



## CAPE ELIZABETH POLICE DEPARTMENT

**Paul W. Fenton**  
*Chief of Police*

**Brent Sinclair**  
*Captain*

To: Members of the Ordinance Committee

From: Chief Paul W. Fenton

Date: 1/30/2020

Re: Short-Term Rentals

I was recently asked to provide some written comments to the Ordinance Committee on Short-Term Rentals. Although I have not attended any recent meetings, I have read over draft ordinance and recent committee meeting minutes. These are my initial impressions and concerns with some of the materials I have reviewed:

1. First, I believe it is necessary to have the role of the police department clearly defined within the ordinance. When responding to our usual calls for service, officers are expected to remedy issues immediately and effectively. Our current responsibilities when responding to a STR complaint is to simply respond to the scene (when the Code Enforcement Officer is unavailable) and document our "plain view" observations in a police report. If we observe any other violations of law or ordinance, we obviously take appropriate action. The report we generate is then forwarded to the Code Enforcement Officer and he alone decides if there was a violation and he takes appropriate actions or sanctions. My concern is that citizens will expect officers to be experts in all aspects of the STR ordinance and enforcement action in terms of all aspects of the zoning ordinance. An example would be, residents wanting and expecting officers to enter a dwelling to count the number of occupants because they feel that the renters are over the allowable number of guests. This would introduce a host of 4<sup>th</sup> Amendment concerns for officers and renters. I think it is important to clarify that officers will be there to **observe and document** alleged violations of this ordinance, **not enforce** them.
2. Another initial area of concern is the section of the ordinance that reads "A violation of other town ordinances related to the operation of an STR shall also be considered a substantiated complaint". I fear this section of the ordinance could place undue

pressure on officers by complainants/residents to issue town ordinance summonses to renters in order to serve as a strike under the three-strike violation rule. When responding to calls, I always encourage officers to facilitate voluntary compliance rather than simply summons the offender. I feel it is imperative that officers approach each call and any possible violation(s) independent of any outside influences. Any pressure from citizens or removal of an officer's discretion would be highly concerning to me. I would also like to point out that renters are, in almost all incidents, not Cape Elizabeth residents and therefore, would be unfamiliar with our specific town ordinances. In terms of writing violations for other ordinance violations, we often do that to ensure future compliance, but in terms of non-residents that impact would be greatly diminished because their stay is temporary by nature as short-term renters.

3. I have already seen a dramatic increase in the number of FOIA (Freedom of Information Act) requests pertaining to STRs. These request are time consuming and costly in terms of research and processing. I fear the perceived larger role of the department in terms of enforcing the STR ordinance will only serve to further increase the number of these requests going forward.

In closing, I wish to make it clear that our department welcomes and is actually seeking out ways to assist our town partners in any matters that help to increase the quality of life for Cape Elizabeth residents. My only concern is that our increased role in this one specific zoning ordinance would place undue expectations, pressures, and criticism upon our officers. I believe that officers responding to calls for short-term rentals and handling them in a fashion we handle most calls, would subject them to harsh or undue criticism by those opposed to STRs in general.

I welcome any opportunity to discuss this matter and my position in more detail with members of the Ordinance Committee, the Town Council or member of the public.

Respectfully,



Paul W. Fenton  
Chief of Police