit, right of access, license to use or other agreement,
12 or otherwise. "Right to use or possess" includes the rights of a room
13 remarketer as described in paragraph eight of this subdivision.

14 (4) Operator. Any person operating a hotel. Such term shall include a
15 room remarketer and such room remarketer shall be deemed to operate a
16 hotel, or portion thereof, with respect to which such person has the
17 rights of a room remarketer. This term does not include a hosting plat-
18 form as defined in paragraph ten of this subdivision.

19 (5) Permanent resident. Any occupant of any room or rooms in a hotel
20 for at least ninety consecutive days shall be considered a permanent
21 resident with regard to the period of such occupancy.

22 (6) Rent. The consideration received for occupancy, including any
23 service or other charge or amount required by the operator to be paid as
24 a condition for occupancy, valued in money, whether received in money or
25 otherwise and whether ~~received~~ collected by the operator ~~or a~~, host-
26 ing platform, room remarketer or another person on behalf of ~~either~~
27 any of them.

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

31 (8) Room remarketer. A person who reserves, arranges for, conveys, or
32 furnishes occupancy, whether directly or indirectly, to an occupant for
33 rent in an amount determined by the room remarketer, directly or indi-
34 rectly, whether pursuant to a written or other agreement. Such person's
35 ability or authority to reserve, arrange for, convey, or furnish occu-
36 pancy, directly or indirectly, and to determine rent therefor, shall be
37 the "rights of a room remarketer". A room remarketer is not a permanent
38 resident with respect to a room for which such person has the rights of
39 a room remarketer. A hosting platform is not a room remarketer.

40 (9) Short-term rental unit. A room, group of rooms, or other living or
41 sleeping space, or any other space let to occupants, including but not
42 limited to private dwellings, residences, or buildings used as resi-
43 dences.

44 (10) Hosting platform. A person or entity who, pursuant to an agree-
45 ment with an operator of a hotel, facilitates the occupancy of a hotel.
46 A person "facilitates the occupancy of a hotel" by, in exchange for a
47 fee, either: (A) providing the forum in which an operator can list or
48 advertise a hotel for occupancy; or (B) providing the forum in which, or
49 by means of which, the offer for occupancy is accepted.

50 § 5. Subdivision (a) of section 1104 of the tax law, as added by chap-
51 ter 3 of the laws of 2004, is amended to read as follows:

52 (a) Imposition. In addition to any other fee or tax imposed by this

53 article or any other law, on and after April first, two thousand five,
54 there is hereby imposed within the territorial limits of a city with a
55 population of a million or more and there shall be paid a unit fee on
56 every occupancy of a unit in a hotel in such city subject to tax under



1 subdivision (e) of section eleven hundred five of this part at the rate
2 of one dollar and fifty cents per unit per day, except that such unit
3 fee shall not be imposed upon (1) occupancy by a permanent resident or
4 (2) where the rent per unit is not more than at the rate of two dollars
5 per day.

6 § 6. Subdivision 1 of section 1131 of the tax law, as amended by
7 section 2 of part G of chapter 59 of the laws of 2019, is amended to
8 read as follows:

9 (1) "Persons required to collect tax" or "person required to collect
10 any tax imposed by this article" shall include: every vendor of tangible
11 personal property or services; every recipient of amusement charges;
12 every hosting platform with respect to occupancies it facilitates as
13 described in paragraph ten of subdivision (c) of section eleven hundred
14 one of this article; every operator of a hotel except with respect to
15 occupancies facilitated by a hosting platform; and every marketplace
16 provider with respect to sales of tangible personal property it facili-
17 tates as described in paragraph one of subdivision (e) of section eleven
18 hundred one of this article. Said terms shall also include any officer,
19 director or employee of a corporation or of a dissolved corporation, any
20 employee of a partnership, any employee or manager of a limited liabil-
21 ity company, or any employee of an individual proprietorship who as such
22 officer, director, employee or manager is under a duty to act for such
23 corporation, partnership, limited liability company or individual
24 proprietorship in complying with any requirement of this article, or has
25 so acted; and any member of a partnership or limited liability company.
26 Provided, however, that any person who is a vendor solely by reason of
27 clause (D) or (E) of subparagraph (i) of paragraph (8) of subdivision
28 (b) of section eleven hundred one of this article shall not be a "person
29 required to collect any tax imposed by this article" until twenty days
30 after the date by which such person is required to file a certificate of
31 registration pursuant to section eleven hundred thirty-four of this
32 part.

33 § 7. Section 1132 of the tax law is amended by adding a new subdivi-
34 sion (m) to read as follows:

35 (m) In carrying out the obligations imposed under this section, a
36 hosting platform shall have all the duties, benefits, and entitlements
37 of a person required to collect tax under this article and article twen-
38 ty-nine of this chapter with respect to the occupancies giving rise to
39 the tax obligation, including the right to accept a certificate or other
40 documentation from an occupant substantiating an exemption or exclusion
41 from tax, as if such hosting platform were the operator of the hotel
42 with respect to such occupancy, including the right to receive the
43 refund authorized by subdivision (e) of this section and the credit
44 allowed by subdivision (f) of section eleven hundred thirty-seven of
45 this part.

46 § 8. Section 1133 of the tax law is amended by adding a new subdivi-
47 sion (g) to read as follows:

48 (g) a hosting platform is relieved of liability under this article for
49 failure to collect the correct amount of tax to the extent that the
50 hosting platform can show that the error was due to incorrect or insuf-
51 ficient information given to the hosting platform by the operator,
52 whether intentional or unintentional.

53 § 9. Section 1137 of the tax law is amended by adding a new subdivi-
54 sion (g) to read as follows:
55 (g) a hosting platform who facilitates the occupancy of a hotel is
56 relieved from the duty to remit to the commissioner the tax imposed by



1 this article in regard to a particular occupancy if, pursuant to an
2 agreement with an operator registered with the commission as required by
3 section eleven hundred thirty-four of this part, the hosting platform
4 and operator agree that the operator is required to remit the tax
5 directly to the commissioner. In such situation, the operator shall be
6 treated as if it collected the tax and shall have all of the rights and
7 obligations imposed by New York law on persons required to collect tax,
8 including but not limited to the liability imposed by section eleven
9 hundred thirty-three of this part.

10 § 10. Section 1142 of the tax law is amended by adding a new subdivi-
11 sion 16 to read as follows:

12 16. Notwithstanding any provision of law to the contrary, including
13 but not limited to subdivisions four, five, and six of this section, no
14 hosting platform shall be required to list any operator of a hotel on
15 any return required to be filed with the commissioner under the applica-
16 ble tax laws and any regulations adopted pursuant thereto. Information
17 provided by a hosting platform to the commissioner shall be confiden-
18 tial. Such confidential information shall not be disclosed by the
19 commissioner unless the hosting platform has given written consent to
20 make such disclosure or there is an agreement between the hosting plat-
21 form and the commissioner to make such disclosure. Notwithstanding any
22 law to the contrary, information provided by a hosting platform shall
23 not be subject to article six of the public officers law and shall not
24 be provided to any other agency of the state, locality, or any other
25 government entity or political subdivision. Audits of any hosting plat-
26 form shall be conducted solely on the basis of the tax identification
27 number associated with each hosting platform and shall not be conducted
28 directly or indirectly on any operator of a hotel or any occupant to
29 whom occupancy is rented from an operator of a hotel, nor shall any
30 hosting platform be required to disclose any personally identifiable
31 information relating to any operator of a hotel or occupant to whom
32 occupancy is rented from an operator of a hotel. Provided, however, that
33 if a hosting platform and operator have entered into an agreement pursu-
34 ant to section eleven hundred thirty-six of this part, only the operator
35 shall be subject to audit by the commissioner.

36 § 11. Section 1240 of the tax law, as amended by chapter 356 of the
37 laws of 2014, is amended to read as follows:

38 § 1240. Administration and collection. The taxes authorized under
39 sections twelve hundred one through twelve hundred four of this article
40 which are now imposed shall continue to be administered and collected by
41 the fiscal or other officers of the city, county or school district in
42 the same manner as such taxes have been administered and collected by
43 such officers immediately prior to the enactment of this article, in
44 accordance with the applicable provisions of the charter, administrative
45 code, local law, ordinance or resolution then in force, with such amend-
46 ments in respect to administration and collection as may be enacted,
47 except that any taxes that counties are authorized to impose under
48 sections twelve hundred two-a through twelve hundred two-xx of this
49 article shall be imposed on the same transactions subject to tax under
50 subdivision (e) of section eleven hundred five of article twenty-eight
51 of this chapter, and shall be collected by any person required to
52 collect tax under section eleven hundred thirty-one of article twenty-

53 eight of this chapter, and such person shall have all the rights,
54 duties, and responsibilities as set forth in the provisions of sections
55 eleven hundred thirty-one through eleven hundred forty-eight of article
56 twenty-eight of this chapter. Provided, however, if a hosting platform

1 and a county have previously entered into an agreement regarding the
2 collection of tax, the terms of such agreement shall continue to govern
3 the collection of such tax. Taxes authorized under sections twelve
4 hundred one through twelve hundred four of this article which may here-
5 after be imposed by a city, county or school district shall be adminis-
6 tered and collected in such manner as may be provided in its charter,
7 administrative code, local laws, ordinances or resolutions, with such
8 amendments in respect to administration and collection as may be
9 enacted, except that any taxes that counties are authorized to impose
10 under sections twelve hundred two-a through twelve hundred two-xx of
11 this article shall be imposed on the same transactions subject to tax
12 under subdivision (e) of section eleven hundred five of article twenty-
13 eight of this chapter, and shall be collected by any person required to
14 collect tax under section eleven hundred thirty-one of article twenty-
15 eight of this chapter, and such person shall have all the rights,
16 duties, and responsibilities as set forth in the provisions of sections
17 eleven hundred thirty-one through eleven hundred forty-eight of article
18 twenty-eight of this chapter. Notwithstanding any other provision of law
19 to the contrary, the authorization to impose tax upon the transfer of
20 real property pursuant to subdivision (b) of section twelve hundred one
21 of this article, shall not, when the conveyance consists of a transfer
22 of property made as a result of an order of the court in a foreclosure
23 proceeding ordering the sale of such property, include the authorization
24 to impose civil or criminal penalties, interest, or other liability upon
25 the referee or sheriff effectuating the transfer.

26 § 12. Subdivision 3 of section 1 of chapter 161 of the laws of 1970,
27 relating to enabling any city having a population of one million or more
28 to impose and collect taxes on the occupancy of hotel rooms in such
29 city, is amended to read as follows:

30 (3) Such local laws may provide that any tax imposed shall be paid by
31 the person liable therefor to the owner of the hotel room occupied or to
32 the person entitled to be paid the rent or charge for the hotel room
33 occupied for and on account of the city imposing the tax and that such
34 owner or person entitled to be paid the rent or charge shall be liable
35 for the collection and payment of the tax; and that such owner or person
36 entitled to be paid the rent or charge shall have the same right in
37 respect to collecting the tax from the person occupying the hotel room,
38 or in respect to non-payment of the tax by the person occupying the
39 hotel room, as if the tax were a part of the rent or charge and payable
40 at the same time as the rent or charge; provided, however, that the
41 finance administrator or other fiscal officers of such city, specified
42 in such local law, shall be joined as a party in any action or proceed-
43 ing brought to collect the tax by the owner or by the person entitled to
44 be paid the rent or charge. Notwithstanding any provision to the contra-
45 ry, a hosting platform, as defined in paragraph 10 of subdivision (c) of
46 section 1101 of the tax law, shall collect the tax authorized to be
47 imposed by this section.

48 § 13. This act shall take effect on the one hundred twentieth day
49 after it shall have become a law.

