

Date: June 25, 2024

To: Empire Village Council and Short-Term Rental Committee

From: Frank Clements

RE: Short-Term Rental Proposals

Dear Empire Village Council and Short-Term Rental Committee

At present there are two proposals presented to the Village Council for consideration: the STR Registration Proposal and the STR Regulation Ordinance.

I would like to bring to your attention that the **STR Registration Proposal does not meet the requirements of an ordinance**, and should only be considered a Resolution. The **STR Regulation Ordinance does meet the requirements and would be considered an ordinance**. This distinction is based on criteria found in the Handbook for Municipal Officials, July 2015, Chapter 7: Local Ordinances.

The big difference between an ordinance and a resolution is: ordinances have police powers and are enforceable by law. Resolutions are only an official action of a legislative body, principally administrative or ministerial in nature, and without police power. And, it would appear from the current 41+ ordinances listed under Ordinances and Plans on the Village website, the Village has not used resolutions, and has only utilized ordinances which insure the public health, safety, and welfare and provisions for violations thereof.

Additional criteria in the Handbook determining the status of an ordinance states, *“Typically, any act imposing a sanction for the violation of the act must be an ordinance.”* And, *“In addition, an ordinance must serve a lawful purpose, either as expressly provided for by law or as necessary for the general health, safety, and welfare of the community.”* The Registration proposal, as currently written, does not meet these standards. The STR Regulation Ordinance does meet the ordinance criteria.

To prevent further time-consuming review about the validity of the two proposals, I strongly urge the Council to have the Village Attorney perform a review and determination of the ordinance status of both proposals as soon as possible. Our community deserves no less a courtesy to speedily resolve such a divisive situation.

Thank you,

Frank Clements