

MEMORANDUM

TO: Cape Elizabeth Town Council
FROM: Maureen O'Meara, Town Planner
Ben McDougal, Code Enforcement Officer
Paul Fenton, Police Chief
DATE: August 27, 2019
SUBJECT: Short Term Rental regulation status report

At the July 8, 2019 meeting, the Town Council received public comment on short term rental concerns. The Town Council directed staff to provide information to support a future policy discussion.

Background

In August 2011, in response to complaints from residents, the Town Council initiated a review of short term rental activity. Short Term Rental regulations were adopted in December, 2012 after extensive public input. (An inventory of 35 possible short term rentals were identified.)

The bulk of public comment focused on events held at short term rentals, and the clash between the typical daily routine and a vacation schedule. The purpose of the short term rental regulations is to preserve the peace and quiet of residential neighborhoods while also providing property owners with revenue opportunities.

During the process, town councilors were frustrated with the reluctance of residents to call the police with a complaint when offensive behavior was occurring. An official record of problems was sparse, although substantial anecdotal information was provided. When the regulations were adopted, residents were strongly encouraged by the Town Council to call the police and create a record of complaints for the future.

Summary of Short Term Rental regulations (Sec. 19-8-14)

Short term rentals are defined as rental of a dwelling for less than 30 days. Only 1 rental per 7 day period is allowed. Anyone operating a short term rental for more than 2 weeks a year is required to obtain a permit from the Code Enforcement Officer. (Short term rental of a bedroom within a home that is the principal residence is allowed as a "homestay" and also does not require a Short Term Rental Permit.)

Permit requirements include:

- identifying a local contact person;
- the portion of the calendar year when the rental will be offered;
- compliance with building code requirements for hard wired smoke alarms, carbon monoxide alarms, fire extinguishers and illuminated means of egress;
- a building evacuation plan;
- sanitary waste disposal tied to maximum tenants;
- on and off-site parking;
- rental agreement specifications; and
- limit on rental intensity (number of people on the property) for lots of 30,000 sq. ft. or less in size.

A "3-strikes" violation provision was also adopted. The Police Department forwards a report of any short term rental complaint to the Code Enforcement Officer (CEO). If the CEO determines the complaint is "substantiated," the short term rental owner is notified and must provide a plan for avoiding future violations. If a second substantiated complaint occurs, the short term rental permit is revoked for 30 days. A third substantiated complaint results in revocation for one calendar year.

2019 Short Term Rental Permit holders

For the year ending August 27, 2019, there are 33 short term rental (STR) permit holders. The number of permit holders over a three year period has significantly declined, most likely due to a failure to renew the STR permit rather than a decline in STR activity. (See Possible issues for discussion, item 2 below)

The average number of years that STR permit holders have owned the property was also evaluated as a measure of intent to purchase property primarily for investment rather than primarily as a residence. While the data shows a decline in the years of ownership, the shrinking size of the STR permit base puts the value of this analysis in question.

Year	Number of Permit holders	Average years of ownership
2019	33	7.9
2018	38	7.5
2017	77	8.9

Complaints

For the year ending August 27, 2019, there have been 18 complaints. Of those complaints, 3 have been substantiated complaints under the Short Term Rental regulations. One was for too many guests, one was too many vehicles and the last was two renters within a 7 day period.

It should be noted that complaints filed on properties where short term rentals are operated may be regulated by other town ordinances. Most complaints are about noise and traffic. Those people are asked to call the Police Department when the activity is occurring. We also get complaints about the maximum number of renters, the frequency of renters and the parking of renter's vehicles.

Complaints this year have increased significantly. The estimated number of complaints in past years is 5 per year and this year will be more than 20. It seems like Short Term Rentals in a couple of neighborhoods may have hit a critical mass. The year round residents are getting very frustrated.

Often the complaint is that someone does not have a permit. It is sometimes difficult to contact the owner and make them aware that Cape Elizabeth requires Short Term Rental Permit due to the fact that a lot of properties are owned by LLC's.

Enforcement of the Short Term Rental regulations needs to be stepped up significantly. Currently, the Code Office is not able to keep up with the increasing demands for building permits along with the increasing popularity of Short Term Rentals. There also needs to be a more substantial penalty for failure to renew a short term rental. It is very time consuming chasing people to renew their permits and we should provide some incentive for them to do it independently.

Possible issues for discussion

Town Council discussion may want to include the following items:

1. *Comprehensive Plan Recommendation 86*. Recommendation 86 reads as follows:

Streamline administrative tracking of short-term rental activity by requiring a permit, without expanding regulatory requirements, for operating a homestay or short-term rental of two weeks per year or less.

Currently, these exemptions from obtaining a short-term rental permit function as loopholes to evade short term rental regulation and hamper the ability of the CEO to enforce short term rental requirements.

2. *Third Party permit assistance.* Host Compliance is a company/software used by the cities of Portland and South Portland to comprehensively require short term rental operators to obtain a permit. In a recent presentation to the CEO and town planner, Host Compliance "scraped" online platforms and preliminarily identified 161 unique locations where short term rentals may be operating in Cape Elizabeth.

Depending on the services purchased, which can include identifying short term rental operators, sending compliance notification letters, and processing permits, this service may cost in the range of \$12,000-\$15,000. It could be funded by increasing short term rental permit fees. The current annual fee is \$50 and may need to increase in the range of \$200-\$350.

3. *Character of Community.* When the town first adopted short term rental regulations, most activity could be characterized as a small number of homes with a long history of summer rentals. Public comment now suggests that moderately priced single family homes are purchased by investors for the purpose of operating a short term rental. This activity can change the character of a neighborhood and can also exacerbate the existing shortage of affordable housing. The Town Council may consider this a normal evolution of the market that does not require a public response. Alternately, the Town Council may want to consider steps to slow or stop the conversion of year-round single family homes into short term rentals.
4. *Home stays.* Home stays are a permitted rental of a bedroom in a single family home. When "home stays" were added to the Zoning Ordinance, the intent was to recognize an existing practice where "overhoused" home owners rented out a room *long-term*. Homestays are now occurring for less than 30 days, and it is uncertain the homeowner is remaining in the home during the rental. The Town Council may want to consider amendments that restore home stays to the original intent. Alternately, homestays operating like a short term rental can be subject to the short term rental requirements.

Next Steps

- Policy discussion/direction by Town Council

- Ordinance Amendment package referred to Planning Board
- Administrative direction to town staff