BEFORE THE TOWN COUNCIL OF THE TOWN OF MORAGA:

In the matter of:

Adding Chapter 8.34 to the Town of Moraga	**)**	**ORDINANCE NO. DRAFT**
Municipal Code to establish a Twenty	**)**	
Dwelling Units per Acre (20 DUA) Multifamily	**)**	
Residential District.	**)**	

THE TOWN COUNCIL OF THE TOWN OF MORAGA DOES HEREBY ORDAIN:

SECTION 1. Title 8, Chapter 8.34, entitled "TWENTY UNITS PER ACRE MULTIFAMILY RESIDENTIAL DISTRICT" is hereby added to Title 8 (Planning and Zoning) of the Town of Moraga Municipal Code to read as follows:

Chapter 8.34

TWENTY UNITS PER ACRE MULTIFAMILY RESIDENTIAL DISTRICT

Sections:

Article 1. General Provisions

8.34.010 Purpose.
8.34.020 Permitted Uses
8.34.030 Conditional Uses
8.34.040 Density

Article 2. Procedures and Development Standards

8.34.050 Requirement for Market Analysis
8.34.060 Site Development Standards
8.34.070 Multiple Housing Parking Requirements
8.34.080 Open Space Areas
8.34.090 Building Relationships
8.34.100 Development Plans
8.34.110 Rezoning to 20 DUA District
8.34.120 Use Permits and Variance Applications

Article 1: General Provisions

8.34.010 Purpose.

The purpose of this chapter's regulations is to allow for medium density multiple family residential development designed to provide as much compatibility as possible with existing neighboring development and which is designed to be compatible with site constraints, such as topography, drainage and existing vegetation.

8.34.020 Permitted Uses

A. Crop and tree farming with no on-site sales;

B. A detached single family dwelling on each lot and the accessory structures normally auxiliary to it;

C. Duplex residential structures;

D. Multiple family apartment or residential condominium buildings, but not including motels or hotels;

E. Foster home or family care home operated by a public agency, or by a private agency which has obtained State or local approval (license) for the proposed operation, where not more than six (6) minors reside on the premises with not more than two (2) supervisory persons;

F. A day care center or residential facility, including a family care, foster or group home or a residential care facility for the elderly, operated by a person with State and/or local agency approval or license, where not more than six (6) persons reside or receive care, not including the licensee or members of the licensee's family or persons employed as facility staff;

G. A second living unit (attached to an existing single-family dwelling) approved under MMC Chapter 8.124.

8.34.030 Conditional Uses

In the 20-DUA district, the following uses are permitted on the issuance of a conditional use permit:

A. Hospitals, eleemosynary and philanthropic institutions, convalescent homes, and boarding homes;

B. Churches, religious institutions, and parochial and private schools, including nursery schools;

C. Community buildings, clubs and activities of a quasi-public, social, fraternal, or recreational character, such as golf, tennis, and swimming clubs; veterans and fraternal organizations not organized for monetary profit;

D. Commercial radio and television receiving and transmitting facilities but not including broadcasting studios or business offices;

E. Private radio, amateur radio, and television antennas, flagpoles, monuments, spires, wind chargers, and other similar accessory structures.

8.34.040 Density.

A. The maximum number of apartment units or residential condominium units allowed in this district is twenty (20) per acre, exclusive of streets. For each apartment unit or residential condominium unit a minimum of two thousand (2000) square feet of land in area shall be provided.

B. The density may be increased up to 24 dwelling units per acre or a minimum of Eighteen hundred (1800) square feet of land area for each unit if the increased density provides housing opportunities to persons of limited means.

8.34.050 Requirement for market analysis.
The planning commission may require an applicant for a conditional use permit to submit a market analysis in accord with criteria established by it.

8.34.060 Site Development Standards.

A. *Lot Area and Configuration*. The minimum lot areas, lot frontage and lot depth in the 20-DUA district shall conform to the specifications in the following table based on the type of building proposed:

Building or Structure Proposed	Minimum Area	Minimum Lot Frontage	Minimum Lot Depth
A detached single family dwelling	6,000	60 feet	80 feet
A duplex	8,000	80 feet	80 feet
A multiple family building	20,000	100 feet	100 feet
Other structure	10,000	80 feet	80 feet

B. *Site Standards for Proposed Subdivision Parcels*. The minimum site standards in subsection A of this section are minimum standards and are not intended to apply as a matter of right to a parcel which is proposed to be subdivided. The Planning Commission shall fix the minimum lot area, frontage, front yard setback and side and rear yard setback requirements for each parcel in this district which is created by the subdivision process after the date the ordinance codified in this chapter is adopted.

C. *Yards.* The following building setbacks shall be observed for all structures in the 20-DUA district.

1. *Front Setback*. There shall be a setback of at least twenty (20) feet between any residential building or structure and the front property line of the lot, except this minimum shall be increased by two (2) feet for each foot of .building height above twenty (20) feet.

2. *Side Yard*. There shall be a minimum side yard width of ten (10') feet between any residential building or structure and the property lines of the lot, except this minimum shall be increased by one (1) foot for each foot of building height over twenty (20) feet. Garages or any other accessory building not used for human occupancy may have a minimum five (5) foot side yard when located at least fifty (50) feet from the front property line.

3. *Rear Yard*. There shall be a rear yard width of at least twenty (20) feet between any residential building or structure established in this

district and the rear boundary line of the lot, except that garages or any other accessory building or structure may have a five (5) foot rear yard.

4. *Increase in Side and Rear Yard Setback Requirements*. The Planning Commission upon review of a use permit application for a conditional use in the 20 DUA district may require an increase or permit a decrease in the minimum front, side or rear yard requirements, upon finding that the adjustment is necessary to establish a proper site planning relationship to existing and proposed uses.

D. *Lot Coverage.* No building or structure permitted in the 20-DUA district shall cover more than thirty-three percent (33%) of the lot area and the combined coverage by buildings and paved areas shall not exceed fifty percent (50%).

E. *Height Limits for Buildings and Structures.*

1. *Maximum Building Height*. No building permitted in this district shall exceed thirty (35) feet in height, except that when an 20 DUA district abuts any single family residential district, then the building height maximum of the portion of this district within fifty (50) feet of the abutting single family residential district shall be twenty eight (28) feet for two story structures and nineteen (19) feet for single story structures.

2. *Maximum Aggregate Building Height.* On sloped lots where a structure is stepped down the slope, the maximum aggregate building height shall not exceed forty-five (45) feet. However, if upon design review, the reviewing authority finds that the building height proposed for the structure will create a significant adverse effect on neighboring properties or is incompatible with the natural terrain or vegetation, the reviewing authority may reduce the maximum building height permitted to a height which eliminates or mitigates the adverse effects of the building height proposed.

3. *Accessory Structures.* The following accessory structures shall adhere to the height limits specified below:

(a) A covered walkway shall not exceed ten (10) feet in height.

(b) A private radio, amateur radio or television antenna, or spire shall not extend above the highest peak of the roof when attached thereto.

(c) A ground mounted antenna shall comply with the height requirements of the primary structure and shall have a non-shiny finish.

(d) A flag pole shall not exceed twenty-five (25) feet in height.

(e) All other accessory structures, including spires, shall not exceed fifteen (15') feet in height.

8.34.070 Multiple Housing Parking Requirements.

A. *Space Requirements*.

1. Every apartment or dwelling unit shall have, on the same lot or parcel, off-street automobile storage space as follows:

   (a) Studio dwelling unit, one (1) covered space; one bedroom dwelling unit, one and one-half (1 1/2) covered spaces; two (2) or more bedroom units, two (2) covered spaces; plus

   (b) One-space for each three (3) dwelling units for guest parking, which may include available curb parking along the subject property's street frontage, and fractional amounts of which shall be rounded out to the next higher whole number of spaces.

2. Each space shall have minimum dimensions of nine (9) feet by nineteen (19) feet surfaced area, and shall not be located within the front or side yard setback areas of the principal structure.

8.34.080 Open Space Areas.

A. *Requirements*. Twenty-five percent (25%) of the project site shall be landscaped and shall not be occupied by buildings, structures, or pavement. Seventy-five percent (75%) of the twenty-five percent (25%) (open area) shall be planted and maintained with growing plants.

B. *Recreational Facilities*. The reviewing authority may require private recreational facilities consistent with the needs of those who may occupy the proposed units and in accordance with the design guidelines listed under MMC Section 8.122. xxxx.

8.34.090 Building Relationships.

A. *Requirements*. Each building or structure shall be located at least twenty (20) feet from each other building or structure, except that garages and covered walkways between buildings or structures may be permitted within this twenty (20) foot distance.

B. A covered walkway shall not be more than ten (10') feet wide and no more than fifty percent (50%) of the sides of the structures shall be enclosed with any material other than that necessary for roof supports.

8.34.100 Development Plans.

A. *Requirement*. All development within the 20 DUA district shall require submittal of a development plan to the Planning Director for review and determination of the process for approval. Multiple residential projects that qualify for ministerial approval under MMC Chapter 8.122 shall also submit a development plan that demonstrates compliance with the design guidelines for such projects.

B. *Application*. All applications for development plan approval shall include drawings drawn to scale indicating the following:

1. Topography;
2. A boundary survey of the site;
3. All existing and proposed structures, the height of each structure, and the number of dwelling units in each structure;
4. Planting and landscape area;
5. Automobile parking areas;
6. Vehicular and pedestrian ways with grades, widths, and type of proposed improvements;
7. Access points providing ingress to and egress from the side;
8. Existing and proposed utilities;
9. Recreation facilities if any;
10. Surface drainage conditions and outlets;
11. Building elevations including architectural type;
12. Amount of studio, one (1) bedroom, two (2) bedroom, or other size apartment units;
13. Additional information as may be required by the Zoning Administrator.

C. *Review, Approval, Changes, Conditions*.

1. Review of Permitted Uses. The Planning Director shall review development plan applications that conform to the uses listed in Section 8.34.020 and may approve, request modifications or deny such applications. This review may also entail Design Review Board evaluation of the architectural design for projects that qualify for ministerial approval under MMC Chapter 8.122.
2. Review of Conditional Uses. All conditional uses within in the 20 DUA district shall require a public hearing pursuant to and otherwise regulated by the use permit procedures listed in MMC Chapter 8.12.
3. Approval. In approving an application, the reviewing body (Planning Director, Zoning Administrator, Design Review Board or Planning Commission) shall make the findings listed under MMC Section 8.12.120 and find that the development plan is consistent with the purpose of this district and that it is compatible with other uses in the vicinity, both inside and outside the 20 DUA district.
4. Changes. When a development plan has been approved by the Zoning Administrator, Design Review Board or Planning Commission, it shall not thereafter be changed except with the further review and approval by the appropriate reviewing body, which may require another public hearing under MMC Section 8.12.060.
4. Conditions. The Zoning Administrator, Design Review Board or Planning Commission may impose reasonable conditions and

limitations in addition to the requirements listed in this section, to carry out the purpose of this district.

8.34.110 Rezoning to 20 DUA District.

A. An applicant for rezoning to the 20 DUA district may submit an application for approval of a development plan for the property simultaneously and in combination with a zoning application.

B. Such a development plan application shall be processed and noticed as are those matters designated to come before the Zoning Administrator, except that it shall be initially heard by the Planning Commission. The Commission's decision shall be a recommendation to the Town Council which shall make the final decision on the development plan along with the rezoning.

8.34.120 Use Permits and Variance Applications.

A. *Use Permits*. Use permits for the conditional uses enumerated in Section 8.34.030 may be granted in accordance with the procedures listed in MCC Chapter 8.13 and the findings under subsection 8.12.120.

B. *Variance Applications.* Requests for variances to modify the provisions contained in Sections 8.34.060 through 8.34.090 may be granted in accordance with the procedures listed in MMC Chapter 8.13 and the findings under subsection 8.12.130.

SECTION 2. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance. To this end, the provisions of this Ordinance are severable. This Town Council hereby declares that it would have adopted the Ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 3. Publication.

The Town Council may publish a summary of a proposed ordinance or proposed amendment to an existing ordinance. A summary shall be published and a certified copy of the full text of the proposed ordinance or proposed amendment shall be posted in the office of the Town Clerk at least five days prior to the Town Council meeting at which the proposed ordinance or amendment or alteration thereto is to be adopted. Within 15 days after adoption of the ordinance or amendment, the Town Council shall publish a summary of the ordinance or amendment with the names of those Town Council members voting for and against the ordinance or amendment and the Town Clerk shall post in the office of the Town Clerk a certified copy of the full text of the adopted ordinance or amendment along with the names of those Town Council members voting for and against the ordinance or amendment in accordance with Section 36933 of the California Government Code.

SECTION 4. Effective Date.

This ordinance becomes effective thirty (30) days after its final passage and adoption.

The foregoing Ordinance was introduced at a regular meeting of the Town Council of the Town of Moraga held on xxxx, 2009 and was adopted and ordered published at a regular meeting of the Town Council on xxxx, 2009 by the following vote:

AYES: xxxx

NOES: xxxx

ABSTAIN: xxxx

ABSENT: xxxx

_____
Dave Trotter, Mayor

ATTEST:

_____
xxxx, Town Clerk