

MEMORANDUM

TO: Cape Elizabeth Town Council
FROM: Ordinance Committee
DATE: May 1, 2020
SUBJECT: Short Term Rental Ordinance Amendments

Introduction

Following a workshop on September 4, 2019, the Town Council referred a review of Short Term Rental (STR) regulations to the Ordinance Committee on October 16, 2019. The Ordinance Committee has held 8 meetings and recommended the Short Term Rental revisions to the Zoning Ordinance at the April 16, 2020 meeting.

Process

The Ordinance Committee discussed the STR regulations and amendments at the following meetings:

October, 28, 2019
November 7, 2019
December 2, 2019
January 6, 2020
January 15, 2020
February 26, 2020
March 11, 2020
April 16, 2020

Meeting materials, including meeting minutes summarizing public comment and committee deliberation, are posted on the town website. A substantial volume of public comment was received at each meeting. A copy of all written comments received by the committee is attached.

The committee also benefitted from input from town staff including Code Enforcement Officer Ben McDougal, Police Chief Paul Fenton, and Town Attorney John Wall. The basic STR structure proposed in the draft amendments was developed at meetings when members of the Town Council joined the Ordinance Committee discussion.

Revision highlights

Below is a summary of significant elements in the revision package.

1. Primary residence. In response to concerns from neighborhoods about the change in community character and a desire to preserve housing stock, the proposed revisions prioritize primary residence to operate a short term rental (STR). Primary residence is determined by the ability to qualify for a homestead exemption. This change is one of several that should also enhance tracking/enforcement.
2. Special local circumstances provisions. In recognition of historic seasonal rental activity, the provisions preserve an existing regulation that allows STR rental *adjacent* to a primary residence. A second provision allows non-primary residence STRs on lots of 7 acres or more in size.
3. Enforcement Tracking. Many provisions have been adjusted to facilitate enforcement. The minimum 7 day stay description has been bulked up. Only 1 STR per property is allowed and one type of STR must be declared for the year. Permits will run for 1 calendar year and advertising inconsistent with the permit is a violation.
3. Penalties. The existing penalty structure has been preserved, however the time that a permit will be suspended for the second and subsequent violations has been increased. The permit fee doubles for late permit applications.

Outstanding issues for further discussion

1. Conditional Use designation. The Ordinance Committee is deferring for Town Council discussion designating some STRs as conditional uses. A conditional use permit would require Zoning Board review. This review was suggested as a method of allowing neighbors to register concerns with "annoyances." Conditional use permits run with the property, so making this an annual permit will require additional revisions.
2. Rental period caps. STR discussion included the concept of capping the total number of days that a property can be offered for rent and ranged from 2 weeks to 180 days. At this time, the Ordinance Committee is recommending a cap of 90 rental days for the non-primary residence STR categories.
3. Third Party Enforcement/Permit fee. The Ordinance Committee is supportive of retaining third party enforcement to support the Code Enforcement Officer. Costs for third party enforcement should be funded

by the STR permit fees. The Town Council should include endorsement of contracting out third party enforcement and increasing permit fees as needed as part of final amendment adoption.

4. Transition. Town Council adoption should include language that formalizes transition from the current standards/permits to the new provisions.

Conclusion

The Ordinance Committee is proud of the exhaustive opportunities for public comment provided during this process. It also supports the general Town Council intent to adopt new regulations with ample time for residents and property owners to adapt in advance of the 2021 STR rental season.

Attachments

Draft STR amendments
STR public comment