



TOWN OF CAPE ELIZABETH

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MEMORANDUM

November 3, 2011

TO: Ordinance Committee
c/o James T. Walsh, Chair

RE: Short Term Rentals

Although there are many homeowners throughout the Cape that rent on a short term basis, the following is the single formal complaint I have received reference to short term rentals since I became the Code Enforcement Officer in September of 1997.

In October of 2010, I received a complaint from an abutter of 5 Sea Barn Road that the tenants at that address were creating noise issues ranging from boisterous voices to loud music, especially at night. They also took issue to the fact that the road to their home was being blocked by overflow parking for 5 Sea Barn. The complainant also made me aware of the fact that the owner, David Ginn, had been advertising his home on the internet for weekend, weekly and monthly rentals as having 8 bedrooms that would accommodate as many as 20 people.

Based on discussions with the Town attorneys and a review of the Town of Cape Elizabeth Ordinance titled "Chapter 12 - Miscellaneous Offenses", specifically Article I of that Ordinance,

- 1.) Section 12-1-1 "Disturbing the Peace" (a) "Within the Town of Cape Elizabeth, no person shall make, continue or cause to be made, any loud, profane, boisterous, unnecessary or unusual noises which shall either annoy, disturb, injure, or endanger the comfort, repose, health, peace or safety of others" and;
- 2.) Section 12-1-9 "Penalty" which allows the Town to fine the violator as follows: "Any person found to have committed any of the foregoing listed offenses shall be punishable by a fine not exceeding One Hundred Dollars (\$100.00) for each offense, to be forfeited and paid to the use of the Town",

it was determined that the noise issue was a police matter. I advised them to contact the police when there is another noise issue.

Based on discussions with the Town attorneys and a review the Town of Cape Elizabeth Ordinance titled "Chapter 13 – Traffic Regulations",

- 1.) Article II, Section 13-2-2 "Prohibited Locations" "No person shall stand or park a vehicle in any of the following places", (l) on the paved or improved surface of any street, way or road when it is practicable to park elsewhere" and;
- 2.) Article III "Miscellaneous Traffic Regulations", specifically Section 13-3-1 "Obstructions in Streets", (a) "Authority to Remove" gives the police the authority to remove a vehicle when it is obstructing a street, way or road;

it was determined that the parking violations are a police matter. I again advised them to contact the police if the road becomes blocked by vehicles.

As the local plumbing inspector (LPI) for the Town, I am charged to enforce the Maine Subsurface Waste Water Disposal Rules 10-144 CMR 241. In those rules the sizing of a septic system is based on the number of bedrooms and is designed and installed using a figure of 90 gallons per day (gpd) per bedroom, and not on the occupancy load of the dwelling or on the number of bathrooms.

Therefore, on December 3, 2010, through verbal communication and a subsequent letter, Mr. Ginn was put on notice that if he continues to advertise the home with 8 bedrooms and is utilizing the home as such, a notice of violation and order to correct would follow with potential monetary fines. Since that time it has been advertised as having 6 bedrooms, the number allowed under the 6 bedroom septic system design installed in November of 1997.

To conclude, the Town currently has the tools to control:

- 1.) single/family noise from loud voices and music, etc.;
- 2.) obstructions that would otherwise block another's access to their property and;
- 3.) the number of bedrooms allowed based on an installed septic system or connection to a public sewer.

I will be attending the Ordinance committee meeting on Monday and will gladly answer any questions you may have.