**MEMORANDUM**

TO: Cape Elizabeth Town Council

FROM: Ben McDougal, Code Enforcement Officer

DATE: August 29, 2014

SUBJECT: Short Term Rental Permits Status Report

Introduction

In November, 2012, the town council adopted short term rental amendments to the Zoning Ordinance. The amendments established a permit requirement for rental of homes for a period of less than 30 days. In response to concerns that the amendments did not strike the right balance of property owners who opposed any regulation and those who supported banning short term rentals, the town council also committed to a review of how the permit system was performing.

Rental Owner information efforts

The short term rental amendments took effect December 15, 2012. An article was published in the Cape Courier prior to December 15th announcing that applications were available. This office, aided by Planning Board Chair Victoria Volent, conducted an exhaustive search of online databases to identify all existing short term rentals in Cape Elizabeth. These property owners were then mailed a letter with an application enclosed.

A follow up letter mailed in August, 2013 to the suspected short term rental owners who had not secured a permit. The letter reminded the owners that renting without a permit could result in fines up to $2500.00 per day. The letter generated a few more applications and many people calling to state why they no longer need a permit.

In preparation for this status report, a short survey was mailed to short term rental owners (38) and short term rental neighbors (502). Town Manager Mike McGovern has prepared a report on the survey responses (see attachment).

2013 Permits

The first short term rental permit was issued just before Christmas, 2012 to a property owner who was renting during the holidays. A total of 27 permits were issued for the 2013 season.

2014 Permits

14 additional permits have been issued so far this year, bringing the total number of properties that have received short term rental permits to 42. 15 properties renewed their 2013 permit so far this year.

Implementation and Enforcement

There are four types of enforcement necessary for this ordinance:

1. Requiring owners of short term rental properties to get a permit,
2. Requiring applicants to comply with the standards prior to issuing the permit,
3. Requiring permit holders to renew their permit annually, and
4. Requiring permit holders to comply with the rules once they have a permit.

The most difficult aspect of enforcement is requiring unwilling owners of short term rental properties to get a permit. In my opinion, most of the short term rental properties have a permit. There are still a few properties that are suspected of renting on a short term basis without a permit. The only evidence I have that they are renting on a short term basis is an advertisement on the internet. When speaking to these owners, they may say that they are no longer renting but the internet advertisement automatically lasts 2 or 3 years. People have also said that they continue using the calendar system on the vacation rental website because it is a convenient way to schedule friends and family in the house for the summer. If friends and family are using the house without compensation to the owner, a short term rental permit is not required. It is difficult to prove that someone is renting the house versus letting someone use it. I do not feel comfortable writing a notice of violation based on an internet advertisement. There may be different cars at the property every week with out of state license plates but those people could theoretically be guests of the owner who are staying there for free. If we decide to pursue strict participation with this ordinance, it will require the assistance of an attorney and possibly a private investigator in order to obtain evidence that will stand up in court.

Requiring applicants to comply with the standards prior to issuing the permit is attainable. Some people are upset about the amount of money they need to spend on egress lighting and smoke detectors, but in the end it gets done. It generally requires two inspections of the house, one to advise applicants of the rules, and one to approve the improvements that were made. Sometimes three inspections are necessary.

Requiring permit holders to renew their permit annually is cumbersome from an administrative perspective, but we have been relatively successful. We sent everyone a letter in January of 2014 requesting that they renew their permit. A few people renewed at that time but many did not. For the remainder, we keep track of when their permit expires and again request that they renew their permit. In my opinion, the annual permit renewal is more of a burden to the Town than to the short term rental owner, and there does not seem to be a practical benefit of having people renew every year.

The final type of enforcement is requiring permit holders to follow the rules once they have a permit. This enforcement is complaint driven. Complaints are made to both the Code Enforcement Office and the Police Department. Thus far, there have been a handful of complaints but only one has been a *substantiated complaint*. The Police Department has been very helpful with this aspect of enforcement. They attempt to get me the information I need to determine if a complaint can be substantiated. Generally, I ask the Police Department to attempt to count the people in the house and take note of how the cars are parked.

The most common complaint is excessive noise. Other complaints have been urinating outside, trespassing, bonfires, open consumption of alcohol, and parking. Most of the complaints relate to the Miscellaneous Offenses Ordinance, so this aspect of enforcement is within the purview of the Police Department. The Fire Department has responded to complaints regarding bonfires. Overall, the complaints have been few and far between. There have been eight complaints to my department since January 2013.

Some neighbors of rental properties have been frustrated that properties with more than 30,000 square feet of land area do not have a limit to the number of guests they can have while properties with an area less than 30,000 square feet are limited to 8 tenants and 8 guests.

Conclusions

Overall, it seems as though the new ordinance has helped with some of the issues that caused the ordinance in the first place. There are no major flaws with the ordinance that need to be corrected. The results of the survey are roughly what I expected. If the Town Council would like to make any changes to the ordinance based on this report or the attached survey results, I would be glad to work on it with Maureen O’Meara.

**Attachment:**

**Short Term Rentals Ordinance Citizen Survey**

As part of the review of the short term rentals ordinance, the town on July 22, 2014 sent surveys to permits holders and abutters asking a few questions and soliciting comments.

|  |  |  |
| --- | --- | --- |
|  | Abutters | Permit Holders |
| Surveys Mailed | 502 | 38 |
| Surveys Received | 77 | 13 |
| Response Rate | 15.3% | 34.2% |

**Summary of Responses from Permit Holders**

**Do you feel the zoning ordinance is:**

|  |  |  |
| --- | --- | --- |
| Under regulating the rental | 0 | 0% |
| Working well | 7 | 53.8% |
| Over regulating | 5 | 38.5% |
| Unnecessary | 1 | 7.7% |

**Would you like to see any changes in the ordinance?**

|  |  |  |
| --- | --- | --- |
| Yes | 5 | 41.7% |
| No | 7 | 58.3% |

Comments (not verbatim) :

* Maybe renew every two years, $50 per year isn’t that much, Not much changes in a year
* Egress lighting is not needed, is expensive and is a heavy burden
* Drop the ordinance
* Single family homes are not hotels so feel that exit plans, emergency lighting are not needed and make a cottage feel more commercial
* With a neighborhood association, the town’s rules are unnecessary and redundant
* Would like to see the egress lighting, fire extinguishers and smoke detectors to be written to apply for single family homes rather than boarding houses and commercial buildings
* Don’t think someone staying after 10 p.m. should be considered “overnight” tenants
* If I have 3 bedrooms that 2 per bedroom is reasonable but should not restrict me from allowing 8 overnights
* To be able to rent to more than one party in 7 days
* This is an unnecessary use of town funds and existing laws for noise, parking and disturbing the peace should have been sufficient
* The legal action taken against a certain few had nothing to do with the safety of our guests.

**Did you have any difficulties following the regulations?**

|  |  |  |
| --- | --- | --- |
| Yes | 2 | 15.4% |
| No | 11 | 84.6% |

Comments (not verbatim)

* Egress lighting was expensive to install and reading or ordinance was cumbersome
* See above comment sin previous question- it was re; egress lighting, extinguishers and lighting, 10 p.m. rule, total number rule
* I think it is ridiculous for short term property owners to invest money to provide for the “safety” of short term renters or of our families. This ordinance is clearly an attempt to discourage short term rentals despite the fact that they have historically not created problems.
* No, but had to spend $850 for an electrician.

**Process Questions**

|  |  |  |
| --- | --- | --- |
| **Did you find the permit process** |  |  |
| Easy | 2 | 15.4% |
| Doable | 10 | 76.9% |
| Difficult | 1 | 7.7% |
|  |  |  |
| **Did you find the pre-inspection process** |  |  |
| Useful | 2 | 15.4% |
| Adequate | 10 | 84.6% |
| Unnecessary | 0 | 0% |
|  |  |  |
| **Did you find the permit renewal** |  |  |
| Easy | 5 | 38.5% |
| Doable | 7 | 53.8% |
| Difficult | 1 | 7.7% |

Comments (not verbatim)

* I am a lawyer and it took more than an hour – original application
* Difficult, as the safety regulations are far fetched for a single family house
* Difficult renewal as I did not get a renewal notice and I do not think I should have to spend the $50
* Permit process is doable but unnecessary
* Pre inspection process for this ordinance is adequate but does not address the concerns which prompted it.
* Permit renewal is doable but we were told there would not be a fee, then it was going to be one time, now renewable and not necessary
* Laws should not be made to pacify people with money who often press issues beyond the realm of reason, because they are financially able. Some board members expressed their biased opinion yet still voted on an issue which should have represented the townspeople who have to absorb the expense. The word transient should not be used as we were assured it would not be. Short term renters are absolutely not undesirable drunks as suggested by this derogatory term!
* I am grateful to the town of Cape Elizabeth for working with homeowners to come up with a plan that meets the needs of the renters and non-renters. I am grateful! Thank you!

**Summary of Responses from Abutters**

**How would you rate your overall experience with short term rentals in your neighborhood since the new ordinance was adopted?**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Very Good | Good | Bearable | Bad | Very Bad | No Change | No Knowledge |
| 24 | 15 | 24 | 5 | 2 | 2 | 2 |
| 32.4% | 20.2% | 32.4% | 6.8% | 2.7% | 2.7% | 2.7% |

**How effective is the short term rental ordinance?**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Very Effective | Effective | Not effective at all | Not Needed | Needs Work | Somewhat | Not Sure | Don’t Know |
| 14 | 26 | 19 | 1 | 1 | 1 | 1 | 3 |
| 21.2% | 39.4% | 28.7% | 1.5% | 1.5% | 1.5% | 1.5% | 4.5% |

**Do you think the existence of the ordinance improved the character of your neighborhood?**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Definitely | Somewhat | Not at All | Negatively | Not Sure | Not really |
| 10 | 15 | 36 | 1 | 1 | 1 |
| 15.6% | 23.4% | 56.3% | 1.6% | 1.6% | 1.6% |

**Is there anything in the ordinance that you would like to be changed?**

|  |  |
| --- | --- |
| Yes | No |
| 28 | 38 |
| 42.4% | 57.6% |

Comments are included below.

**Do you have any additional comments?**

|  |  |
| --- | --- |
| Yes | No |
| 41 | 36 |
| 53.2% | 46.8% |

The comments are not verbatim and are summarized to a greater extent than the comments from the permit holders.

* No problems before, none now, no impact for the unnecessary ordinance to begin with- Old Ocean House Road
* Had urged self policing Ordinance was not necessary- Becky’s Cove Road
* Get rid of it. Worked fine for years. Come on! Less government is always best! -Two Lights
* The new ordinance has not really been tested yet in my neighborhood-Surf Road
* Issues with short term rentals are insignificant compared to issues at the Lobster Shack where hundreds of transients come daily- Lobster Shack Neighborhood
* Concern for speed on private road, Unfortunate that our neighborhood is becoming like Higgins Beach but so far the new renters have been respectful and have enjoyed the area – Richmond Terrace
* Would like the property owner to have to maintain the yard. Concern that a rental on Keyes lane is not up to code. Has there been an inspection? - Surf Road
* Short term rentals can help people get through a rough financial time and help pay the Cape taxes. Two Lights has plenty of land so little noise or interaction with tenants. I would assume a bad tenant could ruin a more congested area. – Two Lights area
* 30 day transient not restrictive and defined. We pay high taxes and should not have to tolerate repeated rentals, large #s of people making noise, having multiple weddings every year. We are a residential community, not a rental community. Bonfires on beach are a problem with smoke blowing in our windows. Neighbors called the police and there was no permit. – Chimney Rock Rd.
* It is a challenge to enforce such an ordinance. Character of neighborhood is lessened when 4 cars with many people are in a 2 bedroom dwelling. More properties in neighborhood are being rented. People do not have a choice with the taxes. If CE wants to maintain the character of neighborhoods, it needs to consider the character of their finances to support the assessed taxes. Thank you for the opportunity to respond. – Richmond Terrace
* Renters are parking on other properties, walking on other properties, do not know about the pet ordinances and not picking up the pet waste. Hopefully the town will continue to ask to more feedback periodically.- Richmond Terrace
* Limit the number of homes that may be rented in a specified area-Richmond terrace
* Slightly better but still have photos of 10+ cars parked. Ordinance is not effective as there are multiple violations of rules on number of cars parked. If I had young children I would not buy a house in this neighborhood. If renter has permit, then should not be allowed to rent. How is it possible that weekend after weekend there are up to 10 cars parked, recent weekends better. I don’t waste energy calling the police. This situation has definitely created a situation which could decrease the value of our property. – Lawson Road
* Feel ordinance is unnecessary. Seems the ordinance was written to solve a dispute on Lawson Road, now the whole town has to pay. Short term renters in our neighborhood was never a problem.- Kettle Cove-Two Lights
* We had no ideas the listed properties were being rented so this means the ordinance is working very well or that we do not live close enough to be bothered- McKenney Point Road
* Seems to be a blanket solution to a more explicit problem. It is an extra level of bureaucracy for those landlords who traditionally rent short term- Near Sprague Hall
* From my perspective short tern rentals change the character of the neighborhood from residential to commercial. The ordinance does not address this problem.
* We have no experience with this in our neighborhood and have no objection in principle to short term rentals- Shore Acres- Trundy Point
* Have had only one bad experience since the ordinance took effect. Loud speakers- Garden Circle
* It has been a little quieter but it still disconcerting to have a new set of strangers every week. I worry about property values. Would like to see limited to 30 days per year. Rental owners next door put bare minimum into caring for their yard. Invasive species and thorn bushes have been allowed to grow and to encroach on our property. It is horrible and would be expensive for me to have to deal with. Lawson Road
* Cars are a problem. Should limit to two cars. The Soley property can have 3-8 cars sometime. Police should come by on weekends to count the cars. – Lawson Road
* Concerns about narrowness of road and congestion. Renters park in front of our homes and damage hedges. Surf Road
* Would like it to be compulsory for rental properties to include a map of property lines and explain public and private spaces. We have had serious issues with renters trespassing on our beach property and parking on our lawn for parties. The ordinance is a good idea as self policing was not working. The threat of suspension has made some owners more responsible. Trespassing and noise are the biggest issues for us. There were recently fireworks every night (not the 4th) One home has been renting and advertising on Home Away for years and is not included on your list. – Peabbles/Alewife
* Rentals should be a month minimum. Renters are less respectful especially about noise. Rentals reduce property values of abutting homes. Abutters should get a tax break. It should be a public record if a home is used as a STR for a prospective buyer of an abutting property. Thank you for asking.
* Rentals should be limited to 14 days or more. No less. Abutting properties should get tax consideration. Do STR enjoy the same access to beaches as owners? They should not. Or other owners and deeded rights should be compensated
* Have never experienced any problem. I have read the ordinance and appreciate the work that you do. Old Mill Road (Very happy neighborhood-July 2014)
* The parking standards are too lenient. We now have homes rented through airbrb so there are addt. Issues with parking and bed and breakfasts. B and bs are illegal in our neighborhood so should be clarified- Lawson Road
* Hope this is working out well. I am neighborly- McKenney Point Rd
* Needs to require that all parking be on site. No on street parking by tenants or guests. Needs to be clear that the maximum intensity relates to # of bedrooms and on site parking spaces. There have been violations on Richmond terrace of both max number of cars and guests. Access problem for emergency vehicles and renters let their dogs defecate on resident’s lawn and on the state park property without cleaning afterwards. Take their pets onto other’s property. This past weekend the house next door had 5 adults and 8 children and 4 cars in a 3 bedroom house. Had volleyball court in yard and yelled most of the afternoon. One tenant berated a neighbor for having the neighbor’s dog on their own property as the renter said she was allergic to dogs. Tenants and guests speed down the road endangering children and stirring up dust. Please warm the STR owners that from now on we will be making complaints to enforce the terms of the ordinance. – Richmond Terrace
* Renters need to stay 30 days or more. 5 Sea Barn is no longer a rental property. 13 Lawson is loud but not so much as to call police, just annoying- Pond Cove
* As written, the ordinance has been without effect. Still an influx of strangers every week whose behavior is that of vacationers: happy loud and in party mode. Recent potential buyers have been asking about STR in the neighborhood. If so, they don’t intend to buy. Nothing short of prohibiting STR complet4ly will have the desired effect of returning Lawson Road to the family neighborhood it should be.
* Existence of unsupervised lodging businesses in residential neighborhoods is detrimental to quality of life, safety and property values. Just yesterday a young family looking at a house asked if most of the homes were owner occupied full time. This was their first and primary concern in evaluating the neighborhood. STR growth is a major concern for communities across the country. Legitimate lodging businesses are finally recognizing this unfair mostly unregulated competition. What disturbs me most is the long term effect on the community. There are kids fighting next door at the STR over a swing. There is screaming yelling and the usual commotion that kids cause. That’s fine But these kids will never grow up, play sports or make the honor roll in Cape. Their parents won’t volunteer for the community, care about the land trust or the library or even clean up the neighborhood beach. They are not good neighbors because they are not neighbors at all. The STR owners, some of them LLCs, are concerned only with making a profit, not on the neighborhood or community they continue to exploit. This insignificant ordinance will contribute to the growth of these properties over time weakening the quality of our community and deterring young families from living here. I would like to see the requirement for renting in Cape be 30 days.- Lawson Road
* Ordinance has negatively impacted our neighborhood. Our experience as neighbors to a STR has been extremely poor. The property next to us consists of two properties. The two together can accommodate over 30 people. It is promoted online as a party house for weddings, stag parties, receptions. Use includes bonfires, fireworks, loud music and shouting. A recent party had all day drinking outdoors, urinating on the lawn day and night and calls to the police from more than one neighbor. We have stopped having guests at our home because of the neighboring party house. We will seek to have our property taxes reduced if things do not change. The fire department has been called due to large bonfires at night. Our neighboring properties are a business venture, clearly more than a residential unit. With rentals of a couple of days, there are new people all the time. They feel entitled to get their money’s worth and are often disrespectful of the permanent neighbors. The property owner is not making any attempt to establish rules for his customers. We are hopeful that changes will be made. We have a number of very unhappy neighbors here. Tides Edge Road
* Town council overreacted to an isolated problem. Should have been handled as a police matter. Council punished all property owners by taking a blanket action and unduly restricting all property owners. Council should review all ordinances to see if they are overly restrictive or necessary and eliminate those not clearly needed. – McKenney Point Road
* Retract the ordinance or at the very least make police visits a violation of the ordinance - burden on the police department . We should not have to worry about the revolving cast of strangers partying next to us. In some cases the host has never spoken to the renters. Send a big check, get the keys and do not care what you do. STR are causing problems all over the US. Tides Edge Road
* Ordinance is not effective as it has no influence on tenant’s behavior. There was no problem to begin with. Repeal the ordinance as it adds unnecessary burdens that have no influence on tenant behavior. If the council decides that an ordinance is necessary, then it should require a simple registry of owner’s names so the town has points of contact. If the standards in Sec 19-8-14E are so vital, maybe they should be extended to all properties. Kettle Cove Road
* I feel registering of all rental properties is appropriate. Registration only, not permitting. Needs to be owner accountability. The ordinance cannot control, manage, change human behavior. We also have ongoing neighbors who are sometimes problems. – Kettle Cove Road
* Never had a problem with a STR but have had one with a long term renter and owner- Crescent View
* Would like to see possible multi-year permit instead of annual. I hope the town benefits for this extra burden for those of us who rent. Old Ocean house Road
* There should be a time limit. STR should be a bridge to a slae. Should not be allowed on a continuing basis. Do not believe town should allow single family homes to be continuing STR as this will lead to neighborhood deterioration. Apple Tree lane
* Property values down because of STR. After the ordinance, it is less of a disaster now. No STR, this is residential not commercial. I would not have invested in CE if the realtor had been informative with this information – Lawson Road
* We have lovely neighbors and were not aware of the nearby STR- Two Lights Road
* Very complete ordinance - Kettle Cove road
* Did not know one was in the area- Wells Road
* Did not know we had one in the area. Residents should be able to rent property for family overflow sleeping without a hassle of any kind. Nearby accommodations at the Inn and downtown are $400 to $700. – Shore Road
* The ordinance is important to our neighborhood since it keeps the town involved on a community level- Casino Beach area
* I wish people could not rent their homes by the week. Yearly rentals are the best but this changes the neighborhood drastically having strangers and their friends up and down the street. One renter had people come in a camper and stay. A fire truck could not come down. This is a private street and is not as wide as city streets. If cars do not all fit on the property , it makes it difficult for cars to get by- Richmond terrace