

Questions

1. Please explain the difference between changing the ordinance versus changing the code and how this may affect the “grandfathering” of existing “event houses”.
2. **Virginia Beach Code of Ordinances: Article 5. Residential Districts, Sec. 500 Legislative Intent** states, “The purpose of the Residential Districts is to provide areas for residential housing types at a variety of densities, provide for harmonious neighborhoods located so as to create compatibility and to provide for certain other necessary and related uses within residential communities but limited as to maintain neighborhood compatibility.” **Sec. 501. Use Regulations** shows principal or conditional uses. It does not include the commercial rental of a house for events and concludes by stating, “**No uses or structures other than as specified shall be permitted.**” Furthermore, **subsection b(5) accessory uses and structures** states, “An **accessory activity operated for profit in a residential dwelling unit where** (i) there is **no change in the outside appearance of the building or premises or any visible or audible evidence detectable from outside the building lot, either permanently or intermittently**, of the conduct of such business except for one (1) nonilluminated identification sign not more than one (1) square foot in area mounted flat against the residence; (ii) **no traffic is generated, including traffic by commercial delivery vehicles, by such activity in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such activity is met off the street and other than in a required front yard**; (iii) the activity is conducted on the premises which is the **bona fide residence of the principal practitioner**, and **no person other than members of the immediate family occupying such dwelling units is employed in the activity**; (iv) such activity is conducted only in the principal structure on the lot; (v) there are no sales to the general public of products or merchandise from the home; and (vi) the activity is specifically designed or conducted to permit no more than one (1) patron, customer, or pupil to be present on the premises at any one time. Notwithstanding the provisions of clauses (ii) and (vi) hereof, ministers, marriage commissioners and other persons authorized by law to perform the rites of marriage may permit a maximum of eight (8) persons on the premises at any one time in connection with the performance of such rites, provided that all other requirements of subdivision (b)(5) are met. The following are specifically prohibited as accessory activities: Convalescent or nursing homes, tourist homes, massage or tattoo parlors, body piercing establishments, radio or television repair shops, auto repair shops, or similar establishments.

Renting a house for an event is not a principal or conditional use per the existing ordinance. The ordinance prohibits any use not specified. Per the existing ordinance, the event houses cannot be an accessory use because they generate increased noise, traffic and parking. Also, the lessee using the *house for the event is not a bona fide resident*. Please explain how the existing ordinance allows these large houses, which are commercial ventures that are rented for profit, to function as assembly halls in a residential neighborhood. These large gatherings are not limited only to advertised “event houses”. As defined by Siebert Realty, it is a Special Event if it exceeds the standard advertised occupancy limit.

Who determined that three (3) yearly rental events per house are required before it is considered an assembly hall? Comparing a homeowner event to an event in a rented house seems like comparing “apples to oranges.” A homeowner event will be less intrusive, as far as noise, traffic, parking and trash, to the neighbors because the owner has more pride in his neighborhood than any renter. Also, many homeowner events include the neighbors, thus eliminating a complainant. Please explain how allowing 3 events per year for rental property is compatible with a residential neighborhood. With the current 55 “event houses”, and growing, that would be 165 events per year. If one assumes that many events take place in the 6 months of the “shoulder season”, that is possibly 165 events over a 26 week period or about 6 events every weekend. Please explain how that number of rental events is compatible with a residential neighborhood.

3. **Virginia Beach Code of Ordinances: Article 5. Residential Districts, Sec. 500 Legislative Intent** states, “The R-40, R-30 and R-20 Residential Districts provide for larger minimum lot sizes for use in areas where **lower residential densities are necessary to address environmental and public facilities constraints** as recommended by the Comprehensive Plan.” Given the R-20 zoning designation for the oceanfront lots in Sandbridge Beach, how can houses that are clearly built for high occupancy rentals meet the intent of the zoning ordinance?

Questions

4. **Virginia Beach Code of Ordinances: ARTICLE VII. TAX ON TRANSIENTS OBTAINING LODGING** has the following definitions:

Lodging. "Lodging" means any room or rooms, lodging or space furnished to any transient.

Lodging place. "Lodging place" means any public or private hotel, inn, hostelry, tourist home or house, tourist camp, tourist cabin, camping grounds, motel, rooming house or other lodging place within the city offering lodging, for compensation, to any transient.

Transient. "Transient" means any person who, for any period of not more than ninety (90) consecutive days, either at his own expense or at the expense of another, obtains lodging in any lodging place.

Sec. 35-159. Levied; amount.

(a)

There is hereby **levied and imposed on each transient a tax equivalent to eight (8) percent of the total amount paid for lodging, by or for any such transient, to any lodging place**, plus a flat tax of two dollars (\$2.00) for each night of lodging at any lodging place other than a campground. The percentage-based portion of the tax rate shall be reduced by one-half (0.5) percent on July 1, 2018 and further reduced by an additional two and one-half (2.5) percent on June 30, 2027. One dollar (\$1.00) of the flat tax shall remain in effect through June 30, 2018, and the remaining one dollar (\$1.00) shall be in effect through December 31, 2020.

(b)

There is hereby **levied and imposed on each transient within the Sandbridge Special Service District (district) a tax, in addition to that levied in subsection (a) hereof, equivalent to one and one-half percent of the total amount paid for lodging within the district, by or for any such transient to any lodging place, excluding hotels, motels and travel campgrounds**

Since houses rented in Sandbridge Beach for less than 90 days are subject to the 8% transient tax plus the 1.5% SSD transient tax, they must be a "lodging place" per the above definition. Furthermore, since they pay the 1.5% SSD tax, they are not hotels, motels or travel campgrounds. Therefore, one must assume these rental houses in Sandbridge Beach are by definition one of the other classifications of "lodging place". What type of "lodging place" are the rental houses in Sandbridge Beach that were built not as owner occupied homes or 2nd homes, but as commercial ventures? Do the houses that rent for special events pay the transient taxes? If not, why? If so, is that tax also levied on the \$1500 special event fee charged by the realty companies? If not, why?

5. The term "tourist home" appears eleven (11) times in the City's Code of Ordinances. The definition that you provided us for "tourist home" seems to describe the short term rentals throughout Virginia Beach. However, you stated this definition is no longer recognized. Please explain when and why the definition for "tourist home" was removed but not the term.
6. Does the type of insurance and/or mortgage, investment vs. owner occupied or 2nd home, have any bearing on whether a house will be considered commercial or residential?
7. Does the fact that several individuals/corporations own more than one house have any bearing on whether the house will considered commercial rather than residential?
8. Does the building code address the safety of a rental structure with a large number of guests, i.e. egress safety, fire protection and deck stability?
9. Would such a use of a single family home, in a similarly zoned neighborhood outside of Sandbridge, e.g. Croatan or the North End, be permitted?
10. Rentmix.com shows many short term rentals in Sandbridge Beach. The tax rate quoted varies between 13% and 15.5%. The City transient tax is 8% and the Sandbridge SSD transient tax is 1.5%. What additional taxes are there to raise the rate to 15.5%?