

CITY OF SAND CITY

ORDINANCE NO. 18-01, 2018

ORDINANCE OF THE CITY OF SAND CITY TO AMEND
SAND CITY MUNICIPAL CODE TITLE 18 (ZONING ORDINANCE)
CHAPTER 18.63 FOR COMPLIANCE WITH AB 2299 AND SB 1069

WHEREAS, the State of California has found and declared that California faces a severe housing crisis and that Accessory Dwelling Units are a valuable form of housing that provides housing for family members, students, the elderly, in-home care providers, the disabled, and others at below market prices within existing neighborhoods; and

WHEREAS, the State Legislature adopted Assembly Bill (AB) 2299 and Senate Bill (SB) 1069 that went into effect January 1, 2017 amending Government Code Section 65852.2 to prohibit local governments from precluding or unreasonably restricting Accessory Dwelling Units, reducing parking standards for Accessory Dwelling Units, and requiring ministerial approval (no public hearings) for Accessory Dwelling Units; and

WHEREAS, Chapter 18.63 of the Sand City Zoning Ordinance, first adopted and incorporated into the Sand City Municipal Code (the "SCMC") in 2003 (Ordinance 03-02) in response to Assembly Bill (AB) 1866 (2002), is now out-of-date with the enactment of AB 2299 and SB 1069; and

WHEREAS, amending SCMC Chapter 18.63 is necessary for consistency with AB 2299, SB 1069, and Government Code Section 65852.2; and

WHEREAS, the proposed amendment of SCMC Chapter 18.63 establishes that Accessory Dwelling Units are allowable in all non-coastal zoning districts where single family and multi-family residential uses are allowed; and

WHEREAS, the requirement that the permit applicant for an Accessory Dwelling Unit be the owner-occupant of the primary residential unit, consistent with Government Code 65852.2(a)A6), is intended to prevent the development of dual rental units or duplex projects under the guise of providing an Accessory Dwelling Unit; and

WHEREAS, the limitation of leasing/renting Accessory Dwelling Units for periods greater than thirty (30) days, consistent with Government Code 65852.2(a)(6), is intended to prevent the misuse of Accessory Dwelling Units as short-term 'vacation rentals' instead of the State's intended purpose of long-term accessory housing; and

WHEREAS, the proposed amendment of SCMC Chapter 18.63 is consistent with the City's certified Housing Element Goal 4.1, Program 4.1.3.B insofar as AB 1866 (2002) was updated by AB 2299 and Senate Bill (SB) 1069 in 2016; and

WHEREAS, this action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Public Resource Code Section 21080.17 and CEQA Guidelines Section 15282(h), which states the adoption of an ordinance regarding secondary units (also referred to as 'Accessory Dwelling Units') to implement the provisions of Sections 65852.1 and 65852.2 of the Government Code are exempt from the requirements of CEQA; whereas, similarly, the ministerial approval of accessory dwelling units is not a "project" for CEQA purposes, and environmental review is not required prior to approving individual applications; and

WHEREAS, a notice of public hearing regarding the proposed amendments of Chapter 18.63 of Title 18 of the SCMC was published in the Monterey Herald, a newspaper publication of general circulation within the local agency ten days prior to public hearing and posted for public viewing at Sand City's three designated posting locations specified by SCMC Chapter 1.12.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Sand City to amend Chapter 18.63 of the Sand City Municipal Code Title 18 (Zoning Ordinance) for compliance with State legislation as follows:

SECTION 1: Chapter 18.63 of the Sand City Municipal Code is hereby deleted and replaced in its entirety to read as follows:

"18.63.010 Purpose. The purpose of this Chapter is to comply with the requirements of Assembly Bill 2299 (2016), and Senate Bill 1069 (2016) regarding permitting of "Accessory Dwelling Units" in those non-coastal zone areas where single family and multifamily residential uses are allowed.

18.63.020 Definitions. For the purposes of this Chapter, the following definitions shall apply:

- A. 'Accessory Dwelling Unit' shall mean an attached or a detached residential dwelling unit that provides complete independent living facilities for one or more persons. It shall include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.
- B. "Principle Dwelling Unit" shall mean that existing primary single-family residential structure on the same property as an Accessory Dwelling Unit.
- C. "Living Area" shall mean the interior habitable area of a dwelling unit including basements and attics, but does not include a garage or any accessory structure.
- D. "Passageway" shall mean a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the accessory dwelling unit.
- E. "Vacation Rental" shall mean the leasing and/or occupancy of a dwelling unit, furnished or unfurnished, for temporary periods of thirty

(30) days or less by tourists, visitors, or similar to the local area as an alternative to motels/hotels.

18.63.030 Designation of Areas Where Accessory Units Are Permitted. When the standards of this Chapter are satisfied, accessory dwelling units shall be allowed in all non-coastal zone areas where single family and multifamily residential uses are allowed and there is an existing single family dwelling.

18.63.040 Accessory Dwelling Unit Standards and Approval.

A. Approval. Accessory Dwelling Units shall be allowed by ministerial approval of a zoning compliance statement issued by the City Planner for parcels larger than 1,875 square feet in all areas of Sand City that are designated for their use as specified in Section 18.63.030, provided the standards outlined in this Chapter are applied to each application. A Zoning Compliance Statement shall be issued if an application for an Accessory Dwelling Unit satisfies all of the conditions below and any other specification of this Chapter.

1. The unit shall not be sold separately from the principal dwelling unit(s) on the property, and it may be rented.
2. The lot or parcel on which the accessory dwelling unit is proposed is zoned for residential and already contains an existing single-family dwelling unit.
3. The accessory dwelling unit may be attached to, or within the living area of, the existing dwelling or it may be detached from and on the same lot as the existing dwelling.
4. The increased floor area of an attached accessory dwelling unit shall not exceed fifty percent (50%) of the existing floor area of the single-family residence, with a maximum increase in floor area of the accessory dwelling unit of twelve-hundred (1,200) square feet.
5. The total floor area for a detached accessory dwelling unit shall not exceed twelve-hundred (1,200) square feet.
6. No passageway shall be required in conjunction with the construction of an accessory dwelling unit.
7. Requirements relating to height, setback, lot coverage, architectural review, site plan review, and all other zoning requirements shall be applicable as they relate to the zoning district in which the proposed accessory unit will be located unless otherwise specified by this Chapter.
8. No setback shall be required for an existing garage that is converted to an accessory dwelling unit, and a setback of no more than five feet (5') from the side and rear lot lines shall be required for an accessory dwelling unit that is constructed above a garage.
9. All applicable building and fire code requirements shall apply as appropriate to ensure public health and safety.

B. Parking. Parking requirements for Accessory Dwelling Units shall not exceed one (1) parking space per unit or bedroom. These spaces may be provided in tandem, including on an existing driveway or in a setback area, excluding non-driveway front setback areas. Off-street parking required for accessory dwelling units, as specified by this Chapter, is permitted within the rear or side setback areas unless specific findings are made that parking in these setback areas is not feasible due to specific site, regional topographical, or fire and life safety conditions. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an accessory dwelling unit, the replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including, but not limited to, as covered spaces, uncovered spaces, or tandem spaces, or by the use of mechanical automobile parking lifts.

Parking for Accessory Dwelling Units shall not be required under the following circumstances:

1. The Accessory Dwelling Unit is located within one-half (1/2) mile of public transit, including transit stations and bus stations.
2. The Accessory Dwelling Unit is part of the existing primary residence or an existing accessory structure.
3. When on-street parking permits are required but not offered to the occupant of the accessory dwelling unit.
4. When a car share vehicle is located within one (1) block of the Accessory Dwelling Unit.

C Architecture. Any proposed Accessory Dwelling Unit, whether attached or detached from the Principle Dwelling Unit, shall utilize the same exterior architectural style, materials, and colors as the Principle Dwelling Unit to the satisfaction of the City Planner. An Accessory Dwelling Unit's height shall not exceed the height, from floor to rooftop, of the existing Principle Dwelling Unit. The Accessory Dwelling Unit's exterior architectural design shall be ministerially reviewed and approved by the City Planner prior to issuance of a building permit. All setbacks shall meet minimum building and fire code requirements.

18.63.050 Density Created Does Not Alter Consistency with the General Plan and Applicable Zoning District. As provided in the state legislation requiring cities and counties to adopt Accessory Dwelling Unit regulations, an accessory dwelling unit consistent with the standards of this Chapter shall not change the density calculation of the relevant parcel and shall be considered consistent with the density limitations of the respective zoning and general plan designations of the property on which it is located.

18.63.060 Limitations on Accessory Dwelling Units. For the purposes of creating an Accessory Dwelling Unit, under the purview of this Chapter, the following requirements and limitations shall apply.

- A. The applicant for creating an Accessory Dwelling Unit shall be the owner-occupant of the Principle Dwelling Unit of that property.
- B. After an Accessory Dwelling Unit is created on the property, the owner of that property shall be the occupant of either the Principle Dwelling Unit or the Accessory Dwelling Unit on that property. Neither the Principle Dwelling Unit nor the Accessory Dwelling Unit on the property may be leased, marketed, and/or occupied separately from the other Unit unless one of the aforementioned units is occupied by the owner of that property.
- C. Any Accessory Dwelling Unit allowed under this Chapter may be leased/rented, but only for terms longer than thirty (30) days. Accessory Dwelling Units shall not be leased, marketed, and/or occupied as 'vacation rentals'.
- D. At the time the zoning compliance statement is issued by the City Planner under Section 18.63.040, the property owner shall record a deed restriction in the official records of Monterey County, California stating that the property owner has received permission from the City to create the Accessory Dwelling Unit and that the permission is conditioned on the occupancy requirements of Section 18.63.060."

SECTION 2: Severance.

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 3: Effective Date


This Ordinance shall become effective thirty (30) days following the second reading of this Ordinance, and a copy of said Ordinance shall thereafter be sent to the California Department of Housing and Community Development.


PASSED AND ADOPTED, by the City Council of the City of Sand City this 20th day of February, 2018 by the following vote:

AYES: Council Member Blackwelder, Hawthorne, Hubler, McDaniel, Carbone
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:

ATTEST:


Linda K. Scholink, City Clerk


Mary Ann Carbone, Mayor