

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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September 23, 2025

Kevin Parker, Community Development Director
Community Development
City of Thousand Oaks
2100 E Thousand Oaks Blvd
Thousand Oaks, CA 91362

Dear Kevin Parker:

**RE: Review of Thousand Oaks' Accessory Dwelling Unit (ADU) Ordinance under
State ADU Law (Gov. Code, §§ 66310 - 66342)**

Thank you for submitting the City of Thousand Oaks (City) ADU Ordinance No. 1735-NS (Ordinance), adopted April 25, 2025, to the California Department of Housing and Community Development (HCD). HCD has reviewed the Ordinance and submits these written findings pursuant to Government Code section 66326, subdivision (a). HCD finds that the Ordinance fails to comply with State ADU Laws in the manner noted below. Pursuant to Government Code section 66326, subdivision (b)(1), the City has up to 30 days to respond to these findings. Accordingly, the City must provide a written response to these findings no later than October 30, 2025.

The Ordinance addresses many statutory requirements; however, HCD finds that the Ordinance does not comply with State ADU Law as follows:

1. Section 9-4.4505 (c)(3) – *Deed Restrictions* – The ordinance states, “No ADU shall be placed in any area where structures are prohibited pursuant to a recorded deed restriction...” However, California Civil Code section 714.3 states “Any covenant, restriction, or condition contained in any deed, contract, security instrument, or other instrument affecting the transfer or sale of any interest in real property that either effectively prohibits or unreasonably restricts the construction or use of an accessory dwelling unit or junior accessory dwelling unit on a lot zoned for single-family residential use that meets the requirements of Article 2 (commencing with Section 66314) of Chapter 13 or Article 3 (commencing with Section 66333) of Chapter 13 of Division 1 of Title 7 of the Government Code is void and unenforceable.” Although deed restrictions are required for Junior ADUs (JADU), they are strictly prohibited for ADUs and therefore, the City must remove all references to deed restrictions for ADUs.

2. Section 9-4.4507 (c)(4) – *“New Construction JADUs”* – The ordinance describes “JADUs that are newly constructed (not converted from existing square footage)”. Government Code section 66333, subdivision (d) “Require[s] a permitted junior accessory dwelling unit to be constructed within the walls of the proposed or existing single-family residence. For purposes of this subdivision, enclosed uses within the residence, such as attached garages, are considered a part of the proposed or existing single-family residence.” While this section may apply to JADUs created within proposed single-family homes, JADUs may not be created as new construction, attached space to an existing single-family home. The City must amend the language to clarify that all JADUs must be contained entirely within a single-family residence.
3. Section 9-4.4511 (a)(1) – *JADU Deed Restrictions* – The ordinance requires a deed restriction for a JADU to include a rental term longer than 30 days. However, Government Code section 66333, subdivision (c) requires JADU deed restrictions to have only “(1) A prohibition on the sale of the junior accessory dwelling unit separate from the sale of the single-family residence, including a statement that the deed restriction may be enforced against future purchasers. (2) A restriction on the size and attributes of the junior accessory dwelling unit that conforms with this article.” The rental term as a required deed restriction exceeds State ADU Law and must be removed.
4. Section 9-4.4513 (a)(2)(iii), (a)(4)(iii) and (iv) and (a)(5)(iii) and (iv) – *Height* – The ordinance states that for “state-mandated” ADUs subject to Government Code section 66323, subdivision (a)(2), “The roof peak height above grade is sixteen (16) feet or less.” It later states that ADUs with multifamily dwellings (subject to section 66323, subdivisions (a)(3) and (a)(4) may have a roof peak of 16 feet for single-story dwellings and 18 feet for multistory dwellings. However, Government Code section 66321, subdivision (b)(4)(B) requires a maximum height for units with multifamily primary dwellings of 18 or 20 feet, given stated circumstances. The City must provide for all height allowances found in 66321 (b)(4).
5. Section 9-4.4513 (a)(4)(ii) – *Size Restrictions on Multifamily Units* – The ordinance restricts detached ADUs with multifamily primaries to “800 square feet or smaller”. However, local development standards may not preclude a unit created pursuant to Government Code section 66323; both converted and new construction units built in accordance with this section may be of any size. Therefore, the City must remove size restrictions for ADUs that qualify as units created under 66323 for multifamily dwellings.

6. Section 9-4.4513 (a)(1) and (a)(2) – *Unit Combinations* – The ordinance allows “One [converted/interior] ADU and one JADU on a lot with a proposed or existing single-family dwelling on it,” while (a)(2) provides for “One (1) detached, new-construction ADU on a lot with a proposed or existing single-family dwelling (in addition to any JADU that might otherwise be established on the lot under subsection 1.i. above).” This language is confusing and appears to restrict ADU development to one ADU, either converted or detached, and one JADU per lot with a single-family primary dwelling. This understanding was confirmed in conversation with City staff in recent communications with HCD.

However, Government Code section 66323, subdivision (a), states, “Notwithstanding Sections 66314 to 66322, inclusive, a local agency shall ministerially approve an application for a building permit within a residential or mixed-use zone to create any of the following: (1) One accessory dwelling unit and one junior accessory dwelling unit per lot with a proposed or existing single-family dwelling...(A) The accessory dwelling unit or junior accessory dwelling unit is within the proposed space of a single family dwelling or existing space of a single-family dwelling or accessory structure.” In addition, paragraph (2) permits “one detached, new construction, accessory dwelling unit that does not exceed four-foot side and rear yard setbacks.” The use of the term “any” followed by a list of permitted ADU types means that any of these ADU types can be combined on a lot zoned for single-family dwellings, allowing up to three units.

Section 66323 permits a homeowner to create one converted ADU; one detached, new construction ADU; and one JADU. Thus, if the local agency approves an ADU that is created from existing (or proposed) space, and the owner subsequently applies for a detached ADU (or vice versa) that meets the size and setback requirements of this section, the City is prohibited from denying the application, and/or a permit for a JADU under this section. This section also requires the ministerial approval of detached ADUs in combination with units created in portions of multifamily primary dwellings that are not used as habitable space. Therefore, the City must amend the Ordinance to provide for all ADU/JADU combinations described in Government Code section 66323.

The City has two options in response to this letter.¹ The City can either amend the Ordinance to comply with State ADU Law² or adopt the Ordinance without changes and include findings in its resolution adopting the Ordinance that explain the reasons the City believes that the Ordinance complies with State ADU Law despite HCD's findings.³ If the City fails to take either course of action and bring the Ordinance into compliance with State ADU Law, HCD must notify the City and may notify the California Office of the Attorney General that the City is in violation of State ADU Law.⁴

HCD appreciates the City's efforts in the preparation and adoption of the Ordinance and welcomes the opportunity to assist the City in fully complying with State ADU Law. Please feel free to contact Mike Van Gorder at Mike.VanGorder@hcd.ca.gov if you have any questions.

Sincerely,



Jamie Candelaria
Section Chief, ADU Policy
Housing Policy Development Division

¹ Gov. Code, § 66326, subd. (c)(1).

² Gov. Code, § 66326, subd. (b)(2)(A).

³ Gov. Code, § 66326, subd. (b)(2)(B).

⁴ Gov. Code, § 66326, subd. (c)(1).