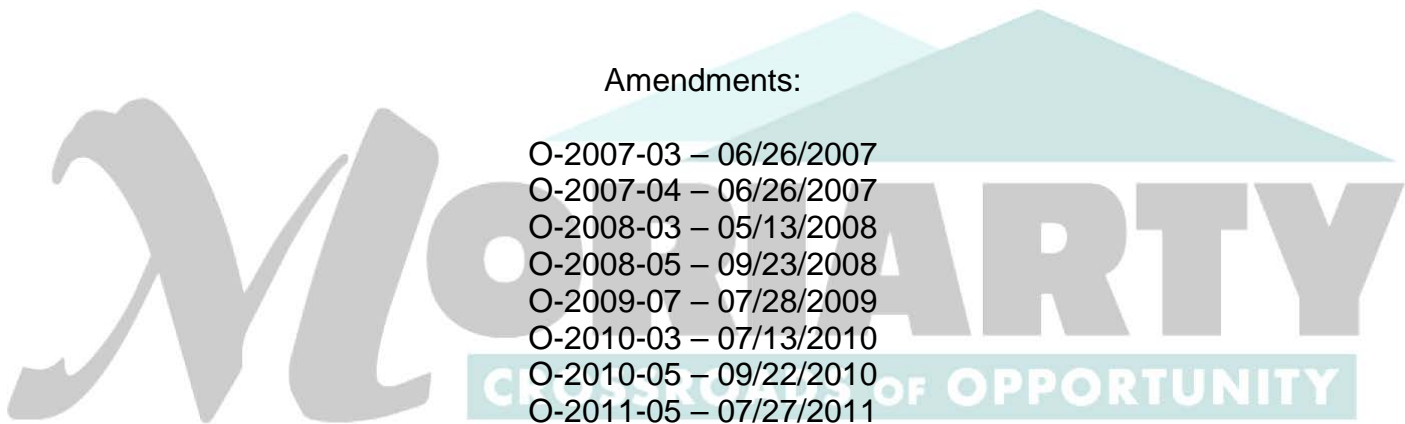

COMPREHENSIVE ZONING ORDINANCE

CITY OF MORIARTY, NEW MEXICO

Adopted by the Moriarty City Council

May 23, 2006

Amendments:

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- The logo for Moriarty City of Opportunity features a stylized house shape in the background. The word 'MORIARTY' is written in large, bold, grey letters across the middle. Below it, the words 'CITY OF OPPORTUNITY' are written in smaller, white letters on a teal rectangular background. To the left of the main text, the letters 'M' and 'C' are written in a large, grey, cursive font.
- O-2007-03 – 06/26/2007
 - O-2007-04 – 06/26/2007
 - O-2008-03 – 05/13/2008
 - O-2008-05 – 09/23/2008
 - O-2009-07 – 07/28/2009
 - O-2010-03 – 07/13/2010
 - O-2010-05 – 09/22/2010
 - O-2011-05 – 07/27/2011
 - O-2012-04 – 05/23/2012
 - O-2012-09 – 08/22/2012
 - O-2012-10 – 08/22/2012
 - O-2013-05 – 03/27/2013
 - O-2013-06 – 06/12/2013

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MID-REGION COUNCIL OF GOVERNMENTS OF NEW MEXICO
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ORDINANCE NO. O-2006-02

AN ORDINANCE ADOPTING COMPREHENSIVE ZONING REGULATIONS AND A ZONING MAP FOR THE CITY OF MORIARTY, NEW MEXICO; PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF; AND REPEALING ORDINANCE NO. 161.

SECTION 1. TITLE.

These regulations shall be known as the “COMPREHENSIVE ZONING ORDINANCE” of the City of Moriarty, New Mexico, and shall be referred to herein as “this Ordinance.”

SECTION 2. PURPOSE.

The regulations and restrictions of this Ordinance are designed to lessen congestion in the streets and public ways; to secure safety from fire, flood and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provisions for transportation; water; sewerage, schools, parks, and other requirements; to conserve the value of buildings and lands; and to encourage the most appropriate use of land throughout the City of Moriarty.

SECTION 3. APPLICABILITY.

No structure shall be constructed, created, placed or maintained and no land use commenced or continued within the City of Moriarty except as authorized by this Ordinance. The provisions of this Ordinance are held to be minimum requirements to carry out the purpose of this Ordinance and are not intended to interfere with any other laws, covenants, or ordinances. Whenever any provisions of this Ordinance are more or less restrictive than other laws, covenants, or ordinances, then whichever is more restrictive shall govern.

SECTION 4. DEFINITIONS.

- A. Word Forms. Words used in the present tense include the future tense, and words used in the future tense include the present tense. The singular number includes the plural number, and the plural number includes the singular number. The masculine gender shall include the feminine, and the feminine gender shall include the masculine. The words “shall” and “must” are mandatory, and the word “may” is permissive.
- B. Definitions. For the purpose of this Ordinance, standard dictionary definitions are used except for certain words or phrases used herein which shall be defined as follows:
 - 1. “Accessory Uses and Structures” means uses and structures that are customarily accessory but clearly incidental and subordinate to principal uses and structures on the premises.

2. "Boarding, Rooming, or Lodging House" means a building other than a hotel, motel or restaurant where lodging, with or without meals, is provided for compensation. Such building shall not contain more than five guestrooms. This definition includes a "Bed and Breakfast" enterprise.
3. "Building" means an enclosed structure that has a roof and is intended to be used for sheltering people, animals, property, or business activity.
4. "Building, Principal" means a building in which the primary use of the lot on which the building is located is conducted.
5. "Caretaker's Residence" means a temporary dwelling unit which is used exclusively by the owner, manager, or operator of a principal use and which is located on the same lot as the principal use.
6. "Clinic" means a building occupied by one or more members of the medical, dental, optical, or veterinary profession for the purpose of providing health services. Clinics may also include body piercing and tattooing operations.
7. "Club" (with or without a liquor license) means any non-profit membership organization catering to members and their guests; and whose facilities are limited to meeting, eating and/or recreational uses; including but not limited to civic, fraternal, charitable, religious, social and patriotic organizations.
8. "Commercial Recreation – Indoor" means a profit oriented, commercial operated, business with various devices for entertainment which is permanently located at one site, within a permanent structure.
9. "Commercial Recreation – Outdoor" means a profit oriented, commercial operated, business with various devices for entertainment which is permanently located at one site, outdoors.
10. "Commission" means the Planning and Zoning Commission of the City of Moriarty.
11. "Conditional Use" means a use which may be or become a nuisance or hazard to neighboring properties if proper safeguards are not taken. Conditional uses shall mitigate any negative impacts on surrounding properties. Conditional uses require action by the Commission and, **when** approved, shall be issued a permit. Conditional use permits may be either permanent or renewable.
12. "Contiguous" means, adjacent, abutting, touching or separated only by a public right-of-way.
13. "Council" means the Moriarty City Council.
14. "Dwelling Unit" means any structure or part of a structure intended for human occupancy and containing one or more connected rooms and a single kitchen, designed for and occupied by no more than one family for living and sleeping purposes. A

dwelling unit may include a mobile home, modular unit, manufactured home, site-built house, or an independent unit of any multiple dwelling unit.

15. "Dwelling Unit, Conventional" means a single-family detached dwelling unit which is installed on a permanent foundation and which is either:
 - a. a site-built unit constructed in accordance with the standards of the New Mexico Building Code or
 - b. manufactured housing.
16. "Dwelling Unit, Singular" means a dwelling unit which is not physically connected to any other dwelling unit.
17. "Dwelling Unit, Multiple" means a structure containing two or more dwelling units. Multiple Dwelling Unit includes an apartment, townhouse, or other such multiple-unit residential structure.
18. "Easement" means authorization by a property owner of the use, by another person and for a specified purpose, of any designated part of his property.
19. "Explosive," as defined by the Bureau of Alcohol, Tobacco, Firearms and Explosives, means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and lighters.
20. "Family" means one person living alone or two or more persons living together in a dwelling unit, provided that unless all members are related by blood, marriage, adoption or legal assignment, no such family shall include or contain more than five unrelated persons.
21. "Farmers Market" means a designated area where fresh, dried, processed foods, (i.e., jams, jellies, pies, breads, etc.), excluding livestock, are sold by the people who have grown, gathered and raised them."
22. "Flea Market, Indoor" means an indoor market, where spaces are rented, leased, or otherwise provided primarily for the sale of various types of merchandise such as cut-rate goods, used household items, and antiques, by one or more vendors on a regular basis
23. "Flea Market, Outdoor" means an open-air market where spaces are rented, leased, or otherwise provided primarily for the sale of various types of merchandise such as cut-rate goods, used household items, and antiques, by one or more vendors on a regular basis.
24. "Floor Area" means the total gross area of all floors of a building, expressed in square feet measured from the outside surface of outside walls.

25. "Floor Area Ratio" means the relationship of the total floor area of a building or buildings to the lot, or specified area, in which such building or buildings are located. The floor area ratio is computed by dividing the floor area by the lot, or specified area.
26. "Frontage" means a distance measured along a public right-of-way line.
27. "Garage, Commercial" means a building or structure used for the storage, maintenance, repair, or refinishing of motor vehicles, and operated as a business enterprise.
28. "Garage, Private" means an accessory building or portion of a principal building used for storage of motor vehicles for the private use of the owner or occupant of the principal building.
29. "Garage or Yard Sale" means a sale of used household or personal articles. The sale shall be held on the seller's premises for no more than three consecutive days and not more than four sales per calendar year.
30. "Grade" means the average of the finished ground level at the center of all walls of a building.
31. "Group Home for the Handicapped" means a dwelling unit shared by four or more handicapped persons and resident staff who live together as a single housekeeping unit and in a long-term family-like environment in which staff persons provide care, education, and participation in community activities for the residents. The term, "handicapped" is defined herein as a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently. Group homes for the handicapped shall not include a center for alcoholism or drug treatment, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.
32. "Height" means the vertical distance measured from the lowest ground elevation to the highest point on a structure. When applied to buildings, height means the vertical distance from the grade to:
 - a. the deck line of a mansard roof;
 - b. the average height between the eaves and ridge for a gable, hip, or gambrel roof; and
 - c. the highest point of a flat roof or any other roof style not described in this definition.
33. "Home Occupation" means a commercial activity which is conducted within a dwelling unit or an accessory structure within a residential zone district, and which is clearly secondary to the use of the premises for a dwelling unit or units.

34. "Horse Track with Gaming Operators' license" means a racetrack, licensed by the state racing commission pursuant to the Horse Racing Act (60-1-23 NMSA 1978) to conduct live horse races or simulcast races and has been issued a gaming operator's license to operate gaming machines on its premises where live racing is conducted.
35. "Kennel" means an establishment licensed to operate a facility housing dogs, cats, or other household pets; and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.
36. "Lot" means a parcel or tract of land, described by metes and bounds and platted and placed on the County Clerk's record in accordance with appropriate laws, and with access to public right-of-way.
37. "Lot, Area" means the area contained within the boundary lines of a lot.
38. "Lot, Corner" means a lot bordering on two or more streets at their intersection.
39. "Lot, Double Frontage" means any lot with frontage on two parallel or approximately parallel streets.
40. "Manufactured Housing" means a multi-section manufactured home or modular home that is a dwelling unit with a heated area of at least twenty-four (24) by thirty-six (36) feet and at least eight hundred sixty-four (864) square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974, and the Housing and Urban Development Zone Code 2, or Title 14, Chapter 12, NMAC, Manufactured Housing Codes of New Mexico, as amended, and installed consistent with the Manufactured Housing Act (Chapter 60, Article 14 NMSA 1978) and with the regulations made pursuant thereto relating to permanent foundations.
41. "Mobile Home" means a dwelling unit that is a movable or portable housing structure larger than forty (40) feet in body length and eight (8) feet in width but does not meet the definition of manufactured housing as defined by this Ordinance.
42. "Mobile Home Park" means a platted tract of land under one ownership on which spaces are leased or rented for occupancy for 30 days or more by mobile homes, and which contains a centralized system of connections for utility services.
43. "Modular Unit" means a factory-fabricated building designed to be transported in whole or in part on something other than its own frame or chassis, and designed to be used by itself or incorporated with similar units at a building site. This term is intended to apply to major assemblies which must conform to the New Mexico Manufactured Housing Codes, Title 14, Chapter 12, NMAC, and does not include prefabricated panels, trusses, plumbing trees, and other prefabricated supplements which are to be incorporated in a structure at the building site.

44. "Museum" means an institution for the acquisition, preservation, study, and exhibition of works of artistic, historical, or scientific value. A museum may be comprised of indoor and/or outdoor exhibits.
45. "Nonconforming Uses, Lots or Structures" means a structure or use of structure or land which does not conform to the regulations of this Ordinance and which lawfully existed on the effective date of those regulations with which it does not conform.
46. "Overlay Zone" means a zone district placed over other zone districts such that special zoning requirements are imposed in addition to those of the underlying zone district. Development within the overlay district must conform to the requirements of both zoning districts or the more restrictive of the two.
47. "Permissive Use" means a specific use allowed in a particular zone district.
48. "Person" means a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
49. "Premises" means any lot or combination of contiguous lots held in single ownership, together with the development thereon.
50. "Principal Use" means the main use of land or structures, as distinguished from a secondary or accessory use.
51. "Public Right-of-Way" means dedicated and accepted public land deeded to the City of Moriarty, reserved by plat, or otherwise acquired by the City, County, or State for the use of the public for the movement of people, goods, and vehicles.
52. "Recreational Vehicle" means a vehicle which is designed or used as temporary living quarters for recreation, camping, or travel, and which may be a self-propelled motor vehicle or designed to be towed or mounted on a motor vehicle.
53. "Recreational Vehicle Campground" means a lot which is utilized for overnight and short-term parking of occupied recreational vehicles, tents or similar devices used solely for the purpose of temporary living and sleeping in portable housing.
54. "Reverse Vending Machine" means a mechanical device that accepts one or more types of aluminum containers and issues cash refund. Reverse vending machines include single fed and bulk fed. Single fed machines which resemble soda vending machines in size and appearance. Bulk reverse vending machines are those which accept several containers at once.
55. "Roadway" means that portion of public right-of-way or private thoroughfare which is primarily devoted to vehicular use. This definition shall not apply to private access driveways.
56. "Salvage Yard" means an enclosed building or outside area where used or secondhand materials are bought, sold, exchanged, stored, processed, or handled. Such materials

include but are not limited to metals, paper, textiles, glass, six or more inoperable motor vehicles, and components of motor vehicles. This definition does not include solid waste transfer stations or sanitary landfills.

57. "Setback" means the required distance between every building or structure and a boundary line of the lot upon which it is located. Setbacks shall consist of an open space, unoccupied and unobstructed by any part of a building or structure, except as otherwise provided in this Ordinance.
58. "Setback, Front" means the minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, bordering on a roadway. No more than one front setback shall be designated on corner lots or double frontage lots.
59. "Setback, Rear" means the minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which is opposite and most distant from a roadway and does not intersect with a roadway. On double frontage lots, the rear setback shall be designated on the opposite side of the lot from the designated front setback.
60. "Setback, Side" means the minimum allowable distance between a structure and the boundary line of the lot, upon which such structure is located, which intersects a roadway. On a corner lots, a side setback shall be designated along the lot line bordering a roadway that is not designated as the front setback.
61. "Sexually Oriented Business" means a commercial establishment or enterprise which provides for adult entertainment that is characterized by an emphasis on materials or actions relating to specified sexual activities. As used in this definition, "specified sexual activities" means: 1) human genitals in a state of sexual stimulation or arousal; 2) acts or stimulation of human masturbation, sexual intercourse, sodomy, or bestiality; 3) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts; and 4) exposure to public view of human genitals, the pubic region, buttocks, and areola of the female breast. Sexually oriented business includes any establishment which has a substantial or significant portion of its stock in trade which excludes minors by virtue of age. Sexually oriented business shall not include or condone criminal sexual offenses as defined by New Mexico Statutes (30-9-1 et seq. NMSA 1978).
62. "Sign" means a structure or device designed or intended to convey information to the public in written or pictorial form.
63. "Solar Right" means a right to an unobstructed line-of-sight path from a solar collector to the sun, which permits radiation from the sun to strike directly on the solar collector.
64. "Structure" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.
65. "Trucks, Heavy Commercial" means a motor vehicle used in commerce, having a gross vehicle weight of greater than 12,000 pounds, which is designed primarily for the

movement of goods, property, or equipment. Gross vehicle weight means the weight of the vehicle without load, plus the weight of any load thereon. Such trucks typically include truck-tractors and semi-trailers with two or more rear axles.

66. "Variance" means a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary hardship. As used in this Ordinance, a variance may be authorized only for area, height, dimension, distance, setback, off-street parking, and off-street loading requirements. Financial gain or loss shall not be the determining factor in deciding a variance.
67. "Wall or Fence" means any structural device forming a physical barrier between two open areas.
68. Solid wall or fence: A structure at least six feet in height, concealing in nature, that is constructed of durable materials such as wood, metal, block, rock, or concrete. It must conceal the contents of property designated by the City of Moriarty. It must have anchoring posts/components that are securely anchored in the ground. Each component of the fence or wall must be securely connected to one another. It must withstand weather and wind. A chain link fence with slats does not constitute a solid wall or fence.
69. "Zone District" means a mapped area of the City of Moriarty where regulations governing the use of buildings, structures, and land are uniform.

SECTION 5. GENERAL PROVISIONS.

- A. Access to Structures. All structures shall be located on lots or parcels of land such that safe and convenient access is provided for servicing, fire protection, and any required off-street parking or loading.
- B. Height Regulations. Height limitations shall not apply to chimneys, water tanks, windmills, flagpoles, antennas, spires, and accessory objects usually placed above the roof level but not intended for human occupancy; provided that any height exceeding 50 feet must apply for a variance in accordance with this Ordinance.
- C. Mobile Home Installation. Regardless of any setback regulations provided in this Ordinance, no mobile home shall be located within 30 feet of any other mobile home or dwelling unit. Mobile homes shall be limited to residential use only, unless otherwise provided in this Ordinance. Within 30 days following occupancy, mobile homes shall be connected to adequate utilities, provided with skirting of a durable material, and stabilized and anchored in accordance with regulations promulgated by the Manufacturing Housing Act of New Mexico (60-14-1 et seq. NMSA 1978) and with the regulations made pursuant thereto relating to permanent foundations.

- D. Recreational Vehicle Storage. On any lot in residential use, the personal storage of a boat, pick-up camper shell, travel trailer, or other recreational vehicle is allowed provided it is not used as additional living quarters for more than 30 days per year for an occasional guest, is not permanently connected to utilities, and is not stored within the required front setback. Such recreational vehicle must be stored on private property, and may not be parked on any roadway nor within the front setback of a lot for more than a 24-hour period.
- E. Setback Exemptions. Structures exempt from setback regulations include walls, fences, signs, satellite dish antennas, and public utility poles and lines.
- F. Solar Rights. A solar right may be claimed by an owner of real property upon which a solar collector has been placed. Solar rights shall be claimed under State Statute pursuant to the Solar Rights Act (47-3-1 to 47-3-5 NMSA 1978) and the Solar Recordation Act (47-3-6 to 47-3-12 NMSA 1978).
- G. Vision Clearance. At all roadway intersections, no obstructions to view shall be placed or maintained between three feet and eight feet above the roadway level in a triangular space at the roadway corner on a corner lot. Such triangular space shall be bounded by the roadway property lines and a diagonal line connecting points 25 feet distant from the intersection of the roadway property lines. An adequate vision clearance shall also be required for private access driveways in order to accommodate the safe entry of vehicles onto a roadway from contiguous properties.

SECTION 6. ZONE DISTRICT BOUNDARIES.

- A. Districts. In order to carry out the provisions of this Ordinance, the City of Moriarty is hereby divided into zone districts, as named and described in the following sections. The regulations prescribed in this Ordinance shall apply within the corporate limits of the City of Moriarty.
- B. Zoning Map. The boundaries of said zone districts are hereby established as shown on the MORIARTY ZONING MAP, which shall be made part of this Ordinance as if fully described herein.
- C. Interpretation. Where due to the scale, lack of detail, or illegibility of the official MORIARTY ZONING MAP, there is any uncertainty, contradiction, or conflict as to the intended location of any zone district boundaries shown therein, interpretations concerning the exact location of zone district boundary lines shall be determined by the Council with the advice of the Commission. Contiguous zone districts along frontage of a public right-of-way shall automatically extend to the centerline upon vacation from public use of said right-of-way.
- D. Multiple-Zoned Lots. Circumstances may justify the need to designate more than one zone on a single lot. In such cases, zone boundaries within a multiple-zoned lot shall be more fully described in the MORIARTY ZONING MAP by showing any necessary dimensions of zones in relation to existing property lines.
- E. Annexation. Any request or proposal for annexation of territory to the City of Moriarty shall be filed and processed concurrently with an application for an amendment to the MORIARTY ZONING MAP as provided in this Ordinance. Zoning within annexed areas must be consistent

with contiguous zoning, or must be in accordance with the Comprehensive Plan and development policies of the City of Moriarty.

SECTION 7. A-R AGRICULTURAL RESIDENTIAL ZONE.

- A. Intent. The purpose of this zone district is to provide for agricultural activities and rural residential development. The standards prescribed for this zone district are intended to preserve the open character of the area and to allow for such activities as the cultivation and harvesting of plants and croplands, and limited livestock management. Residential development is characterized by large lots and shall not exceed a density of one dwelling unit per acre.
- B. Permitted and Conditional Uses. No building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. Uses permitted by right and uses allowed upon obtaining a conditional use permit are described in the MORIARTY ZONING TABLE OF LAND USES which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use.
- C. District Standards. The following land use and performance standards apply to this zone district:
1. Residential density shall not exceed one singular dwelling unit per acre. On lots larger than one acre, dwelling units may be grouped provided the density of the entire lot does not exceed one dwelling unit per acre, and is not in conflict with the rules and regulations of the New Mexico Environment Department concerning on-site liquid waste disposal. Other lot development requirements such as height and setback are provided in SECTION 18 of this Ordinance.
 2. The following farm animals are allowed in this zone district, subject to the following requirements:
 - a. at least 10,000 square feet of open lot area for each cow or horse;
 - b. at least 4,000 square feet of open lot area for each sheep or goat;
 - c. animals under six months of age are exempt from the above density standards;
 - d. animals shall be controlled or contained so they cannot graze on other premises;
 - e. areas devoted to farm animals, including buildings and structures, shall be constructed and maintained to discourage the concentration and breeding of insects and rodents which are detrimental to human habitation.

3. The floor area of all accessory buildings shall not exceed the floor area of the building which is the principal use on the premises unless a conditional use permit is granted.
4. Stands for display or sale of agricultural products grown on the premises shall be temporary and seasonal in operation.

SECTION 8. R-1 CONVENTIONAL RESIDENTIAL ZONE.

- A. Intent. The purpose of this zone district is to provide for the development of residential neighborhoods comprised of conventional dwelling units and certain other uses which are compatible to the residential character of the district. Density shall be limited to one dwelling unit per lot, with a minimum lot size of 7,000 square feet in area.
- B. Permitted and Conditional Uses. No building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. Uses permitted by right and uses allowed upon obtaining a conditional use permit are described in the MORIARTY ZONING TABLE OF LAND USES which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use.
- C. District Standards. The following land use and performance standards apply to this zone district:
 1. The minimum lot size in this zone district is 7,000 square feet. Other lot development requirements such as height and setback are provided in SECTION 18 of this Ordinance.
 2. Mobile homes which do not comply with the definition of manufactured housing as a conventional dwelling unit are not allowed in this zone district.
 3. Accessory buildings shall not exceed the floor area of the building which is the principal use on the premises.

SECTION 9. R-2 CLUSTER RESIDENTIAL ZONE.

- A. Intent. The purpose of this zone district is to accommodate higher density residential development and limited commercial and institutional uses in areas served by public water and sewer services. Multiple dwelling units are allowed, and may include apartments and townhouses.
- B. Permitted and Conditional Uses. No building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. Uses permitted by right and uses allowed upon obtaining a conditional use permit are described in the

MORIARTY ZONING TABLE OF LAND USES which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use.

C. District Standards. The following land use and performance standards apply to this zone district:

1. The minimum lot size where a dwelling unit is the principal use shall be 7,000 square feet. There is no minimum lot size for non-residential uses. Other lot development requirements such as height and setback are provided in SECTION 18 of this Ordinance.
2. Development must be served by centralized water and sewer services.
3. Maximum floor ratio shall be 1.00.
4. Accessory buildings to dwelling units shall not exceed 250 square feet per dwelling unit. Accessory buildings to non-dwelling units shall require conditional use permits.

SECTION 10. R-3 MOBILE HOME RESIDENTIAL ZONE.

A. Intent. The purpose of this zone district is to provide for the development of subdivisions for mobile homes and conventional dwelling units. Density shall be limited to one dwelling unit per lot, with a minimum lot size of 6,000 square feet in area.

B. Permitted and Conditional Uses. No building, structure or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. Uses permitted by right and uses allowed upon obtaining a conditional use permit are described in the MORIARTY ZONING TABLE OF LAND USES which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use.

C. District Standards. The following land use and performance standards apply to this zone district:

1. The minimum lot size in this zone district is 6,000 square feet. Other lot development requirements such as height and setback are provided in SECTION 18 of this Ordinance.
2. Accessory buildings shall not exceed the floor area of the building which is the principal use on the premises.

SECTION 11. C-1 LIGHT COMMERCIAL ZONE.

- A. Intent. The purpose of this zone district is to provide for commercial and business uses intended to serve the surrounding neighborhoods on a day-to-day basis including retailing and personal services. Development in this zone district shall be characterized as low intensity, and shall not be detrimental to nearby residential uses.
- B. Permitted and Conditional Uses. No building, structure or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. Uses permitted by right and uses allowed upon obtaining a conditional use permit are described in the MORIARTY ZONING TABLE OF LAND USES which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use. The following uses shall meet special requirements, (See Section 24, Conditional Use Permits.)
1. Commercial garages.
- C. District Standards. The following land use and performance standards apply to this zone district:
1. The minimum lot size where a dwelling unit is the principal use shall be 7,000 square feet. There is no minimum lot size for non-residential uses. Other lot development requirements such as height and setback are provided in SECTION 18 of this Ordinance.
 2. Accessory buildings shall require conditional use permits.

SECTION 12. C-2 HEAVY COMMERCIAL ZONE.

- A. Intent. The purpose of this zone district is to provide for the major business activities of the community. This zone district includes highway-related commercial activities, office and entertainment facilities, wholesale and retail sales, and service providers.
- B. Permitted and Conditional Uses. No building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. Uses permitted by right and uses allowed upon obtaining a conditional use permit are described in the MORIARTY ZONING TABLE OF LAND USES which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of

use. The following uses shall meet special requirements. (See Section 24, Conditional Use Permits):

1. Flea markets; and
2. Commercial garages.

C. District Standards. The following land use and performance standards apply to this zone district:

1. The minimum lot size where a dwelling unit is the principal use shall be 7,000 square feet. There is no minimum lot size for non-residential uses. Other lot development requirements such as height and setback are provided in SECTION 18 of this Ordinance.
2. Accessory buildings shall require conditional use permits.

SECTION 13. M-1 MANUFACTURING INDUSTRIAL ZONE.

A. Intent. The purpose of this zone district is to provide a location for manufacturing and industrial activities which are environmentally compatible with the community and do not create offensive noise, vibrations, airborne gaseous emissions or particulate matter, odors, heat, or glare affecting residential areas of the community. Other land uses which are by nature incompatible with residential uses may be located in this zone district. Residential uses are prohibited in this zone district, with the exception of temporary or caretaker dwelling units.

B. Permitted and Conditional Uses. No building, structure or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. Uses permitted by right and uses allowed upon obtaining a conditional use permit are described in the MORIARTY ZONING TABLE OF LAND USES which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use. The following uses shall meet special requirements: (See Section 24, Conditional Use Permits)

1. Flea markets;
2. Sexually oriented businesses; and
3. Commercial garages.

C. District Standards. The following land use and performance standards apply to this zone district:

1. A site development plan as specified in SECTION 18 of this Ordinance is required to be filed with the Zoning Officer prior to any new or expanded development in this zone district.
2. The manufacturing, processing, assembling, renovating, treatment, storage, or warehousing of raw materials, goods, merchandise, or equipment shall be conducted within an enclosed building and/or within an area completely surrounded by a solid wall or fence at least six feet high.
3. A 25-foot setback is required along all lot lines which are contiguous to lands that are zoned A-R, R-1, R-2, R-3, or S-U for residential uses.
4. All outside storage and refuse collection areas shall be screened from public view to the greatest extent possible.
5. Bulk storage of toxic substances or hazardous materials shall be contained in a manner approved by the City Fire Department, in accordance with City, County, State and Federal regulations and standards.

SECTION 14. S-U SPECIAL USE ZONE.

- A. Intent. This zone district provides for developments which require special consideration because of their magnitude, unusual nature, infrequent operations, questionable impact on surrounding property, or other such reason. The boundaries of this zone district shall be defined as needed on a case-by-case basis following the amendment procedures provided in this Ordinance. Special conditions may be imposed by the Council following recommendation by the Commission. The Council may not grant a zone change for establishment of a Special Use zone district unless satisfactory provisions have been made:
1. To assure that compatibility of property uses shall be maintained in the general area and that the proposed use is not in conflict with the development policies and other elements of the Comprehensive Plan for the City of Moriarty;
 2. To preserve the integrity and character of the area in which the Special Use zone district will be located, and the utility and value of property in the Special Use zone district and in adjacent zone districts; and
 3. To assure that the Special Use zone district will not become detrimental to the public health, safety, or general welfare of the City of Moriarty.
- B. Application. Each application for a zone change to establish a Special Use zone district must declare the proposed use and be accompanied by a site development plan as specified in SECTION 18 of this Ordinance.
- C. Removal of Zones. In event that a use authorized as a Special Use zone district is permanently discontinued for 30 days, the Special Use zone district shall be canceled and removed under the provisions for an amendment to this Ordinance. That area delineated by a

discontinued Special Use zone district shall be rezoned to the prevailing zone district as determined by the Council following recommendation by the Commission.

D. Permitted Uses. Designated uses for this zone district are described in the MORIARTY ZONING TABLE OF LAND USES, which is attached and made a part of this Ordinance. Uses not enumerated in the MORIARTY TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use. Designated uses for this zone district which are subject to specific requirements or regulations are prescribed as follows:

1. Airport development shall be subject to the following requirements:
 - a. the site development plan must include special information regarding: the delineation of all approach zones; runway layout indicating aprons, taxi strips, parking, and tie-down area; above ground obstructions within approach zones; and a general plan of operations; and
 - b. the airport development shall meet all relevant requirements of the Federal Aviation Administration.
2. Cemetery, mausoleum, or crematory, provided the site contains at least five acres.
3. Planned Unit Development, subject to the following standards:
 - a. The site for a Planned Unit Development must contain at least five acres but no more than 25 acres and must be serviced by centralized water and sewer services. Planned developments on sites larger than 25 acres may be approved as a Master Plan District under SECTION 17 of this Ordinance;
 - b. A Planned Unit Development allows a site to be developed under unified control in a single or staged development operation and may establish a mixture and variety of land uses within the site. Such site plan shall be referenced on the MORIARTY ZONING MAP;
 - c. Building height, setback, minimum lot size, and maximum density of development shall be determined on a case-by-case basis and documented for the record; and
 - d. A portion of the land within the Planned Unit Development may be designated as common open space, provided ownership of the common area is clear, with appropriate covenants forbidding partition for future sale and development, and provided the maintenance responsibility for the common area is assured.
4. Mobile Home Parks, subject to the following standards:
 - a. The maximum park size shall be seven acres;

- b. Each mobile home shall be situated on a space of at least five thousand square feet, and no mobile home shall be located within 30 feet of any other mobile home;
- c. At least two off street parking spaces per mobile home are required;
- d. There shall be no less than 15 feet of open space, unoccupied and unobstructed by any part of a building or structure between mobile homes;
- e. Each mobile home shall be at least twenty feet from the right of way line of any public street and at least ten feet from any property line of the mobile home park;
- f. A mobile home park shall have at least two access driveways from a public street, one which may be gated for security purposes. Access to individual units shall be from a private driveway within the site;
- g. The access driveways shall be adequate to accommodate fire protection vehicles and equipment, as approved by the City Fire Chief;
- h. A storm drainage management plan for the mobile home park is required. The mobile home park shall be graded to retain localized storm water on site;
- i. Water and sanitary sewer systems shall be designed and constructed in accordance with the subdivision design standards of the City of Moriarty;
- j. No mobile home shall be occupied unless it is connected to adequate utilities and provided with skirting of a durable material;
- k. Mobile home park shall be enclosed on all sides by a solid fence at least six feet in height;
- l. Storage of boats, campers and recreational vehicles or other materials shall be within an area set aside on the plans for this use. Storage lots must be effectively screened so that stored items will not be readily visible from any public right of way or adjoining properties;
- m. Recreational vehicles may not be used for dwelling purposes in a mobile home park; and
- n. Heavy commercial truck parking within the mobile home park is prohibited.

SECTION 15. WELLHEAD PROTECTION OVERLAY ZONE.

- A. Intent. This section is intended to provide supplemental land use and development regulations in an area designated to protect the groundwater source of municipal water supply wells from contamination originating from human activities. Specifically, regulations shall be imposed on the surface and subsurface area surrounding a municipal water supply well, through which contaminants are likely to move toward and reach such water well.

B. Definitions. For purposes of this Section, the following definitions shall apply:

1. "Abandoned Well" means a wellhead whose use has been permanently discontinued or which is in such disrepair that its continued use for the purpose of obtaining groundwater is impracticable or may constitute a health hazard.
2. "Contamination" means the presence of any harmful substance in the water supply which is likely to injure human health, animal or plant life, property, or public welfare.
3. "Groundwater" means water found beneath the land surface in a saturated zone.
4. "Hazardous Materials" means substances defined in Section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or as regulated under Subtitle C of the Federal Resource Conservation and Recovery Act (RCRA).
5. "Overlay Zone, Wellhead Protection" means an area designated by the City of Moriarty to protect the groundwater source of municipal water supply wells from contamination originating from human activities.
6. "Wellhead" means the structural element of a constructed water well which is the source of a groundwater supply system.

C. Designation of Overlay Zone. The designation of one or more Wellhead Protection Overlay Zones is hereby established under the following criteria:

1. A Wellhead Protection Overlay Zone shall be delineated as a geographic area within a 1,000-foot radius around each municipal water supply wellhead, as recommended by the New Mexico Environment Department in the State Wellhead Protection Program.
2. An alternative delineation of a Wellhead Protection Overlay Zone may be used, provided it is based on an acceptable hydrogeologic evaluation and a validated groundwater flow model.
3. Interpretation regarding whether any particular property is within or outside of any Wellhead Protection Overlay Zone shall be determined by the Council.
4. Wellhead Protection Overlay Zones shall be delineated on the MORIARTY ZONING MAP, and shall be available for public inspection at the City Clerk's Office.
5. In the event that a Wellhead Protection Overlay Zone lies partially or wholly outside the municipal corporate limits, extraterritorial jurisdiction shall be imposed as authorized by Section 3-27-3 NMSA 1978. Intergovernmental arrangements with another governmental entity, within whose jurisdiction lies the Wellhead Protection Overlay Zone, may be executed through a Joint Powers Agreement as authorized by Sections 11-1-1 to 11-1-7 NMSA 1978, for purposes of coordinated planning and administration of this Section.

- D. Conditional Uses. All non-residential land use activities and residential uses with on-site liquid waste disposal systems located within the Wellhead Protection Overlay Zone shall be conditional uses, subject to review and approval by the Council. A conditional use permit must be granted by the City of Moriarty and may be either permanent or renewable, depending upon the requirements and procedures for conditional uses as specified by this Ordinance.
- E. Prohibited Uses. The following uses shall not be allowed within Wellhead Protection Overlay Zones:
1. Solid waste disposal, including transfer stations;
 2. Aboveground and underground storage tanks, as defined by the New Mexico Petroleum Tank Regulations, Title 20, Chapter 5, of the New Mexico Administrative Code;
 3. Uncontained storage of road salt or other deicing materials;
 4. Industrial uses which discharge contact-type process waters on-site;
 5. Commercial animal feedlots;
 6. Mining activities, including sand and gravel excavation;
 7. Automotive fueling, maintenance, repair, and salvage activities;
 8. Collection, storage, processing, or disposal of hazardous materials;
 9. Commercial septage disposal sites;
 10. Liquid petroleum product pipelines;
 11. Trucking and bus terminals; and
 12. Airports and heliports.
- F. Nonconforming Uses. Any use declared as a prohibited use by this Section, and which existed prior to the effective date of this Section, may continue as a nonconforming use in accordance with this Ordinance unless that use is found by the Council to be an imminent danger to the public health, safety, and welfare. In such cases, that use must be brought into immediate conformance with this Section in a manner which is determined by the Council.
- G. Special Conditions. The following conditions apply to all uses within the Wellhead Protection Overlay Zone:
1. In addition to the prohibitions set forth in this Section, any use involving a discharge to groundwater is not allowed in this Zone unless the discharge is demonstrated to cause no contamination of the receiving groundwater.

2. On-site liquid waste disposal systems may be subject to periodic inspection to determine compliance with the New Mexico Liquid Waste Disposal Regulations.
 3. Use of pesticides, herbicides, fertilizers, manures, and other potentially dangerous leachable substances shall be minimized, and bulk storage of these substances shall be prohibited.
 4. The minimum lot size for any use with an on-site liquid waste disposal system shall be one acre.
 5. Proposals for non-residential development in this zone shall include a site plan indicating:
 - a. any subsurface disposal of waste material;
 - b. proposed earth moving operations which alter slope or composition of soil;
 - c. proposed methods of conveying water from paved surfaces; and
 - d. any proposed diversion of surface or groundwater.
 6. Every abandoned well shall be filled and plugged with such materials and in such manner to prevent contamination from entering the groundwater through the abandoned well.
- H. Administration. Primary responsibility for administering this Section shall be assigned to the Zoning Officer, who may be assisted by other municipal employees as appropriate. The following duties shall be performed by the Zoning Officer within the Wellhead Protection Overlay Zone:
1. Maintain a special file for those conditional uses within the Wellhead Protection Overlay Zone;
 2. Maintain a map-based inventory of all land use activities including septic tanks, underground storage tanks, and all water wells, public and private, active and abandoned, within the Wellhead Protection Overlay Zone;
 3. Conduct on-site inspections as necessary to enforce the provisions of this Section;
 4. Develop and maintain a contingency plan for the provision of alternate drinking water supplies in the event of contamination at a municipal water supply well; and
 5. Prepare and present an annual report to the Council for the purpose of summarizing the status of land use activities within a Wellhead Protection Overlay Zone and any actions taken, or in progress, by the City of Moriarty in carrying out the provisions of this Section. Following acceptance of such annual report by the Council, a copy of such annual report shall be transmitted to the appropriate staff of the New Mexico Environment Department.

SECTION 16. FLOOD PROTECTION OVERLAY ZONE.

- A. Intent. The Flood Protection Overlay Zone supports regulations designed to reduce flood losses within areas of special flood hazard identified by the Federal Emergency Management Agency.
- B. Boundaries. The boundaries of the Flood Protection Overlay Zone shall be shown on the MORIARTY ZONING MAP and shall substantially conform to the “Special Flood Hazard Areas Inundated by 100-Year Flood” as designated in the current Flood Insurance Rate Map for Moriarty by the Federal Emergency Management Agency pursuant to the National Flood Insurance Program. The Flood Protection Overlay Zone may be revised through the amendment procedures in this Ordinance.
- C. Conditional Use. All non-residential uses within this Overlay Zone shall be conditional uses requiring a permit and subject to the conditional use procedures in this Ordinance.
- D. Special Standards. All new construction and substantial improvements within the Flood Protection Overlay Zone shall comply with applicable standards imposed by Ordinance No. 141 of the City of Moriarty concerning the Flood Damage Prevention.

SECTION 17. MP – MASTER PLAN DISTRICT.

- A. Intent. The purpose of this zone district is to provide for the unified planning of large areas in order to achieve the distribution and variety of land uses which large-scale planning makes possible. The boundaries of this zoning district shall be determined on a case-by-case basis following the amendment procedures provided in this Ordinance. Special conditions may be imposed by the Council, including phasing, time limits, or arrangements for system improvements. The Council may not grant a zone change for establishment of a Master Plan District unless:
 - 1. The land uses proposed within the Master Plan District are compatible with the Comprehensive Plan of the City of Moriarty.
 - 2. The integrity and character of the area and the utility and value of the property and the contiguous zoning districts is preserved or enhanced.
 - 3. The proposal will not be detrimental to the public health, safety, or general welfare of the City of Moriarty.
- B. Definitions. For purposes of this Section, the following definitions shall apply:
 - 1. “Common Area” means a portion of the land within the Master Plan District, permanently designated for use as an open space, provided that the access ownership and maintenance responsibilities of the common area are clear.
 - 2. “Conservation Easement” means an easement granting a right or interest in real property that is intended to preserve specified areas predominantly in their natural

condition or to prohibit buildings and structures on land graded, revegetated, and constructed to an approved condition; retaining such areas as suitable for habitat protection, flood control, or scenic open space.

3. "Covenant" means a private legal restriction on the use of land, attached to the deed to the property or otherwise formally recorded. Covenants are typically used in the establishment of a subdivision to restrict the use of property in a specific manner.
4. "Developer" means any person, corporation, organization, or other legal entity constructing or creating improvements to the land.
5. "Master Plan" refers to a specific area by using words, pictures, and maps describing a proposal for development of a large ownership or multiple ownership proposed for incremental or independent subdivision applications. An approved master plan provides a means for the developer to obtain an approval from the City for land use for the proposed development and for development standards for each phase of such proposed development.
6. "Residential Density" means the average number of dwelling units per acre of land intended for such use on a designated buildable area, excluding dedicated public right-of-way.
7. "Commercial Density" means the average floor area ratio of commercial buildings to designated buildable areas, excluding dedicated public right-of-way.

C. Permitted and Conditional Uses. No building, structure, or land shall be used or occupied except as indicated and for the purposes permitted in this zone district. The uses permitted by right are described in the MORIARTY ZONING TABLE OF LAND USES for the zoning districts A-R, R-1, R-2, R-3, C-1, C-2, M-1, and S-U; and uses allowed upon obtaining a conditional use permit are described in the MORIARTY ZONING TABLE OF LAND USES for the zoning districts A-R, R-1, R-2, R-3, C-1, C-2, M-1, and S-U which is attached and made a part of this Ordinance. All uses indicated as permitted by right or as a conditional use shall be in full compliance with all other regulations or standards contained in this Ordinance. Uses not enumerated in the MORIARTY ZONING TABLE OF LAND USES are not necessarily excluded. SECTION 28 of this Ordinance provides a procedure for making interpretations of use. Designated uses for this zone district are subject to the specific requirements of the Master Plan District.

D. Pre-Application. Any request for a zone change to establish a Master Plan District shall be initiated through a pre-application conference between the developer and appropriate staff and officials from the City of Moriarty. The pre-application conference is intended to create a dialogue and to build a common understanding about the proposed development.

E. Master Plan Requirements. Any application for a zone change to establish a Master Plan District must include the following information:

1. A development plan consisting of the following components:

- a. vicinity map showing the relationship of the site to its general surroundings and topography, floodplains, and other natural features in the area;
 - b. a description of existing conditions on and adjacent to the site, including boundary and property lines, roads and easements, public and private utilities, buildings and structures, and current land use; and
 - c. a general description of the proposed, full build-out development within the Master Plan District, including the type, distribution, and density of proposed land uses, the major vehicular and pedestrian circulation system, a schematic utilities plan, and proposed sites for common areas, community facilities, and conservation easements.
2. A proposed phasing schedule which provides a general description of each phase of the development over time. Each phase of development shall be subject to a separate and final approval of the Council as part of the subdivision plat review process or as a detailed site plan prior to construction.
 3. A written statement regarding the protection of cultural properties, archaeological sites, and unmarked human burials, with reference to the New Mexico Cultural Properties Protection Act (18-6A-1 et seq. NMSA 1978).
 4. A written statement regarding the anticipated impact of the Master Plan District on the surrounding community with respect to transportation, sources for water supply, disposal of solid and liquid waste, stormwater runoff, and population growth with specific reference to schools.
 5. Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use in the manner requested, or is the duly appointed agent of such applicant.
 6. Proposed draft wording for documents establishing homeowners associations or other legal entities responsible for control over common areas and facilities. Such documentation must be finalized as part of the subdivision review process.
- F. District Standards. The following land use and performance standards apply to this zone district unless specifically exempted or modified as a condition of approval of the Master Plan District.
1. The total land area for a Master Plan District shall be more than 25 acres.
 2. All development within the Master Plan District must be served by centralized water and sewer services.
 3. Residential density of singular dwelling units shall not exceed seven dwelling units per acre, and the residential density for multiple dwelling units shall be limited to a maximum floor area ratio of 0.5 within a delineated sector of the Master Plan District.

Non-residential land uses proposed for the Master Plan District shall be limited to a floor area ratio of 0.35 within a delineated sector of the Master Plan District.

4. Building height, setback, lot size, off-street parking and loading, and sign controls within the Master Plan District shall be designated on a case-by-case basis and effected at the time of subdivision or site plan approval.
 5. Accessory buildings shall require conditional use permits.
 6. Any common area or areas within the Master Plan District which are used for density calculations shall be protected by covenants forbidding partition for future sale and housing or commercial development, providing maintenance responsibility for the common area, and providing for funding such maintenance.
 7. No use of land in the Master Plan District shall be commenced except as indicated on the development plan as required by this Section. Any land use that is not indicated on the approved development plan shall require an amendment to the Master Plan District. Minor changes to an approved Master Plan District may be approved by the Council if they are consistent with the original development plan.
 8. Approved design specifications for development in a Master Plan District shall be given precedence at the time of subdivision plat or site plan review.
- G. Master Plan Review. Subsequent to the approval of a Master Plan as prescribed by this Ordinance, the development for the Master Plan District shall be reviewed every five years to determine the progress and feasibility of continuing development. Upon such review the Master Plan District may be reconsidered for amendment.

CROSSROADS OF OPPORTUNITY

SECTION 18. SITE DEVELOPMENT REQUIREMENTS.

- A. Plan Requirement. Submittal of a site development plan is required on all applications for a zone change to establish a Special Use zone district or a Master Plan District. A site development statement shall be included with the plan in written form to explain the purpose and intent of the development and a development phasing schedule if appropriate. Site development plans may also be required for certain other uses as specified in this Ordinance.
- B. Plan Content. A site development plan shall be of sufficient size and scale in order to:
1. Delineate boundaries and topography of the property to be developed;
 2. Show the proposed size, location, use, and arrangement of all structures, signs, parking and loading areas, drainage facilities, landscaping, and traffic and pedestrian circulation routes;
 3. Delineate proposed dedications and easements for public right-of-way; and
 4. Indicate the location, type, use and size of structures on adjacent properties within 100 feet of the property to be developed.
- C. Lot Requirements. No structure shall be constructed, created or placed and no land use commenced without being in conformance with the lot requirements provided herein. Lot requirements shall included the following:
1. Minimum lot size;
 2. Front, side, and rear setbacks;
 3. Floor area ratio; and
 4. Maximum height of structures.

This TABLE OF LOT REQUIREMENTS pertains to all zone districts with the exception of overlay zones which may contain additional or more stringent requirements.

TABLE OF LOT REQUIREMENTS

ZONE	MINIMUM LOT SIZE	SETBACK			FAR ¹	MAXIMUM HEIGHT
		FRONT	SIDE	REAR		
A-R	1 acre	25 ft	10 ft	25 ft	NA ⁵	35 ft
R-1	7,000 sq ft	20 ft	7.5 ft ³	15 ft	NA ⁵	35 ft
R-2	7,000 sq ft ²	20 ft	7.5 ft ³	15 ft	1.00	35 ft
R-3	6,000 sq ft	20 ft	7.5 ft ³	15 ft	NA ⁵	35 ft
C-1	NA ⁴	NA ⁴	NA ⁴	NA ⁴	NA ⁵	35 ft
C-2	NA ⁴	NA ⁴	NA ⁴	NA ⁴	NA ⁵	35 ft
M-1	NA ⁶	NA ⁶	NA ⁶	NA ⁶	NA ⁵	NA ⁷
S-U	NA ⁶	NA ⁶	NA ⁶	NA ⁶	NA ⁵	NA ⁷

¹FAR means Floor Area Ratio.

²Requires centralized water and sewer services.

³Exception on corner lots, where street-side setbacks must be 10 feet.

⁴There are no area or setback requirements if in non-residential use; however residential uses require R-2 minimum lot size and setback, and any non-residential lot lines contiguous to residential uses must match the residential setback requirement, excluding public rights-of-way.

⁵Floor area ratio is not applicable, unless specified for a particular land use.

⁶Area setback requirements shall be determined on a case-by-case basis, or may be specified for a particular land use.

⁷Maximum height shall be determined on a case-by-case basis.

NOTE: Regardless of any setback regulations provided in this Ordinance, no mobile home shall be located within 30 feet of any other mobile home or dwelling unit.

SECTION 19. OFF-STREET PARKING AND LOADING STANDARDS.

- A. Parking and Loading Space Required. There shall be provided on site, when any new building is erected, off-street parking and loading spaces as set forth herein. Existing buildings need supply such parking and loading space only to the extent ground space is available on site.
- B. Number of Parking Spaces. The minimum number of parking spaces to be provided shall be as follows:
1. Singular Dwellings and Mobile Homes: two spaces per dwelling unit;
 2. Multiple Dwellings: one and one-half spaces per dwelling unit;
 3. Hotels and Motels: one space for each unit, one space for each two employees, and appropriate space for any accessory use, such as a restaurant;
 4. Hospital, clinic or convalescent or nursing home: one space for each two beds, one space for each staff doctor, one space for each two employees;
 5. Medical or dental offices: six spaces for each doctor;
 6. Places of public assembly including churches, community centers, auditoriums, theaters, gymnasiums, arenas, and mortuaries: one space for each four seats;
 7. Club, lodge or fraternal organization: one space for each 200 square feet of floor area;
 8. Dance hall, skating rink: one space for each 200 square feet of floor area;
 9. Office, professional, retail businesses, service establishments, and public buildings: one space for each 200 square feet of gross floor area;
 10. Restaurant, bar: one space for each four seats and one space for each two employees on the largest shift;
 11. Bowling alley: four spaces per alley;
 12. Industrial, manufacturing, and wholesale establishment: one space for each two employees on the largest shift;
 13. Shopping centers: five spaces per 1,000 square feet of gross floor area: and
 14. Laundromat: one space per three machines.
- C. Mixed Uses. For mixed uses, the total requirements for off-street parking spaces shall be the sum of the fractional requirements of the various uses computed separately.

- D. Building Permit Review. An applicant for a building permit must submit plans showing location, arrangement, and dimensions of the parking facilities, turning spaces, drives, aisles, and ingress and egress for approval by the City.
- E. Parking Design Standards. The following standards shall be applied to off-street parking areas:
1. All parking spaces shall be provided with adequate circulation and access to a road or street;
 2. Each parking space shall consist of an area no less than nine feet by 20 feet;
 3. All driveways shall be of sufficient width to permit access into spaces, but in no case less than 20 feet wide; and
 4. On any non-residential premises, two percent of the spaces, but not less than one space, shall be set aside for the handicapped or physically disabled. In addition:
 - a. spaces for the handicapped shall consist of an area not less than 12 feet by 20 feet; and
 - b. parking spaces for the handicapped shall be prominently marked for use by the international symbol for handicapped access.
- F. Off-Street Loading Requirements. Sufficient off-street space loading shall be provided on all premises which receive or distribute bulk materials by motor vehicle. Off-street loading space shall not be located on designated off-street parking space or public right-of-way.
- G. Parking Requirements for Heavy Commercial Trucks:
1. For purposes of this Ordinance, a heavy commercial truck is defined as a motor vehicle used in commerce, having a gross vehicle weight of greater than 12,000 pounds, which is designed primarily for the movement of goods, property, or equipment. Gross vehicle weight means the weight of the vehicle without load, plus the weight of any load thereon. Such trucks typically include truck-tractors and semi-trailers with two or more rear axles.
 2. It is unlawful to park a heavy commercial truck within an area zoned as a residential district, except for the purpose of loading or unloading such truck, unless a conditional use permit is applied for and granted. This regulation also applies to the parking of detached truck-tractors and semi-trailers, whether loaded or unloaded.
 3. It is unlawful to park a detached semi-trailer upon any public or private street, municipally owned parking lot, or publicly owned property.

SECTION 20. SIGN REGULATIONS.

A. **Purpose.** The purpose of this Section is to allow such signs that will not endanger the public safety, will not obstruct or detract from vision necessary for traffic safety, and will not be detrimental to the land use objectives set by this Ordinance. No sign shall be placed or maintained in the City of Moriarty unless such sign conforms to the regulations provided herein.

B. **General Provisions.** The following provisions apply to all signs within the City of Moriarty:

1. No sign shall be placed within a public right-of-way or a roadway as defined by this Ordinance.
2. Signs required by State or Federal laws or statutes, or official signs of a duly constituted governmental body or agency, shall be exempt from these regulations.
3. Signs placed by a public utility for the purpose of protecting the health, safety, or welfare of the public shall be exempt from these regulations.
4. Signs which are or may become a physical hazard to the public shall be prohibited.

C. **Classification of Signs.** Signs shall be allowed in each zone district subject to a classification by types of signs established in this Section, unless otherwise specified elsewhere in this Ordinance. Types of signs shall be permitted only within those zone districts identified as follows:

<u>Zone District</u>	<u>Sign Type</u>
A-R	A, B, C, F
R-1.....	A, B, D, F
R-2.....	A, B, D, F
R-3.....	A, B, D, F
C-1.....	B, C, D, E, F, J
C-2.....	B, C, D, E, F, J
M-1	B, C, E, F, J
S-U	(defined by Council)

D. **Type A Signs: Residential Premises.** This classification of signs is intended to identify residential premises, occupants of such premises, or services performed thereon. Requirements for this classification are as follows:

1. Maximum sign size shall be four square feet with a minimum width of one foot;
2. One sign may be allowed on the premises facing each contiguous roadway;
3. All signs shall be non-illuminated, with the exception of housing numbers; and
4. Any sign shall be no higher than its distance to the nearest point on the property line, but in no case higher than the height of the highest building on the premises.

E. Type B Signs: Directional. This classification of signs is intended to direct the flow of traffic on driveways, parking areas, or buildings. Requirements for this classification of signs are as follows:

1. Maximum sign size shall be four square feet;
2. Two signs may be allowed on the premises and two additional signs may be placed along each lot line contiguous to roadways;
3. Signs may be illuminated only by indirect lighting; and
4. Any sign shall be no higher than its distance to the nearest point on the property line, but in no case higher than the height of the highest building on the premises. In the M-1 zone only, a directional sign may exceed the height of the highest building on the premises by no more than 10 feet.

F. Type C Signs: Business and Service Establishments. This classification of signs is intended to identify the name of a business or service establishment and to indicate the type of goods sold or services provided on the premises. Requirements for this classification of signs are as follows.

1. Maximum sign size shall be 400 square feet with a minimum width of eight feet;
2. No more than one sign may be allowed on the premises;
3. Signs may be illuminated by indirect, non-flashing lighting. Direct and/or flashing illumination of signs may be allowed where such sign would not reflect into a residential zone; and
4. Any sign shall be no higher than 50 feet; however, a sign may exceed 50 feet in height provided that a variance is granted in accordance with this Ordinance.

G. Type D Signs: Non-residential Premises. This classification of signs is intended to identify the name, location, activities, sponsor, or occupant of non-residential buildings or premises. Requirements for this classification of signs are as follows:

1. Maximum sign size shall be 32 square feet with a minimum width of three feet;
2. No more than two signs facing each contiguous roadway may be placed on the premises;
3. Signs may be illuminated only by indirect lighting; and
4. Any sign shall be no higher than its distance to the nearest point on the property line, but in no case higher than the height of the highest building on the premises.

H. Type E Signs: Outdoor Advertising. This classification of signs is intended to advertise a product or a service that can be obtained either on or off the premises upon which the sign is located. Requirements for this classification of signs are as follows:

1. Maximum sign size shall be 400 square feet with a minimum width of eight feet;
2. No more than one sign per premises;
3. Signs may be illuminated by any manner, provided that there is no reflection into a residential zone; and
4. Any sign shall be no higher than 50 feet; however, a sign may exceed 50 feet in height provided that a variance is granted in accordance with this Ordinance.

I. Type F Signs: Temporary. This classification of signs is intended to announce a public event or community activity, special information regarding sale or lease of real estate, identification of building contractor or future tenant of a building under construction, political campaigns, or other such signs which are erected for a limited time period. Requirements for this classification of signs are as follows:

1. No temporary sign may be placed until a letter of request identifying a responsible agent and the proposed time for display is received and approved by the Zoning Officer;
2. Maximum sign size shall be 32 square feet;
3. No more than one sign facing each contiguous roadway may be placed on the premises;
4. All signs shall be non-illuminated;
5. Signs related to a political campaign shall not be placed more than 90 days prior to the election and shall be removed within three days following the election;
6. Temporary signs which are not related to a political campaign shall be placed for a maximum of 90 days, which may be extended no more than twice for periods of 60 days each following a separate request for renewal in writing to the Zoning Officer;
7. Any sign shall be no higher than its distance to the nearest point on the property line, but in no case higher than the height of the highest building on the premises; and
8. Temporary holiday decorations shall be exempt from these regulations.

J. TYPE G Signs: I-40 Corridor Advertising

1. Maximum sign size shall be 500 square feet.

2. Signs may be illuminated by any manner, provided that there is no reflection into a residential zone.
3. Sign shall be no higher than 100 feet and must be less than 300 feet from the closest ingress lane or egress lane or traffic lane of Interstate 40

SECTION 21. ADMINISTRATION.

- A. Administrative Official. A Zoning Officer shall be appointed by the Council to administer the provisions of this Ordinance. The Zoning Officer may also serve in some other capacity as an employee or appointed official of the City of Moriarty.
- B. Inspection. The Zoning Officer has the authority to conduct inspection of buildings, structures, and the use of land to determine compliance with this Ordinance. This provision does not grant right of entry without due process if necessary. The Zoning Officer shall provide for on-site inspections and other relevant information which may be requested by the Council or Commission as necessary to carry out the purpose of this Ordinance.
- C. Violations: Complaints and Notifications.
 1. The Zoning Officer may institute any appropriate actions or proceedings whenever there is probable cause to believe there is a violation of this Ordinance.
 2. Any person aggrieved by an apparent violation of this Ordinance shall file a written complaint with the Zoning Officer who shall immediately investigate such complaint to determine if a violation of this Ordinance is found to exist.
 3. Whenever the Zoning Officer finds probable cause to believe a violation of this Ordinance is found to exist, whether acting on independent initiative or in response to a complaint, the Zoning Officer shall notify the person responsible for the alleged violation in writing.
 4. Such notification shall order the necessary correction to be made within 60 days following the date of notification and 10 days in case of violations constituting a health hazard.
 5. Any person who fails to comply with the notification order shall be subject to penalties as stated in this Ordinance.
- D. Information and Records. The Zoning Officer shall maintain an office to supply the public with information concerning this Ordinance and shall maintain the official MORIARTY ZONING MAP in an updated form. A "Zoning Action File" shall be maintained and shall contain records which include the following:
 1. Conditional Use Permits;
 2. Variances allowed under this Ordinance;

3. Application for Amendments;
4. Certificates of Nonconformance;
5. Zoning Appeals;
6. Building Permit Applications; and
7. Zoning Violations.

SECTION 22. DEVELOPMENT REVIEW.

For the purposes of this Ordinance, no building or structure shall be erected, improvements constructed, nor mobile home installed upon any premises within the City of Moriarty without being reviewed by the Zoning Officer. An administrative review fee shall be paid to the City of Moriarty prior to any consideration in the development review. Building permit applications and plans shall be submitted to the Zoning Officer for distribution to appropriate departments of the City of Moriarty for review and comment before applying for a State Building Permit. The Zoning Officer shall determine if a variance, zone change, or conditional use permit is required, and if so, will notify the applicant of such requirements which will be reviewed by the Commission. The applicant shall then apply for any required variance, zone change, or conditional use permit in accordance with the provisions of this Ordinance. The Zoning Officer shall also review the development proposals to determine compliance with regulations concerning flood hazards within the Flood Protection Overlay Zone as designated by this Ordinance. The building permit applications will be returned within 10 working days after receipt. The Zoning Officer shall report on all development reviews to the Commission on a regular basis.

SECTION 23. NONCONFORMITIES.

- A. Definition. Within the zones established by this Ordinance, or amendments that may be adopted, there exists lots, structures, and uses of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to allow these nonconformities to continue until they are removed, but not to encourage their survival.
- B. Certificate of Nonconformance. Nonconforming uses shall be issued Certificates of Nonconformance as determined by the Zoning Officer. Upon receipt of a written notification from the Zoning Officer, it shall be the responsibility of owners of nonconforming property to apply to the Zoning Officer for a Certificate of Nonconformance within 60 days after the date of notification.
- C. Expansion. A nonconformity shall not be enlarged, expanded, or extended. However, the addition of a lawful use to any portion of a nonconforming building which existed prior to the enactment of this Ordinance shall not be deemed an extension of such nonconforming use.
- D. Abandonment. Whenever a nonconforming use has been discontinued or abandoned for a period of one year or more, such use shall not thereafter be reestablished, and any future use shall be in conformance with the provisions of this Ordinance.

- E. Restoration. If a nonconforming use is damaged or destroyed by any means to an extent of more than 50 percent of its replacement cost at the time of destruction, then restoration must be for a permitted use.
- F. Nonconforming Lot Size. Any lot of record existing prior to the effective date of this Ordinance, which fails to meet the minimum area requirements, may be developed or improved provided that setbacks and any other requirements of the lot are in conformance with the provisions of this Ordinance. A Certificate of Nonconformance will not be required for nonconforming lots.
- G. Vested Rights. Nothing in this Ordinance shall require any change in plans, construction, or designated use of a building for which a building permit has been issued prior to enactment of this Ordinance, or amendments hereto.

SECTION 24. CONDITIONAL USE PERMITS.

- A. Permit Required. Conditional uses established by this Ordinance shall not be allowed except upon permit issued by the Commission. **The Commission shall issue the permit, with any added conditions, guided by the criteria set forth in this section.** Any person seeking a conditional use permit shall provide to the Zoning Officer such information as may be reasonably required to determine whether the approval of the requested conditional use permit is consistent with the intent and purpose of this Ordinance.
- B. Application. Any request for a conditional use permit shall be submitted with filing fee to the Zoning Officer on a prescribed application form obtainable at the City Clerk's Office. The Zoning Officer shall transmit the application and any supplementary information to the Commission for consideration at their next regularly scheduled meeting. All owners of contiguous property shall be notified of the Commission meeting at which the conditional use permit application will be considered. Application for a conditional use permit shall be accompanied by evidence in writing from landowners within 100 feet, excluding public right-of-way, of the boundary of the property owned or controlled by the person for which the conditional use permit is requested, stating the landowners have been notified of the conditional use request. It shall be the responsibility of the applicant to obtain such evidence.
- C. Guidelines. A conditional use permit shall not be approved unless satisfactory provisions have been made concerning the following, where applicable:
 - 1. Accessibility to property and proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;
 - 2. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;
 - 3. Water and sewage facilities, with reference to soil limitations, locations, and public health;

4. The economic, noise, glare, or odor effects of the conditional use on adjoining properties;
 5. Liquid waste disposal systems for land activities that are within the Wellhead Protection Overlay Zone; and
 6. Any other matters applicable to the property in question.
- D. Expiration. All conditional use permits shall be issued for the period of time the Commission determines to be consistent with the public interest and the criteria contained in this subsection, or as provided in this Ordinance, and shall be specified in writing at the time of issuance of the permit. At the expiration of any conditional use permit, an application for renewal of the conditional use must be approved by the Commission. Approval of any conditional use, prior to construction, shall expire within one year if a building permit for such construction is not obtained or if site development is not initiated.
- E. Limitations. The following limitations shall apply to all conditional uses:
1. Where there has been a significant change in the physical extent, operations, or character of a permitted conditional use, the Commission may require a renewal of the original conditional use permit. Significant change shall be determined by the Commission, based on a scheduled review of the conditional use permit.
 2. An approved conditional use permit shall become void one year after the date of approval if the rights and privileges granted thereby have not been utilized.
 3. An approved conditional use permit shall become void if, after the use has begun, it ceases on the approved site for a continuous period of one year or more.
 4. The Commission may revoke a permit if the requirements and restrictions required by this Ordinance are not met. Before a permit may be revoked, the permittee must be given at least 10 days written notice of the specific charges and be given the opportunity for a hearing before the Commission.
- F. Special Requirements: The following conditional use permits shall meet special requirements:
1. Flea markets.
 - a. Two parking spaces per vendor, in addition to adequate parking which will be determined on a case-by-case basis for off-street customer parking must be provided on site;
 - b. the site shall be kept free of litter and an adequate number of refuse containers shall be kept on site;
 - c. adequate sanitary facilities (rest rooms) shall be made available to patrons;

- d. overnight storage of merchandise is prohibited, unless enclosed within a locked structure no larger than eight feet six inches by twelve feet six inches or within an enclosed building;
 - e. vendor overnight staying and overnight parking are prohibited except for vendors staying in self-contained units not to exceed eight vendors per night;
 - f. open burning, ceremonial burning, recreational burning and barbecuing as defined in the City of Moriarty Open Burning Ordinance are prohibited;
 - g. the use of generators is prohibited after 10:00 p.m.; and
 - h. dogs must be kept on a leash.
2. Commercial garages.
- a. all major repair work on vehicles shall be conducted within an enclosed building;
 - b. a solid wall or fence at least six feet high is erected between the activity and any contiguous residential zone districts; and
 - c. outdoor storage of not more than three vehicles awaiting repair per enclosed service bay, provided such storage area is enclosed by a solid wall or fence at least six feet high.
3. Home Occupations. All home occupations require a one-year, renewable conditional use permit and shall be subject to the following regulations:
- a. No person other than members of the family residing in the dwelling unit shall be engaged in such occupation.
 - b. Not more than 25 percent of the floor area of the dwelling unit for the home occupation shall be used in the conduct of the home occupation, nor more than 600 square feet of an accessory building.
 - c. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four square feet in area and non-illuminated.
 - d. There shall be no sales in connection with such home occupation that would disrupt the residential nature of the dwelling unit.
 - e. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
 - f. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a singular dwelling

unit, or outside the dwelling unit if conducted in a multiple dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

- g. The following uses are prohibited as home occupations:
 - 1. Automotive repair, including mechanical and body work and painting;
 - 2. Tattoo, piercing, branding or other type of cosmetic enhancement or modification; and
 - 3. Welding or metal fabrication.

4. Recreational Vehicle Campgrounds, subject to the following standards:

- a. The maximum park size shall be five acres;
- b. Each recreational vehicle space shall be at least 30 feet in width and at least 60 feet in length with one automobile parking space;
- c. A minimum area of 1,500 feet shall be reserved for a park, playground, and other open space;
- d. Recreational vehicle campground shall be enclosed on all sides with a six feet high solid fence; with exit and entrance;
- e. No exit or entrance from the recreational vehicle campground shall be through a residential zone. No exit or entrance shall be located closer than 40 feet to the intersection of two streets. All entrances and exits from the campground shall be by forward motion only;
- f. All roadway and parking spaces shall meet the requirements of the City of the Moriarty Subdivision Ordinance;
- g. Area lighting shall be provided in the recreational vehicle campground for safety and security purposes. All lighting installed shall meet the standards of the New Mexico Electrical Code; and
- h. An approved site development plan is required and must provide the following:
 - 1) Any proposed buildings, including restrooms and showers;
 - 2) Any proposed road layout and recreational vehicle spaces;
 - 3) Proposed open space and recreational areas;
 - 4) A landscaping plan for drought tolerant or xeriscape design;

- 5) A plan for public utilities and services;
 - 6) A stormwater drainage and retention plan; and
 - 7) A sewer impact analysis.
- i. Maximum length of occupancy shall be 90 days unless an extension is granted by the Commission.
5. Sexually oriented business.
- a. the use is located at least 1,000 feet from any other sexually oriented business;
 - b. the use is located at least 1,000 feet from any school, recreational area, or church;
 - c. the use is located at least 500 feet from the nearest residential zone district boundary; and
 - d. the use is located and conducted in a completely enclosed building and shall not exhibit advertisements, displays, or other promotional materials visible from areas off the premises except for one, non-pictorial sign which does not exceed ten square feet in area.
6. Permanent fireworks sales.
- a. the use is located at least 300 feet from any other fireworks stand or other explosive materials;
 - b. shall pass inspection by the Moriarty Fire Department and the State Fire Marshal's Office; and
 - c. comply with Chapter 60, Article 2C NMSA 1978, the "Fireworks Licensing and Safety Act."; and
 - d. Sufficient parking is available
7. Off street parking for heavy commercial trucks shall require a conditional use permit and shall be subject to the following regulations:
- a. Parking is located in R-1, R-2, and R-3 zones; and
 - b. A site plan showing designated parking areas must be provided; and
 - c. Parking shall be prohibited within front setbacks.
8. Commercial Recreation; Indoor or Outdoor shall require a conditional use Permit and shall be subject to the following regulations:

- a. allowable in C-1, C-2, & A-R; and
 - b. the commission shall consider any rational conditions related to the nature of the business in order to address any possible nuisance aspects thereof. For example: hours of operation, noise containment (i.e. activity may be required to be indoors), special parking requirements, public safety, etc.; and
 - c. require each activity to adhere to the national standards of said activity, and documentation of such compliance be attached to the application for conditional use.
9. Bulk Reverse Vending Machines (for Recycling) – Reverse vending machine(s) which can be, and are, located within a commercial structure do not require permits. Bulk reverse vending machines for recycling shall provide one additional off street parking space for each drop-off area for unloading of materials, and are permitted within C-1, C-2, and M-1 zones, provided that they comply with the following special requirements:
- a. All bulk reverse vending machines shall be located on sites with permanent, operating, legally established businesses, but shall be placed no less than (15) feet from the public right-of-way.
 - b. No bulk reverse vending machines shall occupy parking spaces required by the primary use or obstruct pedestrian, vehicular, or emergency vehicle access.
 - c. There shall be no more than one (1) bulk reverse vending machines on one site.
 - d. Bulk reverse vending machines for the 24-hour donation of materials, shall be at least 100 feet away from any abutting residential property, and illuminated to ensure comfortable and safe operations.
 - e. They shall occupy no more than 400 square feet of floor space per installation, including any protective enclosure, and shall be no more than ten (10) feet in height.
 - f. They shall be constructed and maintained with durable waterproof and rustproof material.
 - g. They shall be clearly marked to identify the type of material which may be deposited, operating instructions, and the identity and phone number of the operator or responsible person to call if the machine is inoperative, and notice stating that no materials shall be left outside the recycling container.
 - h. Design and colors of the container shall be compatible with other area businesses.

- i. All storage of material shall take place within the container; no outdoor storage of material is permitted.
- j. They shall be maintained in a clean litter-free condition on a daily basis.
- k. They shall be connected to the municipal sanitary sewer system, if determined to be necessary.
- l. They shall comply with the provisions set forth in Ordinance No. O-2006-03, Section 2.7, regarding water waste, fugitive flow, and non-beneficial water uses.
- m. Failure to comply with any special requirement shall be grounds for the zoning administrator, or any code enforcement officer to order removal of the machine.
- n. Any other matters applicable to the property in question.

SECTION 25. VARIANCES.

- A. Definition. The Commission may approve a variance from the strict application of area, height, dimension, distance, setback, off-street parking, and off-street loading requirements of this Ordinance in the case of exceptional physical conditions where the strict application of the requirements of this Ordinance would result in a practical difficulty or unnecessary hardship that would deprive the owner the reasonable use of land or building.
- B. Application. Any request for a variance shall be submitted with filing fee to the Zoning Officer on a prescribed application form obtainable from the City Clerk's Office. The Zoning Officer shall transmit the application and any supplementary information to the Commission for consideration at their next regularly scheduled meeting. To the extent possible, all owners of contiguous property shall be notified of the Commission meeting at which the variance application will be considered.
- C. Requirements. The Commission may impose any necessary requirements or conditions in granting a variance in order to assure that the requested variance:
 - 1. Will cause no significant hazard, annoyance, or inconvenience to the owner or occupants of nearby property;
 - 2. Will not significantly change the character of the neighborhood or reduce the value of nearby property;
 - 3. Will not impose any significant cost burden upon the City; and
 - 4. Will be in harmony with the general purpose and intent of this Ordinance.
- D. Evidence. Application for a variance shall be accompanied by evidence in writing from landowners within 100 feet, excluding public right-of-way, of the boundary of the property owned by or controlled by the person for which the variance is requested stating whether the

landowners do or do not object to the variance, if granted. It shall be the responsibility of the applicant to obtain such evidence.

SECTION 26. AMENDMENTS.

- A. Amendment. The Council may amend any of the regulations, zones or zone boundaries established by this Ordinance.
- B. Application. Any request for an amendment to this Ordinance shall be submitted with filing fee to the Zoning Officer on a prescribed application form obtainable at the City Clerk's Office. An application may be initiated by the City acting on behalf of the community at large. The Zoning Officer shall transmit the application and any supplementary information to the Commission for review at their next regularly scheduled meeting. The Commission shall prepare and transmit a recommendation in writing to the Council within seven days after their review of the proposed amendment is completed.
- C. Public Hearing. Upon receipt of the written recommendations of the Commission, the Council shall call for a public hearing in which to make its decision on an application for amendment to this Ordinance. Notification of time and place of the public hearing shall be published in a newspaper of general circulation in the City at least 15 days prior to the hearing. The Council shall conduct the public hearing, at which all interested parties and citizens shall have an opportunity to be heard.
- D. Notification by Mail. Whenever a zone change is proposed for an area of one block or less, notice of the public hearing shall be mailed by certified mail, return receipt requested, to the owners of land within the area proposed to be changed by a zoning regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. Whenever a zone change is proposed for an area of more than one block, notice of the public hearing shall be mailed by first class mail to the owners of land within the area proposed to be changed by a zoning regulation and within 100 feet, excluding public right-of-way, of the area proposed to be changed by zoning regulation. If any notice by first class mail is returned undeliverable, the City shall attempt to discover the owner's most recent address and shall remit the notice by certified mail, return receipt requested.
- E. Decision. The Council shall make its decision on a request for an amendment to this Ordinance no later than 45 days following the date of the public hearing. A decision by the Council shall be made by a formal action to approve, to approve with conditions, to disapprove, or to remand the application back to the Commission for additional review and recommendation prior to a final decision by the Council.

SECTION 27. APPEALS.

- A. Right of Appeal. Any person aggrieved by a decision of the Zoning Officer or the Commission in carrying out the provisions of this Ordinance may appeal such decision to the Council. An appeal must set forth specifically wherein it is claimed there was an error or an abuse of

discretion, or where the decision was not supported by evidence in the matter or, is contrary to established public policy.

- B. Application. Any appeal following a decision of the Zoning Officer or the Commission shall be made in writing on prescribed forms obtainable at the City Clerk's Office upon payment of the applicable filing fee, and submitted to the Zoning Officer. Any appeal not submitted within 30 days after the decision which is the subject of the appeal shall not be considered by the Council. The Zoning Office shall transmit all papers involved in the proceedings to the Council within seven days after the receipt of the appeal application.
- C. Public Hearing. The decision on an appeal shall be made by the Council following a public hearing. Notification of the time and place of the public hearing shall be published in a newspaper of general circulation in the City at least 15 days prior to the hearing. The Zoning Officer shall notify the applicant in writing, members of the Commission, and representatives of the opponents, if any, of the hearing date.
- D. Stay of Proceedings. An appeal shall stay all proceedings in the action unless the Zoning Officer certifies that a stay will cause imminent threat to life or property. Upon certification, the proceedings shall not be stayed except by order of the district court.
- E. Decision. An appeal shall be decided within 60 days of the date of application of the appeal. A majority vote of the members of the Council is required to reverse, change, or affirm a decision made by the Zoning Officer or the Commission. **An appeal of the Commission's approval of a conditional use permit shall be changed or affirmed by the Council. An appeal of all other matters shall be reversed, changed, or affirmed by the Council.** Any further appeals shall be made to the district court.

SECTION 28. INTERPRETATION OF LAND USES.

- A. Authority. The Council shall render interpretations of land uses in any zone district not expressly mentioned in the MORIARTY ZONING TABLE OF LAND USES, subject to the standards and procedures set forth in this Section.
- B. Application. Any request for an interpretation of a use of land not specifically listed in the MORIARTY ZONING TABLE OF LAND USES shall be submitted to the Commission through the Zoning Officer on prescribed forms obtainable at the City Clerk's Office.
- C. Interpretation. Following the receipt of a request for interpretation of land use, the Commission shall recommend an interpretation of land use for the applicant at their next scheduled Commission meeting. The Commission's recommendation shall be transmitted to the Council for consideration at the next scheduled Council meeting. The Council shall approve, deny, or modify the Commission's recommended interpretation. The interpretation of land use shall be documented as an addendum to the MORIARTY ZONING TABLE OF LAND USES. A letter summarizing the interpretation shall be mailed to the applicant, and shall explain the reasons upon which the interpretation is based.
- D. Guidelines. Interpretations shall be governed by the following conditions:

1. No use interpretation shall allow the establishment of any use which was previously considered and rejected by the Council.
2. No use interpretation shall permit any use in a zone district that is not in accordance with the stated intent for that zone district.
3. No use interpretation shall permit any use in a particular zone district unless that use is substantially similar to other uses permitted in that zone district.
4. If the proposed use is more similar to an identified conditional use in a zone district, then any use interpretation shall specify conditional use requirements in accordance with this Ordinance.
5. Any use that is permitted by right or as a conditional use following a use interpretation shall comply with all standards and requirements imposed by this Ordinance.

SECTION 29. FILING FEES.

- A. Applications. Any applications required by this Ordinance shall be filed on prescribed forms obtainable at the City Clerk's Office upon payment of a filing fee. Such fees shall not be required where the City of Moriarty or any official thereof is the moving party.
- B. Fees. Filing fees shall be established by the Mayor and Council in the form of a resolution of the governing body. Filing fees shall be charged for Conditional Use Permits, Conditional Use Renewals, Variances, Ordinance Amendments, Appeals, Residential Development Reviews, and Commercial Development Reviews."

SECTION 30. PENALTIES.

Any person violating any of the provisions of this Ordinance shall upon conviction be subject to a fine not exceeding \$500 or imprisonment for a period not exceeding 90 days, or both such fine and imprisonment. Any violation continued for a period of 30 days after conviction shall be prosecuted and treated as a separate offense.

SECTION 31. SEVERABILITY.

The provisions of this Ordinance shall be deemed to be severable, and should any section, paragraph, or provision hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

SECTION 32. REPEAL AND SAVINGS CLAUSE.

Ordinance No. 161 of the City of Moriarty is hereby repealed. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any existing violation of said Ordinance No. 161 if the violation is also a violation of the provisions of this Ordinance.

SECTION 33. EFFECTIVE DATE.

This Ordinance shall become effective on the 3rd day of July, 2006, following publication as required by law.

PASSED, APPROVED, AND SIGNED THIS 23rd day of May, 2006, by the Moriarty City Council.

Mayor, City of Moriarty

ATTEST:

City Clerk/Treasurer



APPENDIX A – ZONING TABLE OF LAND USES



Allowable Land Uses	Zone Districts							
	A-R	R-1	R-2	R-3	C-1	C-2	M-1	S-U
Accessory buildings	C	X	X	X	C	C	C	
Accounting; bookkeeping; CPA					X	X		
Airports: aircraft; sales, service								X
Ambulance service; rescue service					X	X	X	
Amusement parks; carnival; circus, temporary	C				C	C	C	
Amusement parks; carnival; circus, permanent						C	C	
Animals (Large)								
Farrier	X					C	C	
Stable, horse riding or rental	X							
Stable, overnight commercial	X					C	C	
Veterinary hospital)	X					X	X	
Animals (small)								
Animal shelter, animal pound; animal kennel	X					X	X	
Grooming parlor					X	X	X	
Pet store; sales					X	X	X	
Veterinary hospital					X	X	X	
Antique dealers	C				X	X	X	
Appliance; sales, service, repair					X	X	X	
Art Gallery; museum					X	X	X	
Assembly; manufacture, wholesale						C	X	
Auction house (excluding livestock)						X	X	
Auction house, small scale items (i.e. e-bay auction)					X	X	X	
Automobile; truck; trailer; camper; RV; boat; sales, service, repair, rental					C	X	X	
Bakery; confectionery					X	X		
Ballrooms; dancing instruction; dance hall					X	X		
Bank; ATM; Savings and Loan; Credit Union					X	X		
Bars; lounges; package liquor sales					X	X		
Barber or beauty shop					X	X		
Batching plant (concrete or asphalt)							C	
Book; Video; Compact disk; sales, service, rental					X	X	X	
Bottling plant						X	X	
Buildings, prefab assembly							X	
Bulk Reverse Vending Machine					C	X	X	
Bus (common carriers) depot					X	X	X	
Cabinets; furniture; upholstery; sales, services					C	X	X	
Cabinets; furniture; upholstery; manufacture					C	X	X	
Cable TV; receiving center; distribution center, service center					X	X	X	
Candle; manufacture					X	X	X	
Car wash					C	X	X	
Carpet; floor coverings; cleaning, sales					X	X	X	
Castings; tool and die maker; foundry							X	
Cemetery; mausoleum; crematory								X

Allowable Land Uses	Zone Districts							
	A-R	R-1	R-2	R-3	C-1	C-2	M-1	S-U
Ceramics; manufacture						C	X	
Ceramics; sales					X	X	X	
Chemicals; manufacture, processing							X	
Churches; places of worship	C	C	C	C	C	C	C	
Clinic (dental or medical); hospital; sanatorium; nursing home					X	X		
Clothing; dry goods; sales					X	X		
Club; lodge; with liquor license					X	X		
Club; lodge; without liquor license					X	X		
Cold storage plant						X	X	
Commercial garage					C	X	X	
Commercial Recreation – Outdoor	C				C	C		
Commercial Recreation - Indoor	C				C	C		
Communications switching facility (toll or local)	C	C	C	C	C	C	C	
Construction contractor; building trade contractor; storage, sales, service					C	X	X	
Cosmetic sales					X	X		
Dairy products, wholesale	X					X	X	
Data processing; computers; electronics; sales, service, repair					X	X	X	
Department store; variety store (new goods); sales					X	X		
Dermagraphics (tattooing)					C	X	X	
Dismantler; sales, service, supplies							C	
Drug store; pharmacy; ; sales					X	X		
Dwelling unit, singular (conventional)	X	X	X	X	X	X		
Dwelling unit, singular (mobile home)	X			X	X	X		
Dwelling unit, multiple			X		X	X		
Dwelling unit, temporary supplemental residence for medical necessity	C	C	C	C	C	C		
Dwelling; assisted living, group home			C	C	C	C		
Dwelling, boarding or rooming house	X	C	C	C	X	X		
Dwelling, temporary watchman or caretaker	C	C	C	C	C	C	C	
Electronics; assembly, manufacture						C	X	
Equipment and tools; rental, sales, service					X	X	X	
Explosives								X
Farm supplies or equipment; sales, service	X				C	X	X	
Farmers' market	X				C	C	C	
Farming; ranching	X							
Fertilizers; wholesale							X	
Fertilizers; manufacture								X
Fireworks, permanent; sales						C	C	
Fireworks, temporary; sales						C	C	
Flea market, Outdoor						C	C	
Flea market, Indoor						X	X	

Allowable Land Uses	Zone Districts							
	A-R	R-1	R-2	R-3	C-1	C-2	M-1	S-U
Floral shop; plant store	X				X	X	X	
Food products, processing							X	
Food products; sales, storage	C				X	X	X	
Food store; grocery store; convenience store					X	X		
Fuel wholesalers, storage (gasoline, liquefied petroleum)							C	
Funeral home; mortuary					X	X	X	
Gasoline service station					C	C	C	
Gift shop; crafts store; curios shop					X	X		
Glass products; sales, service, installation					X	X	X	
Glass products; manufacture							X	
Government facilities (except administrative, office, clerical)								X
Greenhouse; nursery; landscaper	X				X	X	X	
Gunsmith; gun sales and service					X	X		
Hardware; paint store; sales					X	X		
Home occupation	C	C	C	C	C	C		
Horse Track (with Gaming Operator's License)	X					X		
Hospital equipment and supplies, sales, service					X	X		
Hotel, motel; motor lodge					X	X		
Home furnishings; sales, service					X	X		
Ice cream store					X	X		
Interior decorator					X	X		
Janitorial service; supplies					X	X	X	
Jewelry; sales, manufacture					X	X	X	
Laboratory; dental medical						X	X	
Laboratory; research						C	X	
Laundromat; dry cleaner					X	X	X	
Leather goods; sales, manufacture					C	X	X	
Library (public)	X	X	X	X	X	X		
Linen supply; sales, service					X	X	X	
Liquor; consumption on site								X
Liquor wholesaler						X	X	
Locksmith					X	X		
Lumber yard sales and storage; firewood sales and storage						X	X	
Machine shop; metal fabrication;						C	X	
Masonry; plastics; fiberglass; manufacture, fabrication							X	
Masonry; plastics; fiberglass; sales, service					X	X	X	
Massage therapy					X	X		
Microbrewery						C	X	
Mobile home park								X
Mobile home; sales, service, repair						X	X	
Motorcycle; sales, service, repair, rental					C	X		
Moving and transfer company (including warehouse)						X	X	
Music store					X	X		

Allowable Land Uses	Zone Districts							
	A-R	R-1	R-2	R-3	C-1	C-2	M-1	S-U
Offices; professional, semi-professional, administrative, clerical			C		X	X	X	
Offices; temporary	C	C	C	C	C	C	C	
Office equipment and supplies; sales, service					X	X	X	
Optician; optical goods; sales, service					X	X		
Ornamental iron products; sales, assembly, repair					C	X	X	
Paper products; manufacture							C	
Parcel; package, delivery service; post office					C	X	X	
Pawn shop; ; second-hand store; sales					X	X	X	
Pest control; exterminator					X	X	X	
Photographic (equipment, supplies, studio); sales, service, repair					X	X		
Planned Unit Development								X
Printing					X	X	X	
Propane/Butane Distributing						C	C	
PUBLIC Recreational facilities; baseball park, golf course including miniatures, tennis court, swimming pool, juvenile recreation center								X
Radio or television station; CB shop	C					C	X	
Radio or microwave transmission; repeater, multiplexing, dispatching					C	C	C	
Recreational vehicle campground (transient use, tourist)					C	C		
Recycling center; aluminum, plastic, paper						X	X	
Recycling center; tires, petroleum products						C	C	
Reducing salon; health club and spa; aerobic exercise; racquet-ball court					X	X		
Restaurant (with liquor license)					X	X		
Restaurant; café, cafeteria; delicatessen; catering					X	X		
Sand and gravel (bulk); storage							X	
Salvage yard; sales, storage							C	
School; nursery, day care		C	C	C	C	C		
School; business, technical, trade, hobby, dance					C	C		
School; university, college, kindergarten, elementary, secondary								X
Sexually oriented business							C	
Shoes; boots; sales, repair					X	X		
Shopping center					X	X		
Shooting Range; indoor					C	C	C	
Signs; sales, manufacture					C	X	X	
Sporting goods; sales, services, rental					X	X		
Storage sheds; manufacture							X	
Storage sheds; sales and rental					C	X	X	
Storage (outside), rental; RV's, motor homes, boats						X	X	
Tailor shop					X	X		

Allowable Land Uses	Zone Districts							
	A-R	R-1	R-2	R-3	C-1	C-2	M-1	S-U
Taxidermist						X	X	
Taxi; service					X	X		
Truck terminal and maintenance						C	X	
Utility company; service center, storage					C	C	C	
Vehicle parts; sales, supplies					X	X	X	
Warehousing and outdoor storage yard							X	
Watch; repair, sales, service					X	X		
Welding shop					C	C	X	
Wrecking holding yard; towing; service							C	

X = Permissive Use
C = Conditional Use



APPENDIX B – ZONING MAP



APPENDIX C – FILING FEES



CITY OF MORIARTY

RESOLUTION 05-06-18
May 23, 2006

WHEREAS, the Governing Body of the City of Moriarty, New Mexico, passed Ordinance No. 0-2006-02, Adopting Comprehensive Zoning Regulations and a Zoning Map for the City of Moriarty, New Mexico; providing for the administration, enforcement, and amendment thereof; and repealing Ordinance No. 161, and

WHEREAS, there are fees and costs which must be set, but which are subject to change;

NOW, THEREFORE, The Governing Body of the City of Moriarty does hereby propose the following filing fees will be charged as follows:

1. Conditional use permit: \$50
2. Conditional use renewal: \$25
3. Variance: \$50
4. Amendment to the Ordinance: \$150
5. Appeal: \$100
6. Residential Development Review: \$25
7. Commercial Development Review: \$50

PASSED, APPROVED, SIGNED AND ADOPTED, this 23rd day of May, 2006.

Adan M. Encinias, Mayor

ATTEST:

Linda Fischer, City Clerk

