

ORDINANCE NO. 1734-NS

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF THOUSAND OAKS AMENDING TITLE 9, CHAPTER 3, ARTICLE 12, TO ADD SECTION 9-3.1218 VOLUNTARY LOT MERGERS; AMENDING TITLE 9, CHAPTER 4, ARTICLE 28, SECTION 9-4.2816 EXEMPT HOUSING PROJECTS TO ADD 9-4.2816 (b) AND RENUMBERING (b) TO (c); AMENDING TITLE 9, CHAPTER 10, TO ADD ARTICLE 8 INCENTIVES FOR AFFORDABLE HOUSING WITH LOT CONSOLIDATION, SECTIONS 9-10.801 THROUGH 9-10.804 TO THE THOUSAND OAKS MUNICIPAL CODE TO ESTABLISH A MINISTERIAL PROCESS FOR VOLUNTARY LOT MERGERS, INCENTIVES FOR QUALIFYING AFFORDABLE HOUSING PROJECTS, AND MINISTERIAL APPROVAL FOR SENATE BILL 35 PROJECTS AS REQUIRED BY THE 2021-2029 HOUSING ELEMENT (MCA 2024-70004)

The City Council of the City of Thousand Oaks does hereby ordain as follows:

Part 1

Title 9, Chapter 3, Article 12, Reversions and Mergers of the Thousand Oaks Municipal Code, is hereby amended to add Section 9-3.1218 Voluntary Lot Mergers as follows:

- (a) Intent and Purpose. Concurrent Processing with Discretionary Projects. The purpose of this Article is to establish ministerial procedures for processing voluntary merger applications to merge contiguous lots under common ownership into a single lot as authorized by California Government Code Section 66499.20.3. The approval of voluntary merger applications and subsequent review and approval of the certificate of merger and deeds are ministerial acts not subject to CEQA. In instances where a voluntary merger is requested in conjunction with a project involving an application for a development permit or other discretionary City land use approval involving some or all of the property subject to the voluntary merger, the voluntary merger application shall be processed concurrently with the application for the discretionary land use approval, including for purposes of evaluating the project's potential environmental effects. Notwithstanding the foregoing, the City's approval of a voluntary merger is, in and of itself, a ministerial act.

(b) Application. Applications for the approval of a Voluntary Merger shall be filed with the Community Development Department. No application shall be accepted for filing and processing if there is an open investigation pertaining to a documented violation of the TOMC on the subject lot(s) unless:

- (1) The acceptance of the application is necessary to abate the existing violation and otherwise conforms to the requirements of this Chapter;
- (2) Contains in a full, true, and correct manner, the required information prescribed by the forms supplied by the Community Development Department; and
- (3) Is accompanied by the appropriate fees.

(c) Filing and Processing Requirements.

(1) The application for a Voluntary Merger shall be processed by the Community Development Department if all information and documents requested in the application, including each item listed below in Section 9-3.1218(c)(1)(i) through (c)(1)(vii), are submitted and concurrently reviewed to the satisfaction of the Community Development Department until deemed complete.

(i) A deposit of the required fees pursuant to the City's Fee Schedule to process and record a certificate of voluntary merger.

(ii) A current preliminary title report showing all parties with a legal or equitable interest in the lots and all easements, covenants, and other encumbrances and interests in the affected lots at the time of the filing of the application for the voluntary merger.

(iii) All parties having any record title interest in the lots subject to the voluntary merger application have consented in writing to the voluntary merger subject to the exceptions set forth in Government Code Section 66436.

(iv) If any of the existing lots are developed, a site plan prepared by the project surveyor that depicts the location of any buildings or structures with a notation of setback distances from the resulting adjusted lot lines.

(v) Documentation, as required by the Community Development Department, to establish that each of the lots that are subject to the voluntary merger are legal lots. The applicant is encouraged to consult with the Community Development Department prior to submitting a voluntary merger application that involves illegally created lots to confirm compliance with Section 9-3.1218 (g) (1)(2)(11).

- (vi) Legal description and map, prepared by a person authorized to practice land surveying or land surveyor, of the new boundaries of the merged lot as adjusted by the voluntary merger. The map shall also include: (i) the boundaries of each of the existing lots at the time of application; and (ii) a north arrow and the bearings and distances for the merged lot lines. A record of survey may be voluntarily submitted as a substitute for a map.
 - (vii) Draft certificate of voluntary merger (see Section 9-3.1218(k) below) and deed(s) reflecting the adjusted property boundaries.
- (2) Unless otherwise specified in this Article, the voluntary merger application shall be processed ministerially without a public notice or hearing.
- (d) Community Development Department and City Engineer Review
 - (1) The Community Development Department and City Engineer shall review the voluntary merger application. If additional information is needed, the applicant shall provide the documents and information requested by the Community Development Department and City Engineer in order to deem the application complete. If the application is determined to be incomplete, the applicant shall be notified in writing of the reasons therefor and informed of the information needed to make the application complete.
 - (2) The City Engineer or designee shall determine whether the documents required to effectuate the Voluntary Merger are technically correct, including the legal description and map. When the City Engineer or designee is satisfied that the documents to be recorded to complete the voluntary merger are technically correct, the City Engineer shall transmit the documents to the Community Development Department for recordation with the Office of the County Recorder upon final approval of the application by the advisory agency pursuant to Section 9-3.1218(j) of this Chapter.
- (e) Termination of Incomplete Application. An incomplete voluntary merger application may be terminated in the same manner for terminating an incomplete land use permit application as set forth in Section 9-4.2817(a)(1), and (a)(2) "Applications incomplete for processing."
- (f) Designated advisory agency. The Community Development Director or designee is the designated advisory agency for ministerial voluntary merger applications under this Article.
- (g) Standards for Approval. The Community Development Director, in consultation with the City Engineer, shall approve or conditionally approve a voluntary lot merger without public notice or hearing if, on the basis of the complete application that demonstrates the following:

- (1) Each of the lots to be merged are legal lots. However, a legal lot that was illegally subdivided thus creating two or more illegal lots may be merged back into its original configuration as the legal lot existed prior to the illegal subdivision so long as the other criteria of approval set forth in this section are met;
- (2) If one or more involved parcels is subject to a conditional certificate of compliance, the conditions of development must be fully satisfied by the merger. Notwithstanding the foregoing, if a condition of development that would not be satisfied relates to minimum parcel size, the merger shall be approved with the condition that the deed or deeds recorded to effectuate the merger contain an express statement that the resulting parcel remains subject to the conditional certificate of compliance, whose recording information shall be noted on the deed or deeds;
- (3) The lots to be merged are contiguous to each other;
- (4) The lots to be merged are under the same ownership;
- (5) If there are any liens or deeds of trust, they shall encumber the entire merged lot. There cannot be any liens or deeds of trust encumbering only a portion of the merged lot;
- (6) The voluntary merger will not adversely affect existing easements of record on any of the lots or any conditions of approval, dedications, offers to dedicate, or security arising from a previously recorded map that created any of the lots subject to the voluntary merger application;
- (7) The lot merger shall not impair existing easements, or it shall include the relocation of existing easements, utilities, or infrastructure serving adjacent lots, parcels, or public lands and streets;
- (8) The lot merger shall not impair existing access or create a need for access to adjacent lots or parcels;
- (9) The lot merger will not alter the exterior boundary of the lots to be merged.
- (10) The City Engineer or designee has approved the legal description as accurately representing the exterior boundaries of the resulting merged lot;
- (11) The voluntary merger will not render any existing conforming structures or existing conforming uses on any of the involved lots to become a nonconforming structure or use. Existing legal nonconforming structures or uses on any of the lots subject to the application are not grounds to deny the voluntary merger; and

- (12) The deed or deeds submitted to the Community Development to effectuate the merger shall contain an express statement of the grantor(s), pursuant to section 1093 of the California Civil Code, that the intent of the grantor(s) and the purpose of the deed(s) is to merge all of the property described in the deed(s) into a single lot.

(h) Conditional Approval:

- (1) The only conditions the Advisory Agency may impose on the approval of a voluntary merger are those required:
 - (i) Conform the merged lot to all objective standards and requirements of the General Plan, Zoning Ordinances and City of Thousand Oaks Improvement Standards and Specifications; and
 - (ii) Facilitate the relocation of existing utilities, infrastructure, or easements.
- (2) If the voluntary merger application is conditionally approved, the advisory agency shall send a letter of conditional approval notifying the applicant of the conditions to be fulfilled prior to recordation of the voluntary merger. If the conditions are not fulfilled within one year of the date of the letter, the voluntary merger shall expire and become null and void unless the applicant obtains a written extension from the Advisory Agency pursuant to Section 9-9-3.1218(i), "Extension of Conditional Approval" of this Chapter.
- (3) A conditionally approved voluntary merger shall be deemed ready for recordation when the advisory agency determines that the conditions have been fulfilled and is in receipt of the following:
 - (i) An up-to-date preliminary title report;
 - (ii) The voluntary merger documents approved by the City Engineer (e.g., legal description and a map); and
 - (iii) All deeds prepared for recordation as approved by the Community Development Director pursuant to Section 9-3.1218(c)(1)(vii) of this Chapter.
- (4) Upon receipt of the documents required by Section 9-3.1218(h)(3) above, the Advisory Agency shall cause each of the Community Development Director -approved voluntary merger documents and deeds to be recorded in the Office of the County Recorder.

- (i) Extension of Conditional Approval. Prior to the expiration of the conditional approval of the voluntary merger application pursuant to Section 9-3.1218(h)(2) above, the Advisory Agency may grant one extension of up to six (6) months if the applicant demonstrates good cause.
- (ii) Certificate of Voluntary Merger. The recordation of a Certificate of Voluntary Merger and the deed(s) shall effectuate the voluntary merger of the separate lots into a single lot for the purposes of the Subdivision Map Act and this Chapter, and the lots shall thereafter be treated in all respects as a single lot. The Certificate of Voluntary Merger shall constitute a Certificate of Compliance for the merged lot.
- (iii) Certificate of Voluntary Merger Requirements. A Certificate of Voluntary Merger shall include all the following:
 - (5) All parties having any record title interest in the merged lot shall execute the Certificate of Voluntary Merger before a Notary Public and submit it to the Community Development Department, excepting all those interests that are excepted pursuant to the provisions of Government Code Section 66436. The Community Development Director shall also execute the Certificate of Voluntary Merger, but the signature need not be notarized.
 - (6) The Certificate of Voluntary Merger shall include an express written statement that the consolidation of the legal descriptions of the lots is intended by the owner(s) to merge those lots into a single lot as set forth in the legal description of the merged lot.
 - (7) Either: (a) The deed or deeds that comprise the ownership interests of each lot subject to the voluntary merger shall be attached to the certificate of voluntary merger, or (b) the recorder number of each deed to each lot subject to the Voluntary Merger shall be referenced in the Certificate of Voluntary Merger.
 - (8) The legal description of the merged lot approved by the City Engineer shall be attached to the Certificate of Voluntary Merger.

Part 2

Title 9, Chapter 4, Article 28, Section 9-4.2816 is amended to add new Section 9-4.2816 (b) and relabel 9-4.2816 (b) to 9-4.2816 (c) as follows:

9-4.2816: Exempt Housing Projects

The following housing projects are exempt from all discretionary land use entitlement review process required by Article 21. Uses Allowed by Zone and are only required to obtain building permits, grading permits, landscape plan checks and other ministerial associated permits, after a zoning clearance has been issued by the Community Development Department:

...

- (b) Housing projects with at least 50 percent of base units deed restricted as affordable to lower income households that meets the requirements and process as further detailed in California Government Code Section 65913.4.
- (c) These housing projects exempt from discretionary land use entitled review process are subject to ministerial review to confirm exempt status including compliance with the applicable standards of the zoning regulations and appropriate operational conditions. Ministerial actions are not appealable.

Part 3

Title 9, Chapter 10 Affordable Housing is hereby amended to add Article 8. Incentives for Lot Consolidation as follows:

Article 8 Incentives for Affordable Housing with Lot Consolidation

Sec. 9-10.801 Purpose and intent

The purpose of this article is to encourage the redevelopment of smaller sites through allowing incentives for qualifying housing projects that include the merging or consolidation of parcels.

Sec. 9-10.802 Eligibility for Incentives

- (a) Qualifying Projects: Housing developments that consist of lot consolidation pursuant to Section 9-3.1218 Voluntary Lot Mergers and meet either of the following location and affordability criteria:
 - (1) Housing Inventory Sites (HIS) that construct at a minimum, the number of residential units at the level of affordability identified in the Housing Element Appendix C: Sites Inventory.

- (2) Mixed-Use (MU), Mixed-Use Overlay Zone (MUOZ) or Multiple-Family (R-3) zoned sites not identified in the Housing Element Sites Inventory associated with a rental development proposal consisting of 20 percent of the units affordable to lower income households and ownership development proposal consisting of 20 percent of the units affordable to moderate income households.

Sec. 9-10.803 Incentives

- (a) Fee Based: A pre-application will be processed with no fees imposed by the Planning Division.
- (b) Locations: Housing Element Inventory Sites and other multifamily or mixed-use sites may be consolidated either separately or in combination when properties are adjoining and proposed to be merged.
- (c) Development Standards:
 - (1) Qualifying projects located in the R-3 zone may use the Mixed-Use Zone Development Standards per Section 9-4.1052 and as allowed in this section (2) through (4).
 - (2) Waive the following Mixed-Use Zone Development Standards
 - (i) Ground Floor Plate height: Minimum 14 feet
 - (ii) Minimum average depth of retail of 60 feet
 - (iii) Third Floor Setback – Minimum: 10 foot average from first floor street front building façade
 - (iv) Public Exterior Space – Minimum 3% of area of building footprint
 - (3) Change the following Mixed Use development standards to the following:
 - (i) Side yard setback: 10 feet minimum from a residential zone
 - (ii) Building Height maximum along a side property line within 40 feet of side yard abutting a residential zone:
 - (1) 20-feet from property line - 25 feet maximum
 - (2) 20 feet to 40 feet from property line - 45 feet maximum
 - (3) Over 40 feet from property line - 50 feet maximum
 - (iii) Minimum Ground Floor Windows: 35% for ground floor residential
 - (4) Reduce or waive Objective Design Standards for Courtyard, Stacked Dwelling and Mixed-use Block building types:

- (i) Minimum Courtyard area reduction from 15% to 10% of lot area.
 - (ii) Minimum courtyard dimensions must be thirty feet (30') when the long axis of the courtyard is within forty-five (45) degrees of an east/west orientation and twenty feet (20') when the courtyard is within forty-five (45) degrees of a north/south orientation.
 - (iii) Courtyard dimensions must have no less than a one to one (1:2) proportion between any horizontal dimension and adjacent building height.
 - (iv) A maximum of one hundred percent (100%) of the total units within a project can be in a stacked dwelling building type.
- (d) Eligible for regulatory incentives consistent with California Government Code Section 65915(d)(2) regardless of whether the qualifying project includes a Density Bonus.

Sec. 9-10.804 Affordability Requirements

Rental units must be deed restricted as affordable housing units for no fewer than 55 years and ownership units must deed restricted as affordable housing units for no fewer than 45 years, subject to Article 6. Compliance Procedures.

Part 4 (Uncodified) Severability

If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this title; it being hereby expressly declared that this title, and each section, subsection, sentence, clause and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Part 5
(Uncodified)
Effective Date

This Ordinance shall take effect on the thirty-first (31st) day following its final passage and adoption.

PASSED AND ADOPTED this 10th day of December, 2024, by the following vote:

Ayes:
Noes:
Absent:

Al Adam, Mayor
City of Thousand Oaks, California

ATTEST/CERTIFY:

Laura B. Maguire, City Clerk

Date Attested: _____

APPROVED AS TO FORM
Office of the City Attorney

Tracy M. Noonan, City Attorney

APPROVED AS TO ADMINISTRATION:

Andrew P. Powers, City Manager

Introduced: December 3, 2024
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The presence of electronic signature certifies that the foregoing is a true and correct copy as approved by the City of Thousand Oaks City Council on the date cited above.