

# TITLE 14- ZONING AND LAND USE ORDINANCE

Town of Gay, Georgia

## Contents

CHAPTER 1. GENERAL PROVISIONS.....	3
Sec. 14-1-1. Short Title .....	3
Sec. 14-1-2. Authority and Purpose.....	3
Sec. 14-1-3. Scope .....	3
Sec. 14-1-4 Newly Annexed Areas.....	4
Sec. 14-1-5. Land use policies .....	4
Sec. 14-1-6. Definitions and Interpretation.....	7
CHAPTER 2. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES.....	12
Sec. 14-2-1. Establishment of districts.....	12
Sec. 14-2-2. Land Use district map.....	13
Sec. 14-2-3. Identification of Land Use district map.....	13
Sec. 14-2-4. Location of Land Use district map.....	13
Sec. 14-2-5. Interpretation of Land Use district boundaries .....	13
CHAPTER 3. COMPLIANCE WITH REGULATIONS .....	14
Sec. 14-3-1. Applicability .....	14
Sec. 14-3-2. Nonconforming uses and structures .....	15
Sec. 14-3-3. Authority for continued existence of nonconforming structures .....	15
Sec. 14-3-4. Nonconforming status .....	16
Sec. 14-3-5. Change in ownership .....	16
Sec. 14-3-6 Subdivision of Tracts.....	16
CHAPTER 4. PERFORMANCE.....	17
Sec. 14-4-1. Compliance required .....	17
Sec. 14-4-2. Light and glare .....	17
Sec. 14-4-3. Natural Areas, landscaping and buffering.....	18
Sec. 14-4-4. Off-street parking and loading.....	20
Sec. 14-4-5. Architectural Standards .....	21
Sec. 14-4-6 – Lot size, building density and placement.....	22
Sec. 14-4-7. Permanent Signage, Paint, and Murals.....	24
Sec. 14-4-8. Temporary Signage .....	26
Sec. 14-4-9. Display of merchandise, art and furnishings.....	27
CHAPTER 5. SUPPLEMENTAL DISTRICT REGULATIONS.....	28

Sec. 14-5-1. Applicability.....	28
Sec. 14-5-2. Visibility at intersections .....	28
Sec. 14-5-3. Fences.....	28
Sec. 14-5-4. Livestock pens, kennels, etc.....	29
Sec. 14-5-5. Accessory uses, Secondary utility buildings and structures, Recreational vehicle storage .....	29
Sec. 14-5-6. Temporary uses during construction .....	29
Sec. 14-5-7 Temporary uses during special events.....	30
CHAPTER 6. LAND USE DISTRICT .....	30
Sec. 14-6-1. District R -Single-family Residential Dwelling District .....	30
Sec. 14-6-2. District HC (Business/Historical District) .....	31
Sec. 14-6-3. District C (Commercial District) .....	33
Sec. 14-6-4. HUD-Code Manufactured Home Subdivision District (MH) .....	34
Sec. 14-6-5. Limitation on resubmission of petition .....	35
Sec. 14-6-7. Restricted Uses .....	35
CHAPTER 7. BOARD OF ENFORCEMENT .....	35
Sec. 14-7-1. Creation .....	35
Sec. 14-7-2. Membership and Officers .....	35
Sec. 14-7-3. Initiating of proceedings; time to correct violations; repeat violations; hearings. ....	35
Sec. 14-7-4. Calling Board of Enforcement hearing; hearing proceedings.....	36
Sec. 14-7-5. Authority of the Board of Enforcement.....	37
Sec. 14-7-6. Administrative fines; public record.....	38
Sec. 14-7-7. Length of liens.....	38
Sec. 14-7-8 Appeals to superior court. ....	38
Sec. 14-7-9. Notice required; form of notice.....	38
Sec. 14-7-10. Other enforcement methods.....	39
CHAPTER 8. ADMINISTRATION, PETITIONS, AND HEARINGS.....	39
Sec. 14-8-1. Building Official .....	39
Sec. 14-8-2. Petition for Variance, Special Use Permit, or Appeal to the Ruling of the Board of Enforcement.....	40
Sec. 14-8-3. Petition for Amendment to the Regulations of the Zoning and Land Use Ordinance, Land Use Classification, or the Boundaries of the Official Land Use District Map.....	41
Sec. 14-8-4. Public hearing.....	42
Sec. 14-8-5. Time Limits on Appeals and Hearing Process.....	42
CHAPTER 9. MISCELLANEOUS PROVISIONS.....	43
Sec. 14-9-1 Inspections .....	43
Sec. 14-9-2. Permit & Architectural Review.....	43
Sec. 14-9-3. Review of Building permit application .....	43
Sec. 14-9-4. Existing permits and private agreements .....	43

Sec. 14-9-5. Preserving rights in pending litigation and violations under existing ordinances ..... 43

Sec. 14-9-6. Fees ..... 44

Sec. 14-9-7 Severability Clause ..... 44

Appendix A..... 45

Land Use Map 2024 ..... 45

Appendix B..... 46

Town of Gay Application for Rezoning, Special Use, or Variance..... 46

Appendix C..... 48

Code of Standards Governing the Exercise of the Zoning Power ..... 48

**CHAPTER 1. GENERAL PROVISIONS**

**Sec. 14-1-1. Short Title**

This Ordinance shall be known and may be cited as “The Town of Gay Zoning and Land Use Ordinance.”

**Sec. 14-1-2. Authority and Purpose**

This Ordinance is adopted under the authority granted to the Town in the Town Charter passed by the Georgia Legislature in 1907, under the authority of the Constitution and laws of the State of Georgia, including, but not limited to, Art. IX of the Georgia Constitution for the following purposes

- A. To promote and protect the peace, good order, health, safety and general welfare of the residents, citizens and inhabitants of the Town of Gay.
- B. To foster orderly and healthful development, good government, peace and order, trade, economic development, and commerce.
- C. To preserve and protect the rural and historical character of the Town, and its unique historical, cultural, and architectural buildings, places and areas.
- D. To promote high standards of building and site design within residential and nonresidential districts to preserve an atmosphere consistent with the character of the Town.
- E. To protect and enhance the appeal and attraction of the Town of Gay to residents, visitors and tourists, and to serve as a support and stimulus to business and economic development.
- F. To foster civic pride in the beauty and notable accomplishments of the past.
- G. To enhance and protect the natural environment, natural areas, and rural atmosphere of the Town of Gay.

**Sec. 14-1-3. Scope**

In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the promotion of the peace and good order, health, safety, morals, and general welfare of the citizens of the Town. This Ordinance is not intended to repeal, abrogate, annul, or in any

way to impair or interfere with any existing provision of law or ordinances, or any rules or regulations previously adopted pursuant to law relating to the use of buildings or premises; nor is it intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants or private deed restrictions. This ordinance covers the use of land, buildings, signs, greenery, fences, trees, pets, etc. within the Town. Following is a list of the items where the property owner is required to obtain a permit but not limited to:

- A. There is a change in the exterior structural design of a structure;
- B. There is the erection of a new structure;
- C. There is the moving into Town of a structure;
- D. There is the moving of a structure within the Town, whether on the same lot or to another lot;
- E. There is the removal of a structure from the town.
- F. There is the destruction/demolition of a structure;
- G. There is the erection of any sign or commercial message in public view, other than those signs which would be permitted under the First Amendment to the United States Constitution or those with existing event permits.
- H. There is a change to an existing sign that drastically alters its original appearance, dimensions, or placement.
- I. There is a planned cutting down of a tree greater than (24) inches in diameter measured at (5ft) feet above the ground;
- J. There is an authorization granted to a portable vendor to sell wares from a property owner's property within the Town limits, whether private, public or non-profit;
- K. There is a change in the use of a building, e.g. residential to commercial;
- L. There is a change in the use of the land; and
- M. There is a decorative art attached (as defined) applied or painted on the exterior of a building in public view.

#### Sec. 14-1-4 Newly Annexed Areas

- A. Land Use classification for newly annexed areas shall be classified pursuant to OCGA 36-66-44. Within sixty (60) days following the annexation of territory into the Town, the Town Council shall initiate proceedings to establish permanent use classifications for all such newly annexed territory. Town Council shall specify a permanent classification for any such annexed territory within ninety (90) days of the annexation. Pending completion of such proceedings, such territory shall be classified as District "R," Single Family Residential. Such temporary use classification shall remain in effect only until such time as the Town Council establishes the permanent use classification, following procedures required by Chapter 6 of this Ordinance.

#### Sec. 14-1-5. Land use policies

- A. Purpose. The land use policy statements set forth in this Section have been developed as part of the Town's ongoing comprehensive planning process and were designed to provide guidance in implementing this Ordinance. Said policies are hereby adopted as a part of this Ordinance to provide guidelines for considering future amendments to these Land Use Regulations.

B. Land use goals -Town Wide

- (1) Provide for the orderly growth, development and redevelopment by adopting a comprehensive Zoning and Land Use Ordinance for the Town.
- (2) Accommodate a mixture of new commercial and residential development that will strengthen the Town's existing dynamic character of land uses, but restrictive enough to eliminate incompatible uses that destabilize adjoining and area property values.
- (3) Promote a healthy balance between residential and nonresidential land uses designed to maintain and enhance property values and revenue streams by providing a land use plan that accommodates unforeseen future markets for quality residential and/or commercial development.
- (4) Support private and public initiatives, which encourage investment in beautification programs, and stimulate such programs by providing for adequate open space through land use.
- (5) Develop and maintain regulations that are organized, fair, straight forward, and easy to interpret by citizens, property owners, developers, Town officials, and other interested parties.
- (6) Provide adequate controls to protect the natural environment and preserve natural areas and the rural atmosphere of the Town.

C. Specific geographic areas. Within the Town limits, three distinct geographic areas exist. These geographic areas are:

- (1) Single-family residential areas with historical and rural atmosphere and which are relatively well-insulated from commercial encroachment;
- (2) The central part of town around the fairgrounds & road-front properties on SR-85 which contains the majority of significant historical buildings in the Town; and
- (3) Large plots lying mostly along the border of the town that are either not in use, used commercially in a limited capacity or in some form of conservation easement.

D. Objectives sought to be implemented through adoption of Land Use regulations applicable to the specific geographic areas of the Town are as follows:

- (1) Single-family Residential District (R). Land Use regulations applicable to single-family residential areas are intended to protect the integrity, safety, and aesthetic characteristics of existing and future neighborhoods throughout the Town, and shall be implemented by:
  - a. Providing one or more purely residential Land Use districts that limit uses to single-family residential purposes and low noise, low traffic commercial activities of the property owner. Commercial uses are limited to "in home" or compliant secondary buildings built in a similar style to the main residence. Examples are:
    - i. Bed and breakfasts with three or less rooms;
    - ii. Vacation rentals;
    - iii. Small professional office; and
    - iv. Arts studio.
  - b. Imposing performance standards and requiring substantial buffer yards, screening, and landscaping for uses adjacent to and surrounding the residential district.

- (2) Historic Commercial District (HC). This district contains all the significant historical buildings & commercial property within the Town limits. It includes the fairgrounds, road-front properties along SR-85 & 109, the old Vintage Lumberyards and other structures that exist within the HC District as shown on the Land Use map. The uses and character of this district shall be implemented by:
- a. This district is designated for commercial businesses, which serve residents, and heavy tourist events and establishes a permitting process that enables the Town to monitor the location of these uses and temporary events such as Fair Weekends, and thereby manage traffic and other aspects of the public health, safety and welfare, peace and order and protect adjoining properties from incompatible uses and prevent detracting from the visual image of the Town.
  - b. Tracts of less than one (1) acre: Providing standards for new development which, while ensuring compatibility with buildings in the district, and compliance with the general purpose and intent of this Ordinance, will promote and permit innovation and flexibility in land use and site design, and support relatively small scale (tracts less than one acre) mixed use development that is deemed to be beneficial to the community.
  - c. Tracts of one (1) acre or more (Developments): Providing standards for new development will promote and permit innovation and flexibility in land use and site design to support larger scale mixed use development (typically but not exclusively multiple buildings developed by a single user) that is deemed to be beneficial to the community. Additional standards and requirements apply to this level of development.
  - d. Providing performance standards that place emphasis on buffer yards, screening, and landscaping that are specifically designed to stabilize and enhance property values by limiting or prohibiting the continuation of incompatible land uses that negatively impact adjoining properties and detract from the visual image of the Town.
- (3) Agricultural District: This district is established to protect and to preserve agricultural and forest resources and associated rural characteristics by allowing only low-density residential uses, farming, animal husbandry, forestry, saw milling, limited commercial and other similar uses upon lots or parcels not less than five (5) acres. The uses and character of this district shall be implemented by:
- a. This district is designated Agricultural in an effort to preserve the rural character of the Town and its open spaces.
  - b. Limited commercial & Single-family residential uses will be allowed with the related structures following building requirements set forth by District HC & District R for commercial and single family residential respectively.
  - c. The agricultural district will maintain a minimum lot size of 5 acres allowing for one detached single-family dwelling per 5 acres.
  - d. Any Commercial use not directly agricultural in will be limited to lower-impact businesses or Agri-tourism certified businesses such as:
    - i. Vacation Rentals
    - ii. Cafes/Restaurants
    - iii. "Fruit Stands" or similar businesses selling merchandise produced on the property
    - iv. Similar businesses deemed acceptable by Town Council
- (4) Commercial District (C). This district is a provisional district that, in the case of annexation, provides for the establishment of another commercial district similar to District HC in annexed areas in an effort to serve higher volume commercial needs both year-round and during special events.

## Sec. 14-1-6. Definitions and Interpretation

- A. Interpretation, conflict. This Ordinance shall be construed liberally to affect the purposes hereof. In interpreting and applying the provisions of this Ordinance, they shall be held to be minimum requirements for the protection and promotion of public health, safety, convenience, comfort, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easement, covenant, or other agreement between parties; provided, however, when this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall prevail.
- B. Definitions. For the purposes of this Ordinance, certain words and terms are hereby defined. Words used in the present tense shall include the future tense; the singular number shall include the plural number, and the plural number shall include the singular number. The word "building" shall include the meaning of the word "structure." The word "lot" shall include the meaning of the words "plot," "parcel," or "tract"; and the term "used for" shall include the meaning of the terms "designed for" or "intended for." The word "shall" is mandatory, not directive. Words, phrases, and terms not defined herein but defined in the building code of the Town shall be construed as defined in said code. Words, phrases, and terms not defined herein nor defined in the building code of the Town shall be given their usual and customary meanings except where the context clearly indicates a different meaning. The following definitions shall apply in the interpretation and enforcement of this Ordinance:
- (1) "Accessory structure" shall mean a detached structure which is incidental, auxiliary, and subordinate to the principal building, is subordinate in area, extent, or purpose to the principal building, contributes to the comfort, convenience and necessity of occupants of the principal building, and is located on the same lot as the principal building.
  - (2) "Accessory use" shall mean a subordinate use customarily incident to and located on the same lot occupied by the principal building or use.
  - (3) "All-weather surface" shall mean a covering for driveways and parking spaces that is dust free, not adversely affected by inclement weather, and paved over a minimum of four inches (4") of gravel base with two inches (2") of asphalt topping, or its equivalent.
  - (4) "Alley" shall mean a public right-of-way which affords a secondary means of access to abutting property.
  - (5) "Banner" shall mean a temporary sign for commercial or promotional purposes not intended for long term use, and constructed on vinyl, plastic, PVC, fabric or other material suitable for short term signage. Flags, posters, wall-hangings and other similar forms of signage that contain commercial messages in public view are considered to be "banners" for the purposes of this Ordinance.
  - (6) "Bed and Breakfast" shall mean an establishment whose primary purpose is the lodging of temporary guests in a home-like environment.
  - (7) "Block" shall mean a group of lots bounded by streets, or by a combination of streets and public parks, cemeteries, or corporate boundary lines, or other natural or geographic boundaries. If the word "block" is used as a term of measurement, it shall mean the distance along the side of a street or other boundary line between two intersecting streets or, if the street is of a dead-end type, between the nearest intersecting street and the end of such dead-end street.

- (8) "Board of Enforcement"- shall mean an administrative board with the authority to impose administrative fines and other noncriminal penalties to provide an equitable, expeditious, effective and inexpensive method of enforcing codes and ordinances in the Town of Gay where a pending or repeated violation continues to exist" OCGA 36-74-2
- (9) "Buffer yard" shall mean a land area required under the provisions of this Ordinance to separate different classifications of land uses from each other. A buffer yard is in addition to the required front, side or rear yards, but may, where applicable and otherwise required, be included in and as a part of required common areas for residential or commercial subdivisions or developments.
- (10) "Building" shall mean any structure designed or built for the support, shelter, protection, housing, or enclosure of persons, animals, chattels, or property of any kind.
- (11) "Building area" shall mean the maximum portion of a lot over which buildings and structures may be constructed.
- (12) "Building code" or "architectural standards" shall mean and refer to any rule, regulation, ordinance, or law of the Town governing the design, construction, and maintenance of any building or structure, or part thereof.
- (13) "Building height" shall mean the vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch.
- (14) "Building line" shall mean a line parallel or approximately parallel to the lot line and beyond or outward of which no building or structure shall be erected or constructed except where specifically authorized herein.
- (15) "Building, main" shall mean the building in which the main or principal use of the lot on which it is located is conducted.
- (16) "Building Official" shall mean the officer or other designated authority, or his duly authorized representative, charged with the administration and enforcement of the ordinances of the Town.
- (17) "Building, residential" shall mean a building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) family or lodger.
- (18) "Business" shall mean any isolated or continuous activity of commercial enterprise conducted for compensation or profit.
- (19) "Certificate of Occupancy" shall mean an authorization, issued by the Town of Gay, allowing the occupancy and use of a building or property for purposes proposed by the property owner and approved by the Building Official. Requirements for Certificates of Occupancy are defined in Section 1-105.
- (20) "Council" shall mean the governing body of the Town of Gay, Georgia.
- (21) "Decorative Art" shall mean non-commercial flags, wall-hangings, tapestries, paintings and other art works that do not have a commercial message displayed.
- (22) "Development" shall mean newly constructed or erected buildings or structures situated on one (1) acre or more, relocated buildings or structures onto such a lot, or the use of open land for a new or different use. To "develop" is to create a development. Typically, a "development" will be a master planned set of structures owned and/or created by a property owner, such as an individual, a business, a corporation or other like entity. It may lease or sell individual properties or structures within the development to other parties. Given the potential impact of a development on the community, any new



development requires the further approval of Town Council.

- (23) "Drive-Through Facility" shall mean a facility which accommodates automobiles and from which the occupants of the automobiles may make purchases or transact business, including the stacking spaces in which automobiles wait. Examples include but are not limited to drive-up windows, menu boards, order boards or boxes, drive-in restaurants, car washes and drive-up banks and automated teller machines. Drive-Through shall not include the direct refueling of motor vehicles, parking spaces used for customer pick-up or loading of goods or products purchased on-site or prior to the customer's arrival, or parking and loading spaces used for the donation of secondhand goods.
- (24) "Dwelling" shall mean a building or portion thereof designed and used exclusively for residential occupancy, including single-family dwellings, but not including hotels, motels or boarding houses.
- (25) "Fence" shall mean a structure or vegetative hedge designed, constructed, or planted to provide protection from intrusion (both physical and visual), to prevent escape, mark a boundary, or provide decoration. Provided, however, dikes and retaining walls erected or constructed for the purpose of diverting water and retaining soil shall not be deemed a fence, nor shall backdrops erected for tennis courts or similar sports/recreational uses.
- (26) "Floor area, gross" shall mean the area within the inside perimeter of exterior walls of a building, with no deduction for corridors, stairs, closets, thickness of walls, columns, or other features, but exclusive of areas open and unobstructed to the sky.
- (27) "Front Yard" shall mean the yard area that adjoins the street which is referenced as the physical address of the property. For example, for a home with the address of 123 White St., the front yard is the one adjoining White St.
- (28) "Green screening" shall mean shrubs and trees, landscaping elements such as lattice partitions covered in vegetation or like screen of a minimum height of seven (7) feet that is dense enough to conceal and/or reduce noise levels in an adjacent property or condition.
- (29) "Greenspace" is defined as areas of grass, trees, hedges, gullies, streams or other landscape, either planted or natural.
- (30) "Heavy Industry" means a building or place used to carry out the processing of raw materials and manufacture of goods in factories that requires separation from other development because of the nature of the processes involved, or the materials used, stored or produced, and includes: hazardous industry, and/or offensive industry.
- (29) "Landscaping" shall mean decorative vegetative material such as grass, ground covers, shrubs, vines, hedges, trees or palms, and non-living durable material commonly used in conjunction with inorganic materials such as rock, pebbles, sand, walls or fences, which are used to improve the aesthetic appearance of open spaces.
- (30) "Living Trailer" means a structure constructed to be used for dwelling, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation and which could have provisions for electrical connection, water connection, and waste disposal connection. Living Trailers of any size whether being lived in or not are not permitted within the Town Limits.
- (31) "Lot" shall mean a lot, tract, or parcel of land: (1) that existed prior to the date of adoption of applicable subdivision regulations of the Town; (2) a lot which has been validly designated on a subdivision plat duly filed with the appropriate County Clerk and that is held in separate ownership; or (3) a tract or parcel of land described by metes and bounds upon a deed

duly recorded or registered with that County Clerk and otherwise exempt from the platting requirements of the subdivision regulations of the Town.

- (32) "Lot line" shall mean the boundary line of a lot; provided, however, no lot line, whether front, side, or rear, shall extend beyond an adjacent street line.
- (33) "Lot of record" shall mean a tract of land designated as a "lot," "tract," or "reserve" on a subdivision plat duly recorded, pursuant to applicable law, in the county clerk's office of the county in which the lot is located.
- (34) "HUD-Code Manufactured Home" means a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which, in the traveling mode, is eight feet (8') or more in width or forty feet (40') or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems. A structure described by this paragraph shall be allowed for placement only in a HUD-Code Manufactured Home Subdivision, zoned MH in accordance with the Town's Ordinances. Any structure not described by this paragraph shall not be allowed for placement anywhere else in the Town.
- (35) "Mobile Home" shall (A) means a structure: (1) constructed before June 15, 1976; (2) built on a permanent chassis; (3) designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities; (4) transportable in one or more sections; and (5) in the traveling mode, at least eight body feet in width or at least forty (40) body feet in length or, when erected on site, at least 320 square feet; and (B) includes the plumbing, heating, air conditioning, and electrical systems of the home. Mobile homes are not permitted to be located within the Town limits.
- (36) "Natural areas" shall mean creeks, waterways, and their adjacent banks; and unimproved forested areas within the 100-year flood plain.
- (37) "Natural environment" shall mean the application of these regulations for the preservation, to the greatest extent possible, of a quiet, rural environment free from air, water and noise pollution generally associated with urban areas.
- (38) "Nonconforming structure" shall mean a building or structure which was lawful prior to the adoption of this Ordinance or amendment hereto, but which, following the adoption of this Ordinance or amendment hereto, is prohibited.
- (39) "Nonconforming use" shall mean a use of a building or land which was lawful prior to the adoption of this Ordinance or amendment hereto, but which, following the adoption of this Ordinance or amendment hereto, is prohibited.
- (40) "Noxious" shall mean capable of causing injury to living organisms by chemical or biological reaction or is capable of causing detrimental effects upon the physical or economic comfort or well-being of humans.
- (41) "Offensive or Hazardous Industry/Commercial" shall mean an industry or commercial establishment which, by reason of the processes involved or the method of manufacture or the nature of the materials used, produced, stored, or offered for purchase or services damages the health and/or economic interests of significant numbers of people in the town or environment of that industry or commercial establishment or has an adverse social impact for example vape shop, CBD and/or THC dispensary.
- (42) "Owner" shall mean, as to particular property, any person, agent, firm, association,

corporation or other legal entity having a legal or equitable interest therein.

- (43) "Parking space" shall mean an area built within the boundaries of the lot to which it pertains in accordance with applicable Town standards, of a sufficient size to store one (1) automobile and designed and constructed for vehicular storage and not as a street or vehicular way.
- (44) "Portable Vendor" shall mean a portable vehicle or trailer constructed on a chassis, either towed or self-propelled, which has been designed to be occupied and/or used without a permanent foundation; and from which food, goods or services are sold.
- (45) "Recreational Vehicle" shall mean a portable vehicle or trailer constructed on a chassis, either towed or self-propelled, which has been designed to be occupied and used without a permanent foundation.
- (46) "Rural Atmosphere" shall mean the use of these regulations to preserve, to standards adopted for the Town.
- (47) "Screening" shall include a barrier of stone, brick, pierced brick, masonry block, or other similar permanent material of equal character, density, and design, at least six feet (6') in height, or a vegetative hedge at least six feet (6') in height, installed according to accepted planting procedures, with a quality and density of plant material sufficient to block vision, noise pollutants or other negative by-products associated with the use that is hidden by the screening hedge, but not including cane, bamboo, or other similar extended single trunk vegetation.
- (48) "Secondary Building" shall mean any building that is not the main residence or business on a property. Secondary buildings may be a second residential structure on a property, such as a guest house or a temporary vacation rental. Secondary buildings may also be utility structures like a garage, carport, storage shed, well house, barn, stable or structure for housing livestock when allowed, or other non-habitation. On commercial properties, secondary buildings may also include warehouses, covered storage areas, antique dealer pavilions, gas station pavilions, ATMs or drive-thru banking pavilions.
- (49) "Special Use Permit" shall mean permission given by the Town Council allowing exceptions to this Zoning and Land Use Ordinance and may be subjected to heightened development standards.
- (50) "Street" shall mean any public or private roadway right-of-way which affords a primary means of access to abutting property. A driveway or alley which provides only secondary vehicular access to a lot or to an accessory parking or loading facility, or to allow vehicles to take on or discharge passengers at the entrance of a building, shall not be considered a street.
- (51) "Structure" shall mean anything constructed or erected below, at, or above grade, which requires location on the ground or is attached to something having a location on the ground, and which, out of necessity or precaution, includes support, bracing, tying, anchoring, or other protection against the pressure of the elements.
- (52) "Temporary Vendor" shall mean any vendor who sets up a temporary location within the Town limits to sell food, goods or services during a designated special event (i.e., Cotton Fair, 4th of July, Chili cook-off, Wine Festival, Christmas on the Square). Established businesses within the Town limits are considered temporary vendors when they establish an ancillary location (e.g. tent, booth or table, or similar facilities) outside their permanent business for a longer period than a sanctioned special event. All temporary vendors must obtain an approved temporary vendor permit from the Town. (See Special Events Ordinance)
- (53) "Town" shall mean the Town of Gay, Georgia.

- (54) “Use” shall mean the purpose or activity for which land, or the buildings or structures thereon, are occupied, maintained, or committed.
- (55) “Use, main” shall mean the principal use of land or buildings as distinguished from a subordinate or accessory use.
- (56) “Utility Yard” shall mean an area which contain items and equipment stored outside such as utility or building infrastructure or other utility and maintenance items whose public view would detract from the appearance of the structure.
- (57) “Vacation Rental” shall mean a short-term agreement (less than 60 days) for lodging by persons other than the property owner in a principal residence or compliant secondary building.
- (58) “Variance” -A variance is an official exception to the Town of Gay’s Ordinances to deviate from certain requirements and is heard on a case-by-case basis.
- (59) “Yard” shall mean an open space on a lot, at a grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise specifically permitted by this Ordinance. In measuring a yard for the purpose of determining the width of a side yard, the depth of a rear yard, and the depth of a front yard, the minimum horizontal distance between the pertinent lot line and the edge of the main building, exclusive of all roof overhangs, eaves, or any other protrusions beyond the walls thereof, shall be used. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations of the Land Use district in which such lot is located.
- (60) “Yard, front” shall mean an area extending along the whole length of the front lot line between the side lot lines and being the minimum horizontal distance between the front lot line and the front of the main building or any projection thereof other than steps or unenclosed porches.
- (61) “Yard, rear” shall mean an area extending along the whole length of the rear lot line between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projection thereof other than steps or unenclosed porches.
- (62) “Yard, side” shall mean an area extending along the side lot line from the front yard to the rear yard and being the minimum horizontal distance between the applicable side lot line and any building or projection thereof other than steps or unenclosed porches.

## **CHAPTER 2. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES**

### **Sec. 14-2-1. Establishment of districts**

For the purposes of this Ordinance, the Town is hereby divided into four (4) use districts, which shall be known and described, respectively, as follows:

District R (Single-family Residential Dwelling District)

HC (Historic Commercial District)

AG (Agricultural/Conservation)

C (Commercial District) – Reserved for Future Growth, Development and Annexation

#### Sec. 14-2-2. Land Use district map

The location and boundaries of the districts of the Town shall be shown on the map attached hereto, which map is designated as the "Official Land Use District Map of the Town of Gay, Georgia." Said map and all notations, references, and other information shown thereon and all amendments thereto are made a part of this Ordinance as if fully set forth and described herein.

#### Sec. 14-2-3. Identification of Land Use district map

The Land Use district map shall be identified by the signature of the mayor, attested by the Town Secretary, and the seal of the Town under the following words: "This is to certify that this is the official Land Use District Map referred to in the Town of Gay Zoning and Land Use Ordinance," together with the number and the date of the adoption of this Ordinance.

#### Sec. 14-2-4. Location of Land Use district map

Regardless of the existence of purported copies of the official Land Use District Map which may be made or published from time to time, the official Land Use District Map shall be located in the office of the Town Clerk, and it shall be the final authority as to the current use classification of land areas, buildings, and other structures in the Town.

#### Sec. 14-2-5. Interpretation of Land Use district boundaries

Where uncertainty exists as to the boundaries of districts as shown on the official Land Use District Map, the following rules shall apply:

- A. Street lines. Boundaries indicated as approximately following the center line of streets, highways, or alleys shall be construed to follow such center lines.
- B. Lot lines. Boundaries indicated as approximately following platted lot lines or other legally constituted property lines shall be construed as following such lot lines.
- C. Town limits. Boundaries indicated as approximately following Town limits shall be construed as following such Town limits.
- D. Waterway lines. Boundaries indicated as approximately following the center lines of streams, canals, drainage ways, or other bodies of water shall be construed to follow such center lines.
- E. Extensions. Boundaries indicated as parallel to or extensions of features indicated in Subsections (A) through (D) above shall be thus construed.
- F. Distances. Distances not specifically indicated on the official Land Use district map shall be determined by the scale of the map.
- G. Physical features. Where physical features existing on the ground are at variance with those shown on the official Land Use district map, or in any other circumstances not covered by Subsections (A) through (F) above, the Town Council shall interpret the district boundaries.
- H. Any tract annexed by the Town of Gay in the future will automatically become subject to this Zoning and Land Use Ordinance immediately upon the effective date of the annexation.

## CHAPTER 3. COMPLIANCE WITH REGULATIONS

### Sec. 14-3-1. Applicability

Except as specifically authorized to the contrary in this Ordinance, the following regulations apply in all districts:

- A. Use of land and buildings. No land, or any building thereon, shall be used except for a purpose permitted in the district in which such land is located.
- B. Height of buildings. In all districts, no building or structure, or any part thereof, shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered to exceed the height limit of fifty feet - from the original grade of the site, notwithstanding those chimneys, steeples, and other such features may reasonably extend beyond this height.
- C. Building construction. In all districts, no building or structure, or any part thereof, shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered shall not exceed 3 stories (excluding attics & basements) and adhere to the height requirement.
- D. Off-street parking. No building shall be erected, constructed, reconstructed, converted, enlarged, moved, or structurally altered except in conformity with the off-street parking regulations of the district in which such building is located (if no specific regulation, the regulation of District HC applies (also see Section 14-4-4 Off-street parking and loading)). No off- street parking shall be multi- story.
- E. No encroachment on yard area. No part of any lot area, yard, open space, or off-street parking required by this Ordinance shall be encroached upon or reduced below the minimum requirements of this Ordinance for the district in which such lot is located.
- F. No reduction in lot or yard area below requirements. No lot or yard existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein for lots and yards in the district in which such lot or yard is located. Any lot or yard created after the effective date of this Ordinance shall equal or exceed the minimum dimension and area requirements of this Ordinance for lots and yards in the district in which such lot or yard is located. New developments of over one acre, that will include multiple new buildings planned for commercial use, may apply for designation as a high- density area, and be allowed additional flexibility with respect to the placement of structures on the property. Regulations and provisions for high-density areas are contained in Section 14-4-6.
- G. No primary dwelling or residence of less than 1350 conditioned sq. ft or 2000 conditioned sq. ft for a 2-story home excluding un-enclosed decks and porches shall be approved for construction in any district of the Town of Gay. A primary dwelling or residence must be completed before permits for any additional structures are granted. Any variance to this stipulation granted by the Building Official shall be reviewed and approved by the Town of Gay, GA Council before becoming effective.
- H. Before a permit can be issued by the Town for a new building, moved-in building or building renovation/addition that creates wastewater, the applicant must provide an agreement with the Town to connect to the water system and/or an approval permit from Meriwether County for the construction of an on-site sewage facility. All on-site sewage facilities within the Town of Gay must comply with all applicable wastewater regulations.
- I. New buildings cannot be constructed or placed over a septic system nor be within five (5) feet of such a system, nor within ten (10) feet of the property line. This applies to all Districts.
- J. Green screening is an advantage to the Town in certain situations to keep certain items from the full visibility of the general public. In those situations, the Building Official will determine if such

screening is required. If it is deemed necessary, the Building Official could require a land owner to put up shrubs and trees to a minimum of height of seven (7) feet and dense enough to conceal the item(s). This green screen can be required on both the street and the neighbor's sides. Invasive species are not allowed.

- K. All waste containers, dumpsters and utility yards shall be shielded from public view by fencing or green screening. Property owner shall keep all such areas free of infestation by insects, rodents and other pests. No odor from such areas shall be detectable from any adjacent property.

#### Sec. 14-3-2. Nonconforming uses and structures

- A. Authority to continue nonconforming uses. The use of land or buildings or structures which was lawful upon the effective date of this Ordinance, although not conforming to the provisions hereof, may be continued subject to the terms hereof. No nonconforming use or nonconforming building or structure may be extended or expanded; provided, however, extension of a nonconforming use wholly within an existing building or arrangement of buildings designed and constructed for such use shall be permitted provided no structural alteration of such building or buildings is required, and the use of additional land is not required. If the nonconforming use of a building or land is discontinued for ninety (90) consecutive days or more, the future use of such building or land shall be in conformity with the provisions of this Ordinance. For the purposes hereof, a use is discontinued when the land or a building becomes devoted to a different main use, or the land or building is no longer used for any purpose.
- B. Nonconforming accessory uses. No accessory use to a nonconforming use shall continue after termination of the nonconforming use unless such accessory use otherwise complies with the provisions of this Ordinance.

#### Sec. 14-3-3. Authority for continued existence of nonconforming structures

A structure lawfully existing on the effective date of this Ordinance, although not conforming to the provisions hereof, shall be allowed to continue in existence subject to the following:

- A. Notwithstanding the following provisions, the limitations below regarding architectural style, shall not apply to ranch style & brick structures (used as single-family homes or for other permitted uses in their district) which are in existence on the date of adoption of this Ordinance, and such structures are hereby specifically permitted to be expanded, rehabilitated, or modified in their existing style, so as to assure architectural compatibility with the existing structures. All other requirements of this Ordinance shall apply to such structures.
- B. Nonconforming structures shall not be extended or enlarged, nor shall they be structurally altered, unless such alteration converts such structure into conformity with the provisions hereof. Routine repairs and nonstructural alterations shall be permitted if they do not have the effect of extending or enlarging the nonconforming characteristics thereof.

Examples:

- (1) repair of the exterior of a building with like and kind materials;
- (2) re-painting a home with same color;
- (3) replacing a roof that is compliant with a matching roof; and
- (4) repairing a fence with matching and compliant fencing.

Nonconforming single-family dwelling main buildings may be extended or enlarged if the

extension or enlargement does not increase the nature or degree of the nonconformity, and the building is conforming in terms of lot size or the depth of the required front, side, or rear yard.

- C. Nonconforming structures shall not be rebuilt in the case of total destruction, or partial destruction exceeding fifty percent (50%) of its fair market value. If any such structure is damaged or destroyed to the extent of more than fifty percent (50%) of its fair market value, such structure shall not be rebuilt except in conformity with this Ordinance. If such structure is accidentally damaged to the extent of fifty percent (50%) or less of its fair market value, it may be repaired, restored, or renovated to its previous nonconforming status provided actual restoration, renovation, or repair is commenced within six (6) months following the date the damage is incurred or with a Town Council issued variance

#### Sec. 14-3-4. Nonconforming status

The following are hereby declared to be lawfully existing nonconforming uses or structures:

- A. Any existing use or structure not in conformance with the regulations of the Land Use district in which it is located but lawfully existing at the time of the adoption of this Ordinance;
- B. Any existing use or structure not in conformance with the regulations of the Land Use district in which it is located but lawfully existing at the time of the adoption of any amendment to this Ordinance, the result of which amendment renders such use or structure nonconforming; and
- C. Any existing use or structure not in conformance with the regulations of the Land Use district in which it is located at the time of annexation into the Town.
- D.

#### Sec. 14-3-5. Change in ownership

In the event of a change in ownership of a property which has nonconforming uses, nonconforming conditions, or nonconforming structures, a review of the nonconforming issues will be conducted by the Town Council and if the issue is found to be in relation to health and safety the issue must be corrected.

With the exception of the provisions included throughout this Ordinance, the status of nonconforming uses and nonconforming structures are not affected by ownership and/or occupancy change.

#### Sec. 14-3-6 Subdivision of Tracts

Subdivision of Tracts: In all cases, any subdivision of existing lots or tracts within the Town limits must be reviewed and approved by the Town Council in strict compliance with the applicable state law. The application for subdivision approval must be submitted before any sale or transfer of ownership and be accompanied by the items required by the Town of Gay Development Regulations.

Properties Bisected by a change in District Boundaries: In the case of a change in District Boundaries by the Town Council, property owners whose property will be bisected by a district boundary in such a change shall have the right to subdivide their property in such a way that each portion of said property is within a single district, notwithstanding that the size of any sub-divided tract shall not be smaller than  $\frac{1}{2}$  that district's minimum lot size requirement. Any lot in existence at the time the Land Use Ordinance was enacted is deemed compliant with the lot size requirement. Any smaller lot size in all districts can only be created by a variance issued by Town Council.



## CHAPTER 4. PERFORMANCE

### Sec. 14-4-1. Compliance required

It shall be unlawful for any person to use or permit the use of any land or structure within the Town limits in a manner which creates any dangerous, injurious, noxious, or other similar condition(s).

- A. Hazardous Conditions: It shall be unlawful for any property owner to allow buildings or grounds that are the source of the emitting of vibration, air pollution, or odorous matter: the storage of explosive, hazardous, toxic, or noxious matter or materials: or the casting of light or glare at levels which adversely affect surrounding areas or adjoining premises.
- B. Neglect of Buildings: It shall be unlawful for any property owner to allow buildings on their property to fall into disrepair obviously visible from outside the property line. Examples of disrepair include, but are not limited to, failure of structural integrity, evidence of structural issues such as leaning/collapse, rotting or destroyed materials, or exposure of the interior to weather conditions.
- C. Danger to Public Health and Wellbeing: It shall be unlawful for any person to permit rodents, destructive insects, diseased wildlife, or other public health conditions to exist uncorrected for more than 30 days after notification of same by the Building Official. Permitted uses set forth in this Ordinance shall be subject to compliance with the applicable performance standards contained in this Article.
- D. Neglect of grounds or yards: It shall be unlawful for a residential lot within the Town limits to allow its yard or grounds to fall into neglect, thereby potentially creating fire hazards, habitat for rodents and insects or unsightly views from adjacent properties. Residential properties of less than two (2) acres become non-compliant when the average height of grass or weeds grows to an average height of 12" above grade. Dead trees or limbs that overhang adjacent properties or public easements must be trimmed in order to protect public safety and adjacent property values. Exceptions for yards and grounds of larger properties:
  - a. Properties of two (2) acres or more that are dedicated to agricultural use.
  - b. Properties of two (2) acres or more upon which hay or other crops are grown and harvested.
  - c. Properties of two (2) acres or more that have dedicated natural areas.
  - d. Properties of two (2) acres or more which are largely forested.
  - e. Properties of two (2) acres or more which are fenced and dedicated primarily to livestock

All property owners are responsible for their lawn to the edge of the road or curb. The right-of-way area of at least ten feet wide adjacent to the public roadway on all properties becomes non-compliant when the grass height exceeds 12 inches; and when bushes, trees, branches obscure a safe view for motorist on the roadway or bushes, trees, branches protrude into the roadway preventing safe travel.

### Sec. 14-4-2. Light and glare

- A. All exterior lighting shall be shielded so that no light is emitted above the bottom of the light source or bulb (100% cut-off). Compliant fixtures shall not be mounted so high as to cast light or glare on adjacent residential property. Governmental or special use public buildings are not exempt from this section but may apply for a variance based on special circumstances or requirements. General information about "dark sky" standards and light pollution is available through the International Dark Sky Association (IDA)> The IDA's Good Neighbor Practical Guide

for residential lighting is available at <http://www.darksky.org/assets/documents/PG3-residential-lighting.pdf>

- B. Decorative building lights may be illuminated in all districts, at all hours, from November 15 to January 15 by both residential and commercial properties.
- C. Commercial Decorative Lighting: All commercial decorative lighting must be clear, warm white or cool white bulbs. The maximum allowable decorative lights allowed are .5 watts per bulb when incandescent, 120-volt C7 socket in mini candelabra, or 5 MM LED or LED wide angle bulb less than .01 watts per bulb. Maximum frequency on a string is 6 inches for incandescent strings and 4 inches for LED. Less frequency of bulbs and lesser wattage and lumens per bulb are acceptable so only maximums are stated here. All lights must be in full working condition. Refer to similar Sections referring to lighting.

Illumination timeframes:

- (1) Developments and non-profit entities within all districts may illuminate low wattage decorative building lights along ridges, eaves, and posts to attract business and create a festive atmosphere.
- (2) Single business entities in primarily residential neighborhoods may not display such lighting without prior written approval from all adjacent residential property owners except during Town Council designated Special events.
- (3) Single business entities not part of a development and not in primarily residential neighborhoods may also display commercial decorative lighting as noted above. However, residential property owners within 200 ft. of single commercial businesses in HC and R Districts that are not in primarily residential neighborhoods may file a formal complaint against such display with the Building Official. If the Building Official determines the residential property owner's rights, according to Section 14-4-2 of this Ordinance, have been infringed upon by such a display, commercial decorative lighting may be restricted or disallowed except during Town Council designated special events.

#### Sec. 14-4-3. Natural Areas, landscaping and buffering

- A. Purpose. Natural and planted landscaping and buffer yards shall be required to provide a separation between land uses of different categories to eliminate or minimize potential nuisances from litter, noise, glare, signs, unsightly buildings, and parking areas, to provide spacing to reduce adverse impacts from noise or odor, or danger from fire or explosion, and to enhance aesthetics and the visual image of the Town.
- B. Responsibility for buffer yards. Buffer yards or green screening shall be required when:
  - (1) the main use of a lot in District HC is changed to a different category of use, and the new category of use is different than the category of the main use of an adjacent residential lot, or
  - (2) a lot is developed for a commercial use and such lot is adjacent to a lot, developed or undeveloped, that is within District R or adjacent to a predominantly residential area of the HC district.

The owner of the lot upon which the main use is changed, or upon which a use is developed as above provided, shall establish and maintain the buffer yard in accordance with this Ordinance.

- C. Landscaping, wooded areas, and buffer yards used to shield nonconforming architectural conditions. In certain conditions, landscaping, buffer yards or existing wooded areas may be used to shield architectural conditions that are nonconforming from the view of adjacent properties. In this case, these wooded areas or landscape conditions shall be maintained by the land owner and may not be removed or allowed to deteriorate in a manner to expose the nonconforming condition to view from any adjacent property unless such nonconforming

condition is corrected.

- D. Trees, flood plains, green belts, and natural areas. Existing green belts along watersheds, creeks and gullies shall be protected in a natural state. Under most circumstances, areas within the 100-year flood plain shall be used only for green belts, natural park land or for agricultural purposes. Residential construction may be allowed within the 100-year flood plain only if the finished floor of the building is built above the level of the 100-year flood plain and an acceptable foundation design from a registered engineer shows that such a structure could withstand the maximum water levels of such a flood without significant damage to the structure or to adjacent structures. No commercial construction shall be allowed within green belt areas or within the 100-year flood plain.
- E. Regardless of district, all contiguous commercially-developed property within the limits of the Town of Gay, shall establish, preserve/retain as green-space no less than 25% of the total square footage of said property. Computation of green-space may include required setbacks, but shall not include road right-of-way, designated parking areas, decks, or walking paths of gravel, pea gravel or granite, wood, or other impervious cover. Applicants for construction permits are responsible for demonstrating to the Building Official that these requirements will be met.
- F. Cutting of Trees:
- (1) Trimming by cutting or removal of more than twenty-five percent (25%) of the limbs of any oak or pecan variety tree with more than a twenty-four (24") diameter measured at 5 feet above the ground shall require the submission of an application and approval of the Building Official. However, diseased trees or storm damaged trees may be removed with written permission of the Building Official.
  - (2) On any property of less than two (2) acres, in order to cut or remove any tree of twenty-four (24") in diameter or larger measured at 5 feet above the ground, a property owner must prove overwhelming practical reasons for such a cutting in the application to the Building Official. The planting of replacement trees may be required on a case-by-case basis as determined by the Town Council.
  - (3) In tracts of more than two (2) acres, in order to cut or remove oak and pecan variety trees more than eight inches (8") in diameter measured at 5 feet above the ground, the property owner must submit a detailed plan in the application to the Building Official. The plan must receive approval from the Town Council, and the Town Council may require replacement trees on a case-by-case basis.
- G. Run off, grey water and land owner's responsibility for erosion. All runoff into creeks and gullies within the Town limits shall be managed by adjacent property owners to minimize erosion and environmental impact. No release of gray water, septic, chemical, or other pollutants shall be allowed into the watershed. All runoff from parking areas and large paved areas shall be directed away from such features where possible to avoid excessive erosion and the release of automotive fluids into the watershed. Terracing and swales covered by grass or vegetation and collection areas, natural in appearance, rather than concrete embankments and culverts, shall be used where possible for this purpose. All new construction will control the runoff during and after construction as to not permit additional or increased flooding impacts on other properties. Any construction that causes an increase in storm water runoff requires mitigation by providing drainage analysis and a drainage plan performed and sealed by a professional engineer or land surveyor licensed in the state of Georgia.

#### Sec. 14-4-4. Off-street parking and loading

- A. General Provisions. Required parking shall be comprised of gravel or hard-surface, off-street and on street parking spaces and shall have direct access to a public street or alley by a driveway not less than twelve feet (12') in width if a one-way driveway, and not less than twenty-four feet (24') in width if a two-way driveway.
- B. Materials. In Districts R and HC, the preferred materials shall be gravel, asphalt, asphalt millings, crushed granite, stone, brick, cobblestone, patterned concrete and other decorative masonry. In Districts C only, broomed concrete, chip rock or asphalt laid over a six-inch deep compacted base may be approved at the discretion of the Building Official
- C. Shielded parking areas and communal parking. All approved parking areas shall, as much as reasonably possible, be located in areas shielded from the view of the main street, and from open public areas. Because of existing conditions and smaller lot sizes, the Town and the Building Official shall encourage the establishment of communal parking areas for this purpose.
- D. Calculating the parking requirement. May be met using off-street parking and contiguous street parking. Parking requirements shall be calculated based upon estimated parking required by the use of the structure. Therefore, a property that is to be used for a high traffic business shall be required to provide a greater area of parking than a small business or residential property. The actual number of parking places shall be determined by the Building Official using the table below, but the maximum calculation for parking requirements area shall be as follows: One parking space may be required for every 100 square feet of gross floor area. When calculating the required number of parking spaces, fractions of less than one-half ( $\frac{1}{2}$ ) shall be disregarded, and fractions of one half ( $\frac{1}{2}$ ) or more shall be counted as one (1) space. Where parking requirements are based on building floor area, the floor area calculations shall be based on the gross leasable floor area.
- Table of required parking:
- (1) Dwellings - Two per single-family dwelling
  - (2) Bed and Breakfast or other commercial accommodations - One per sleeping room.
  - (3) Professional Office - Three plus one per 400 sq. ft. over 1,000 sq. ft. of interior space.
  - (4) Stores, retail or service - Two plus one per 600 sq. ft. over 1,000 sq. ft. of interior space.
  - (5) Restaurant - One per three seats for diners on owner's property.
  - (6) Museum, library or community center - Five plus one per 600 sq. ft. over 2000 square feet of interior space.
  - (7) Light manufacturing or distribution - One per employee, plus a minimum of one truck space per 1,200 sq. ft. of warehouse space.
  - (8) Churches or performance halls - One parking space for each three seats (max capacity) in the main auditorium or amphitheater.
  - (9) Other - Parking requirements as determined by the Building Official in accordance with this subsection 14-4-4(D).
- E. Dimensions. Required parking spaces shall be provided in accordance with the following standards:
- (1) Street parking: Standard automobile parking spaces set perpendicular to the building (90 degrees) shall be a minimum of nine feet (9') wide by eighteen feet (18') long. Standard automobile parking spaces set parallel to the building shall be a minimum of eight feet (8') wide by eighteen feet (18') long. Perpendicular spaces shall be preferred, provided

the right of way is of sufficient width to allow such parking and traffic.

(2) Parking lots: Standard automobile parking spaces shall be a minimum of nine feet (9') wide by eighteen feet (18') long.

(3) Handicapped parking shall be provided in accordance with the Americans with Disabilities Act, and any amendment thereto.

(4) Council may require alteration of the above standards in order to accommodate special vehicles or size of vehicles.

F. Site Orientation of off-street parking. Commercial property owners should use their best efforts to orient off street parking on the lot so that either the building to be served, adjacent landscaping, or a buffer yard shields the parking area from the view of the street. In general, parking should be oriented at the rear of all high-volume commercial structures to diminish the visibility of said parking areas.

G. Person(s) who come to visit a Town resident can park a Recreational Vehicle on a resident's private property for overnight stay. This allowance applies only to visitors who are guests of the property owner, are not Portable Vendors, and are allowed to park at no cost. Such Recreational Vehicle cannot be parked on any street or public or commercial property and must be parked on the private property in a manner that minimizes visibility from the street. The length of a stay cannot exceed ten (10) days and can occur only twice a year but must be separated by at least three (3) months. Any longer stay will require an approved permit from the Town Council and must be for a specific period of time not to exceed one (1) month. Such vehicles must be plugged into a power source and may not operate a generator. Such vehicles cannot be used as Portable Vendors or as habitations during a construction project, except as permitted herein. In no case may a Recreational Vehicle or other portable or temporary building be used as a habitation within the Town limits beyond the time limitations listed above, with the exception of the occupation by a property owner during the construction or remodeling of their home as specified in Section 14-5-6. No overnight RV parking on commercial property except during a permitted special event 14-5-7-B.

#### Sec. 14-4-5. Architectural Standards.

##### A. Architectural Models:

(1) District HC models: Within District HC, existing models of a historical nature shall determine architectural standards. These models are the existing historic buildings and architectural themes that currently exist within the Town:

- a. The 1911 building on GA-85: 18736 Hwy 85.
- b. The old drug store on Caldwell St: 8 Caldwell St.
- c. Grandpa's House on the fairgrounds: 18830 Hwy 85.
- d. Royce Estes Old Office: 18757 Hwy 85
- e. The Old Bank Building: 18757 Hwy 85
- f. Buildings across from old Town hall currently home to "Wishbone" Antiques: 18757 Hwy 85
- g. The 1st Baptist, Methodist & Primitive Baptist churches located within the Town limits.
- h. The Cotton Warehouse on the fairgrounds: 18830 Hwy 85
- i. The Town of Gay community building: 19125 Hwy 85.
- j. Eddie Wards Home on Flat Shoals: 590 Flat Shoals Rd.

k. The Old Cotton Warehouse on the Vintage Lumber Campus: 18643 Hwy 85

l. Eddie Estes Old Home: 8829 Greenville St.

These buildings shall serve as general architectural models for any new construction or modification of structures within District HC. Refer to Section 14-6-2 for detailed regulations for the Historic Commercial District.

(2) District R Models: Within District R, the same architectural models listed under District HC will apply with the addition of the following structures:

a. The Arnette House: 19156 Hwy 85

b. The Hartman House: 18935 Hwy 85

c. Eddie Wards House on Flat Shoals: 590 Flat Shoals Rd.

d. All primary residences located on Flat Shoals within the Town limits.

e. The Sasser Residence: 19205 Hwy 85

f. The Sitzman Residence: 19258 Hwy 85

g. Homes on Evans St & Caldwell up until Tom Mann Rd

h. Anne Todd's Home: 8677 Greenville St.

i. The Matthews Home: 8708 Greenville St.

(3) District C Models: Within District C, the same architectural models listed above for Districts HC and District R will apply with these additional models:

a. Storefronts on HWY-85

b. "Runyan Automotive" Shopping Center outside Town Limits: 20315 Hwy 85

Masonry or block structures are also allowed provided that the front façade is either stone veneer or covered with stucco or plaster to simulate historic models. Therefore, structures may be built using a front facade of a historical style on the side of the structure that faces the public street, or other public area, but otherwise may be constructed of metal, masonry, block or other conventional commercial materials. Refer to Section 14-6-3 for detailed regulations for the Commercial District.

B. Special Architectural Merit: Within all districts, special exceptions to the architectural models established above may be made, if a proposed design has "Special Architectural Merit," provides for architectural or historical conformity and design as good or better than the standards contained herein and will enhance the beauty and quality of the Town of Gay. This exception to the required architectural standards may only be made by approval of the Building Official and by the Town Council.

C. Adjacent Architecture: The Building Official shall consider the style, nature and orientation of adjacent architecture when reviewing an application to maintain a consistent and attractive architectural context for the surrounding neighborhood.

#### Sec. 14-4-6 – Lot size, building density and placement

A. Lot size and setback requirements:

(1) Historic Commercial District: The minimum lot size is one-quarter acre (10,890 square

feet), unless the business is located in a development as specified below.

- a. Buildings around the Business Historic District shall conform to existing setbacks; front- 5ft

- (2) Residential District: The minimum lot size is .5 (one half) acre (21,780 square feet). Easements do not count toward the minimum lot size.

All buildings on lots in the Residential district shall conform to the following setbacks: Front yard—20 feet minimum; Side yard—10 feet min; Rear yard—10 feet min.

- (3) Commercial District: Lot size shall be determined by the size of the structure or area proposed, plus area for setbacks, plus the amount of land required for on-site parking and any landscaped or buffer areas; but in no case shall a lot be smaller than one (1) acre (43,560 square feet), unless the business is located in a development as specified below.

All buildings shall conform to the following setbacks:

Front -20 feet; Side -10 feet; Side abutting street -15 feet; Rear -25 feet

- B. Subdivision of Tracts: In all cases, any subdivision of existing lots or tracts within the Town limits must be reviewed and approved by the Town Council in strict compliance with the Town of Gay Title 15-Development Regulations and/or applicable state law. The application for subdivision approval must be submitted before any sale or transfer of ownership and be accompanied by the items required by the Town of Gay Development Regulations. The application must be accompanied by a survey.
- C. Lot size requirements for churches or houses of worship: A sufficient lot size shall be required for a church or house of worship such that adequate off-street parking may be provided to serve the use of the structure and to provide adequate screening for such parking, or other institutional activities of the organization, such that the peace or privacy of adjacent residential property owners is protected.
- D. Properties Bisected by a change in District Boundaries. In the case of a change in District Boundaries by the Town Council, property owners whose property will be bisected by a district boundary in such a change shall have the right to subdivide their property in such a way that each portion of said property is within a single district, notwithstanding that the size of any sub-divided tract shall not be smaller than ½ that district's minimum lot size requirement. Any lot in existence at the time this Ordinance was enacted is deemed compliant with the lot size requirement. Any smaller lot size in all districts can only be created by a variance issued by Town Council.
- E. Developments:  
In all cases, the designation of any existing lot or tract within the Town limits as a "development" must be reviewed and approved by both the Building Official and the Town Council. (See definition of development, Section 14-1-6 See Title 15-Development Regulations Ordinance)  
  
The owner of a lot of one (1) acre or greater, when designated as a development, may place or construct multiple buildings on the lot. One major structure (of 500 or more square feet) is allowed per quarter acre of the lot. Requirements for on-site parking and building setbacks remain in force but a fixed quarter acre lot for each building is not required as long as the total number of major structures complies with the aforementioned formula. A lot must be designated as a development by the Building Official and the Town Council as a prerequisite to using this development lot size formula.
- F. Placement of secondary or utility buildings:

All secondary residential or utility structures must be set on the property at least twenty-five (25) feet away from and behind the front façade of the primary building. The front façade of the primary building faces the street which is referenced in the physical street address of the structure.

#### Secondary Residential Buildings:

In all Districts, any secondary residential building, such as a guest house or other such structure with a planned residential use, which exceeds a total of 450 square feet of interior air-conditioned space, or in which full kitchen facilities are installed, must meet the site and lot size requirements of a separate residence. In the R and HC Districts, the application for an occupancy or building permit must include a scaled plan designating a .5 (one half) acre site that would be attributed to the structure if the property was subdivided in the future. In the R and C Districts, where the lot size is under one (1) acre or where the lot does not permit the designation of one half (.5) acre to the defined secondary residential building, an application for building permit for a defined secondary residential structure must be approved by the Building Official and the Town Council. If approved, subdividing the defined secondary residential structure still requires compliance with Section 14-3-6, Section 14-4-6(B) and other applicable sections of this Ordinance and Title 7- Building Code and Permitting Ordinance.

A plan for legal and separate access and utilities must also be provided to the secondary building. Barns, agricultural buildings, storage buildings, and other structures which have no planned residential use are excepted from this requirement. Exception to this rule may apply where lots below the minimum lot size is grandfathered due to its existence previous to the effective date of this Ordinance.

#### Sec. 14-4-7. Permanent Signage, Paint, and Murals.

All permanent signage is subject to review and approval by the Building Official.

All permanent signage must conform with size requirements and the design shall be of professional quality. When a grandfathered existing sign is changed in any way except for repair or repainting to match existing, it must then comply with these regulations.

- A. A special use permit and approval from the Town Council will be required for the following types of signs:
  - (1) Signs of any size for businesses not located on the property on which the sign is located,
  - (2) Flashing or garishly lighted & portable signs - except for folding "sandwich board" signs.
  - (3) Lights on signs in Districts R and HC which are visible from a residence or residential area shall comply with Section 14-4-2 "Light and glare" of this ordinance. Sign lights shall be shielded so that no light is emitted above the bottom of the light source (100% cut-off). Signs shall be illuminated from the top downward or should be directed downward onto the sign itself and shall not cast significant illumination or glare into the night sky, adjacent residential property, or a public roadway.
- B. Business Signs: Sign size shall be in direct proportion to the square footage of the face of the building where the sign will be located. The face will be defined as the vertical elevation in square footage which equals the height of the building multiplied by the width of the building. Roofs are not considered as part of the vertical elevation as they are not vertical.

For buildings facing a Town street, the cumulative sign area shall not exceed six percent (6%) of the face where the sign will be located. For the back and sides of such buildings, the sign area shall not exceed three percent (3%) of the face where the sign will be located. As an example, if the



front of a building is thirty feet (30') wide by ten feet (10') tall, any sign or signs installed cannot exceed a maximum of eighteen (18) square feet total ( $30 \times 10 \times 0.06 = 18$  square feet).

In cases where the face is less than one hundred (100) square feet, the minimum size area allowed will be six (6) square feet.

- (1) Signage for businesses with multiple entrances: In cases where a business has two (2) public entrances, either on two (2) public streets or in a development with a public courtyard, each "front" of that building may be allowed a cumulative sign area up to 6% of the square footage of the façade on that side of the structure.
  - (2) Two-Sided Yard Signs: In the case where a business has a sign with two (2) sides along a street or public courtyard (versus a wall mounted sign), a cumulative sign area for each face is allowed up to 6% of the square footage of the façade of the closest side with a public entrance.
  - (3) Open and Closed Signs: Open and Closed signs smaller than 3 square feet on a face do not require a sign permit. Larger open and closed signs, if required due to building location and visibility, must be permitted. They will be limited to a maximum of six (6) square feet.
- C. Group signage for Developments: Group signage may also be allowed to identify the businesses contained within a development of one (1) acre or more that contains multiple businesses, notwithstanding that all requirements for signage listed above apply. In the review of group signage for a development, the Building Official will consider the size of the development, the number of businesses within the development and the amount of other signage within the development.
- D. Directional and Development Signs: On developments of one (1) acre or more that include multiple buildings or businesses, and on public property, directional yard signs are allowed to facilitate the identification of individual businesses, features of public interest or buildings. Directional signs will be standardized in terms of design, location and style – with only the primary name changing in each case – and are to contain content limited to the name of the building, business or feature – and a short descriptive tag line of no more than thirty (30) characters. Additional requirements for a development sign are as follows:
- (1) Permits are only issued to the Developer. Individual businesses or tenants cannot obtain such permits.
  - (2) All directional signs must be hung on matching brackets and posts.
  - (3) All directional signs must be of the same size, style and design
  - (4) All directional signs must clearly be placed in a location related to the structure it identifies.
  - (5) All directional signs must be placed in similar relative locations to each building or business being identified.
- (E) Murals, Decorative Art and special paint schemes: Murals, decorative art and special paint schemes for buildings will require a special use permit and will be considered on an individual basis by the Town Council. Examples of special paint schemes include garish colors such as bright purple or pink, neon, or unique decorative schemes (stripes, polka dots, etc.). An accurate, detailed, color drawing or photograph of the proposed mural, decorative art or paint scheme must be submitted with the application for review. An exemption exists for indoor art and or art that does not lie in public view.

#### Sec. 14-4-8. Temporary Signage.

Temporary signage such as banners, flags or wall hangings with commercial messages, and similar items may be displayed by a business or property owner promoting special events as designated by Town Council or holding a special event permit. Other temporary signage as outlined below will require a permit and review by the Building Official.

Given the low cost of signage of this type, the permit fee may be waived at the Building Official's discretion. The permit application must specify the start and end dates during which the temporary signage will be displayed and the dimensions of the proposed signage. In considering the temporary signage, the Building Official will consider the location and dimensions of the signage and the nature of the event.

- A. All weather banners of any type may only be used to promote the business or property where it is located. They shall not be erected more than sixty (60) days before such an event is to begin and shall be removed no later than three (3) days after each event ends. Banners may also be used to announce the opening of a new business. The maximum period a new business banner may be displayed is sixty (60) calendar days.
- B. Temporary signs may not be used to promote sales, special commercial events or to provide any other commercial messages except as outlined below:
  - (1) Group Events: Banners and other temporary commercial messages may be used by groups of citizens or businesses when permitted in advance through the Building Official. The exact appearance, dimensions, number and location of such temporary signs must be disclosed in the permit application. Such permits may be permitted in the following cases only:
    - (a) When submitted by five (5) or more citizens, each being a property owner within the Town limits, to promote a group sale or event on their own properties.
    - (b) When submitted by the Town of Gay representing three (3) or more local businesses.
    - (c) When submitted by a Developer representing three (3) or more merchants within the confines of their development.
    - (d) When submitted by a public or non-profit entity for the purpose of promoting an event that benefits the community whether a property owner or not (if not must be within close proximity of the Town).
    - (e) When submitted by the Town of Gay in support of designated special events, group commercial activities, tourism or economic development, civic or non-profit activities occurring in the community.

Temporary signage for a repetitive event (e.g., an annual quilt show) can be permitted for up to three (3) years, as long as the signage used is the same. Minor changes to approved artwork may occur during this period but must be resubmitted to the Building Official for approval.

- (2) Institutional Banners in District HC: In District HC, an individual business may submit a permit application for temporary sale banners and signs. Banners with promotional content related to brand or on-going product line – often called “institutional advertising” as opposed to “sale advertising” – may be authorized by approval of the Building Official. The Building Official shall set written standards such that the permissible guidelines for such banners are clear.
- (3) Real Estate and Contractor Signs: Signs on private property up to a maximum size of six (6) square feet on one face, promoting the sale or lease of a property, or promoting the builder of a project under construction, do not require a permit. Signs above that size do require special permits. Such signs must be placed on the property being sold, and not on

public right-of-way. Such signs must be removed immediately after the property is taken off the market, or the project under construction is complete.

- (4) Flags, or fabric signage with commercial messages: Flags, fabric or other wall-hangings, posters and other such displays that contain commercial, promotional or product information are considered “banners” in this Ordinance. Inflatable or other similar forms of signage are not permitted in the Town of Gay.
- (5) Georgia and United States Flags, political speech: There is no regulation of state and federal flags on private property within the Town limits. Nor is there any regulation of political speech on private property during periods of time leading up to a Town, County, State or Federal election. All political banners and signs should be removed within ten days after the applicable election results are reported.

#### Sec. 14-4-9. Display of merchandise, art and furnishings

During the semi-annual Fair Special Event, as defined by Town Council, the exterior display of merchandise, art and furnishings is allowable outside the perimeter of buildings and porches in town. Property owners are responsible for the timely removal of all tents, merchandise, art, and furnishings and the restoration of the property to a condition which is compliant with this Ordinance or to a previously grandfathered condition. Similarly, property owners who have allowed temporary vendors to occupy their property during the event are also responsible for timely removal and return to a compliant condition. See Title 11- Special Event Ordinance.

- A. Special Event timing and duration: Set-up of tents and venues and the display of merchandise, art and furnishings shall begin no earlier than ten (10) calendar days prior to the end date (set by the organizer of such special event or other entities holding a special event permit. All merchandise, art, furnishings, tents, equipment, and trash must be placed in an appropriate container by 5:00 pm three (3) days following the end of the special event and removed from the property within eight (8) days. The Building Official shall post cease and desist orders for any remaining non-compliant properties on the next day, and a per diem fine of \$500.00 will be assessed on the property owner until the property is compliant.
- B. Property clean-up deposit: In the event a property is noncompliant and does not remove tents, dumpster, and trash in a timely manner, the Town may require up to \$500.00 deposit per tent at the next Special Event that will be forfeitable if the tents, dumpster and trash are not removed in a timely manner at the next event.
- C. Display of merchandise outside of Special Events: Outside of Special Events as defined by Town Council, businesses in the Historic Commercial and Commercial districts may apply for permits to permanently display merchandise, art, and furnishings outside the perimeter of their building/porch. The permit application must include pictures of the items to be displayed and a scaled drawing showing those items will be displayed. The Building Official will approve the permit request based on appropriateness and quality of displayed items consistent with the principles outlined in Section 14-1-2 Authority and Purpose.

Examples of the types of temporary items which may be permitted include:

- (1) Historic Commercial District and Commercial District
  - a. Merchandise for sale that is appropriately located outdoors (e.g., plants, garden items, outdoor artwork);
  - b. Marketing icons that are associated with a business (e.g., an old bicycle);

- c. Fine and decorative artwork;
  - d. Outdoor décor and furnishings for customer seating; and
  - e. Non-commercial objects of historic interest
- (2) Commercial District: The Town Council, may modify these requirements for businesses in the C District, notwithstanding that such items must be consistent with Section 14-1-2 of this Ordinance.

## **CHAPTER 5. SUPPLEMENTAL DISTRICT REGULATIONS**

### **Sec. 14-5-1. Applicability**

The regulations set forth in this Article shall apply to all districts and permitted uses in the Town.

### **Sec. 14-5-2. Visibility at intersections**

On a corner lot, no structure, whether permanent or temporary, shall be erected or constructed, and no vegetation shall be planted and allowed to grow, in such a manner as to impede vision between a height of two feet (2') and eight feet (8') above the center line grades of the intersecting streets, in the triangular area bounded by the intersecting street lines and a line joining points along said street lines twenty feet (20') from the point of their intersection.

### **Sec. 14-5-3. Fences**

Districts R and HC. Fences shall not be erected upon Town, state or other public rights-of-way. The location of any new fence shall be verified by a licensed surveyor or by review of a survey by the Building Official. Fences may be constructed or erected within a required yard, other than a front yard, provided no such fence shall exceed eight feet (8') in height. Fences in front yards and along the sides of the lot up to the front line of the building are allowed, provided that no fence in this area shall exceed four feet (4') in height. Arched entrances for foot traffic may be built up to ten feet (10') high and ten feet (10') wide. Entrances and gates for automobiles may be constructed up to ten feet (10') in height and up to twenty- five feet (25') wide. Fencing along the front yard may be reviewed on a case- b y - c a s e basis approved by the building official or Town council depending on the impact it imposes on neighboring lots & public safety.

- A. Fences shall be compatible with, in materials and character, the architectural style of the main structure and/or the adjacent natural landscape.
- B. Fence Materials: Fences may also be constructed of native stone or brick columns with inserts of decorative iron work or wood, decorative iron work, natural vegetation, wood picket, twig, split rail or ranch plank, posts with wire frame panels, or any other historically-based material or pattern approved by the Building Official or existing in historical models. Fences shall not be constructed of chain link (except behind a home or business in District R & District HC out of public view), concrete block or other non-conforming material or method. Open perimeter fences may be constructed of wood materials as follows:

Treated yellow pine, native cedar, western red cedar, cypress or redwood, or composite planking.

Native cedar, oak, juniper or other native species or rough-hewn log, twig, split rail, rough timber or beam and cedar post with non-barbed wire.

- C. Livestock fencing: Cedar post and plank, durable high-quality PVC ranch style or treated post and barbed wire fencing may be used on lots in excess of 1.5 acres, provided that these fences are set within the property line of any property, and provided that these fences have a rural or

artistic architectural character, and provided that the use of these areas conform with guidelines for the legal occupancy of animals contained in Section 14-5-4. On lots of three (3) acres or less, barbed wire fencing may not be used along the front or a street side of the property. On lots of two (2) acres or less, some situations, hog wire or other square mesh welded wire may be used as a backer for a fence of a compliant style, where no other feasible solutions for pet or livestock containment can be reasonably implemented.

District C. Fences may be constructed or erected within a required yard, provided no such fence shall exceed eight feet (8') in height. Higher fences may be required in special cases where that additional height is required to shield equipment from public view. Styles and materials shall be the same as in District R. Privacy fencing may be used, but only to shield nonconforming work and storage areas from public view.

#### Sec. 14-5-4. Livestock pens, kennels, etc.

No structure or pen housing pets or livestock, including exercise runways for more than three (3) mature dogs, or other large animals, shall be located within fifty feet (50') of a property line. Provided, however, dog houses for a maximum of three (3) mature dogs on property under five acres and five (5) dog houses on property greater than five (5) acres shall be permitted within any side or rear yard in District R.

Pets and animals may be kept in all districts, provided that the habitation of said animals and pets does not produce noxious odors that can be detected from adjacent properties, or loud, offensive, and repetitive noises that interrupt the peace of adjacent property owners.

Additional wire containment shall be used on the rear side of an approved fence to contain pets and smaller livestock from harm. Such containment should be installed in such a way to make it as unobtrusive as possible. In some cases, the Building Official may require that smaller pet or livestock yards be used for this purpose rather than the primary fence line.

#### Sec. 14-5-5. Accessory uses, Secondary utility buildings and structures, Recreational vehicle storage

Accessory uses and secondary structures, used in a manner compliant with Section 14-1-5 of this Ordinance, are permitted in any Land Use district in connection with any main use lawfully existing within such district, provided that all accessory structures shall comply with applicable regulations for the district in which the structure is located. Accessory structures as permitted herein, and which comply with applicable regulations for the district in which the structure is located must be designed to match or be compatible with the primary structure. In the R and HC district, outbuildings, garages, workshops, garden sheds, barns and other secondary buildings must be designed to be compatible with the main residence or structure.

Such buildings may be used for the storage of Recreational Vehicles but are not required. Recreational Vehicles shall be stored out of view of the public street, achievable through a combination of the structure itself, green screening, or other approved measures. Said Recreational Vehicle shall not be occupied by a person while in such storage.

#### Sec. 14-5-6. Temporary uses during construction

Temporary uses incidental to construction, but not otherwise lawful within a District, shall be authorized during periods of construction of buildings or structures otherwise permitted in such District. Examples include containers, dumpsters, portable sanitary facilities, and temporary RV's or travel trailers for the private use of the land owner during permitted construction projects. All such temporary structures must be removed within thirty (30) days of the completion of the permitted construction project. Temporary

use of a Recreational Vehicle or travel trailer is permitted for the habitation of the land owner during the permitted construction or remodeling of a home only; notwithstanding that such living quarters may not be used to house workmen or other persons at any time. Upon completion of the project, any such Recreational Vehicle shall be stored as described in Section 14-5-5.

#### Sec. 14-5-7 Temporary uses during special events

- A. Temporary uses or businesses during special events within the Town, such as Fourth of July weekend, or Antique Festival, shall be authorized pursuant to a temporary occupancy permit, subject to compliance with the district standards contained in this Ordinance. Parking on Town streets or easements by food or other vendors will not be permitted. Food vendors can park on private property but must follow food vendor requirements defined in this Ordinance.
- B. Recreational Vehicles may be parked within the Town only during a period beginning twenty-four (24) hours before a Town-designated Special Event, during said event, for twenty-four (24) hours following the end of such an event, seven (7) days before the start of the Fair, and for seven (7) days following the Fair. Such permitted Recreational Vehicles shall only be located on private property by permission of the property owner.  
All permitted Recreational Vehicles parked on the above-described sites shall be located five (5) feet from any adjoining property line, alley, or street in order to permit unrestricted access to the site by emergency vehicles.
- C. Permanent water and power hook-ups can be established for special event occasions.
- D. Exceptions to the parking of overnight Recreational Vehicles within the Town is listed in Section 14-4-4 (G) and 14-6-3D.

## CHAPTER 6. LAND USE DISTRICT

#### Sec. 14-6-1. District R -Single-family Residential Dwelling District

District R is a low density single-family residential dwelling district and is subject to regulations in order to prevent the encroachment of incompatible uses, preserve property values, and preserve the rural character of the Town. No building or land shall be used, and no building or structure shall be erected, constructed, reconstructed, converted, enlarged, or structurally altered within District R, except in accordance with the provisions of this Section.

- A. Permitted uses:
  - (1) Single-family residential purposes
  - (2) Low noise, low traffic commercial activities of the property owner. Commercial uses are limited to “in home” or compliant secondary buildings built in a similar style to the main residence. Examples are:
    - a. Bed and breakfasts with three (3) or less rooms,
    - b. Vacation rentals,
    - c. Small professional office, and
    - d. Arts studio.
  - (3) Governmental facilities;
  - (4) Churches or houses of worship; and,
  - (5) Library.

- B. Architectural standards:

See Section 14-4-5 (A) of this Ordinance for a complete list of the buildings in the Historic

Commercial District and the additional buildings which serve as models for the Residential District. Those buildings shall serve as general architectural models for any new construction or modification of structures within the Residential District.

C. Materials:

Metal and vinyl windows may be used in District R, but the frame must be colored (i.e., be some color other than mill finish or silver) and simulate a wood condition. White and bronze are preferred. Wood or cementitious trim around these windows must simulate conditions appropriate to the applicable historical style and must imply a wood window.

D. Additional provisions that apply to District R are subsections 14-6-2 (C) (excluding Foundations) and subsection of 14-6-2(F).

#### Sec. 14-6-2. District HC (Business/Historical District)

This district contains all of the significant historical buildings within the Town limits. It includes downtown storefronts, the old drugstore/adjacent buildings & the Fairgrounds and other structures listed in Section 14-4-5 (A) and as described on the Official Land Use District Map. All storefronts and other structures and grounds shall maintain a historical profile on all facades of the structure. Raised boardwalk porches, stone walkways and other typical details of existing historical architecture shall be encouraged.

A. Permitted uses:

Any uses which, in the view of the Town Council, are designed to generate or serve the needs of the community, tourists and tourism, including:

- (1) single-family residential use,
- (2) bed and breakfast establishments,
- (3) cafes and restaurants,
- (4) Antique Shops
- (5) Boutiques & other similar retail
- (6) professional offices,
- (7) artist studios, galleries and workshops,
- (8) public buildings,
- (9) similar uses deemed acceptable by the Town Council, and
- (10) temporary uses during special events.

B. Architectural Standards:

All proposed construction or renovation must comply with the architectural standards adopted for this district by Town Council. Because of the importance of the buildings in this District, no alteration or major renovation may begin prior to approval of work by the Building Official and the Town Council, except for normal repair and maintenance.

See Section 14-4-5 (A) of this Ordinance for a complete list of the architectural models for the Historic Commercial District. Those buildings shall serve as general architectural models for any new construction or modification of structures within District HC.

C. Materials and other requirements:

Foundations: Foundations may be constructed of concrete slab, masonry or pier and beam construction and must be raised from grade in order to simulate a pier and beam structure in the manner of the historical models. Exposed block masonry or concrete foundations shall be concealed by brushed stucco plaster or native stone veneer applied to visible areas, or other approved condition,

to simulate a pier and beam skirt condition.

Exterior facades: Exterior facades on all sides of new structures shall be constructed of materials typical to the existing historical models, or of new materials that accurately simulate the appearance of the historical models. The following materials and styles shall be used:

- (1) Masonry: Native sandstone, limestone, or other acceptable chopped or field stone, either structural or as veneer over wood frame or metal construction. Pattern to simulate existing models.
- (2) Exterior Trim, Siding, and Cornice: Redwood, cypress, western red cedar, cementitious siding or native cedar siding in either a board and batt pattern or in a 4" - 4.5" lap beveled siding. Milled wood sidings in patterns found on the architectural models may also be used. Cementitious sidings must have an embossed wood grain that simulates approved wood siding profiles and must be blind nailed and/or all headed fasteners filled. Visible heads of "square nails" only are acceptable. Other materials that match historical profiles and appearance may be acceptable upon approval of the Building Official. Corrugated tin or other metal siding may be approved for detached garage, barn or utility sheds subject to material and color being approved by the Building Official and the Town Council.
- (3) Doors and Windows: Doors and windows should match or simulate those in the architectural models. Doors & windows should maintain a rural and historical appearance. Transoms, side-lites and other features typical to the doors and windows of the historical models shall be encouraged. Aluminum or vinyl clad wood windows and doors are acceptable but cladding color must be approved by permit.
- (4) Porches and other exterior features: Exterior porches should be treated pine, native cedar or other wood plank, or stone. Balustrades must be of the same architectural style as the main building and of a style that matches or is similar to listed architectural models. Outbuildings and other exterior features must match the style of the main structure or have the appearance of rural outbuildings. Composite decking that simulates natural wood stain and grain (Examples: Appropriate colors of Trex and MoistureShield) may be used in new construction within this District. No solid color composite decking may be used except by approval.
- (5) Roofs: Roof pitches should generally comply with Architectural models listed in 14-4-5 (a). Primary roofs that maintain a minimum of an 8/12 pitch are preferred. A pitch of up to 14/12 or as shallow as 3/12 may be required by the Building Official if such is required to maintain the architectural style of the structure being proposed. The following types of roof materials shall be used: Fire-retardant hand-split wood shake, metal roofs in a 5V-crimp. C channel galvalume, corrugated tin or standing seam and composition shingles. Aluminum or vinyl shingles may not be installed.
- (6) Walks, roads and driveways: Walkways may be constructed of native stone, brick, wood in the manner of a raised boardwalk, cobblestone, gravel, crushed limestone, crushed granite, concrete in approved patterns or other approved masonry surface roads and driveways may be constructed of gravel, concrete, asphalt, masonry, brick, cobblestone, or other approved masonry materials. All roads must be designed to manage ground water and direct such overflow to appropriate run off. The entrances, exits, culverts and other features of parking areas for commercial structures may require masonry or stone trim and boundaries, at the discretion of the Building Official.
- (7) Height of buildings: No structure shall be built with a roof ridge line higher than fifty feet (50') from the original grade of the site, notwithstanding that: chimneys, steeples, and other such features may extend beyond this height.



- (8) Utility easements and placement of utility poles: All utility easements shall be located in a manner to minimize the visibility of utility poles and other utility features and equipment. The Building Official may require, at his discretion, the installation of underground utilities where overhead utility lines would interfere with significant views from adjacent properties. All electrical service drops from the utility supplier's transformer to the electrical service of a new structure, or a structure that undergoes significant alterations or additions, shall be installed underground.

D. Ordinary maintenance: Nothing contained in this Section 14-6-2 shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property which does not involve a change in design, material, or outward appearance. Exterior paint color is included as ordinary maintenance. In-kind replacement or repair is included in this definition of ordinary maintenance. Provided, however, this Section shall not eliminate a requirement for a building permit except for the re-painting of a building utilizing standard or existing colors.

If the Building Official determines that the work does not constitute ordinary maintenance under the terms of this Section 1-61, he may refer the application to the Town Council or may issue a permit.

E. Demolition: Structures in this District may not be demolished without prior approval of the Building Official and the Town Council.

F. Demolition by neglect. No owner or person with an interest in real property designated as a historic landmark shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Town Council, produce a detrimental effect upon the character of the landmark as a whole or the life and character of the property itself.

Examples of such deterioration include:

- (1) deterioration of exterior walls or other vertical supports;
- (2) deterioration of roofs or other horizontal members;
- (3) deterioration of exterior chimneys;
- (4) deterioration or crumbling of exterior stucco or mortar; ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors;
- (5) the habitation of vermin, or other infestation or wildlife that present a threat to public health or the structural or architectural integrity of a structure of historic importance; or
- (6) deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety
- (7)

#### Sec. 14-6-3. District C (Commercial District)

A. Permitted Uses: This district is designated for high volume commercial businesses, including:

- (1) Restaurants;
- (2) banking establishments;
- (3) governmental uses;
- (4) shops and retail establishments, including temporary uses during special events;
- (5) service businesses;
- (6) RV Parks (see requirements herein below);

- (7) Any other appropriate uses approved by the Town Council; and
- (8) Temporary uses during special events.

Residential buildings in the Commercial District:

New single-family residential buildings may be constructed in District C, but must meet the architectural, lot size and setback requirements for the R District. If such tracts are sub-divided by the land owner from a larger tract in District C, that land owner must comply with the green screen requirements of this Ordinance.

- B. Architectural Standards: All proposed construction or renovation must comply with the architectural standards adopted for this district by Council. See Section 14-4-5 (A) of this Ordinance for a complete list of the buildings in the Historic Commercial District, the Residential District, and the additional buildings which serve as models for the Commercial District. Those buildings shall serve as general architectural models for any new construction or modification of structures within the Commercial District.
- C. Materials and other requirements:
  - (1) Screening: Metal siding or other materials may be used on non-public sides of structures built in District C provided that permanent screening, either decorative, trees or natural woodland, shall be used to screen such non-complying materials from public view. All sides of a structure that are exposed to the public, including parking areas, must be of the same architectural style as the front facade.
  - (2) Roofs: Roofs may be installed at a lesser pitch, from flat up to a 3/12 pitch, and may utilize any standard roofing material, as long as these non-conforming roofing materials are not visible from the ground level of the building by a front façade parapet or other approved condition. Roofs over 3/12 in pitch must utilize the roofing materials specified for District HC. Additional profiles of commercial grade metal roofs may be approved in District C for certain commercial structures, notwithstanding that eave and fascia conditions must match similar conditions on the model structures.
  - (3) Doors and windows: Doors and windows in the front facade must maintain a historical architectural style. However, metal and other commercial style windows and doors may be utilized on other sides of the building.
  - (4) Parking areas and building orientation: Buildings shall be oriented on the lot in such a way that the bulk of the required off-street parking is shielded from the view of the street by either the main building, new screening and landscaping, or existing natural areas, notwithstanding that other criteria from these standards may take priority over this requirement.
  - (5) Orientation of buildings and parking areas: Buildings, landscaping and buffer yards should be oriented to minimize visibility of parking areas from view.
- D. Requirements for Recreational Vehicle Parks: To support tourism within the Town of Gay, short term stay recreational vehicle parks are allowed in the Commercial District only, notwithstanding that no mobile homes, portable vendor trailers, modular buildings or other non-compliant portable structures are allowed within the Town limits except as provided for herein during special events. Establishing an RV Park would require a re-zoning and/or annexation according to the zoning map of the Town of Gay upon the adoption of this ordinance.

#### Sec. 14-6-4. HUD-Code Manufactured Home Subdivision District (MH)

Manufactured Homes do not meet the standards of this ordinance including Sec. 14-4-5 and therefore are restricted in all districts.

#### Sec. 14-6-5. Limitation on resubmission of petition

In the event a proposed amendment is not approved by the Town Council, a similar request on the same property, or combination or portion thereof, shall not be reconsidered prior to the expiration of six (6) months from the date of the decision unless conditions pertaining to property considered in the original application and/or property in the area have, in the opinion of the Town Council, changed to such an extent as to justify consideration of a subsequent application prior to the expiration of such six- month period. A request for resubmission must be made prior to a request for an amendment.

#### Sec. 14-6-7. Restricted Uses

The following uses will require a special use permit except as otherwise expressly permitted in this Ordinance and may not be located 1/4 mile from the Historical/Commercial District in all districts: multi-family dwelling units; sexually oriented businesses; drive through facilities, heavy industrial uses; oil or natural gas drilling, offensive or hazardous commercial establishments, heavy industrial storage or service facilities; chemical or environmentally hazardous materials processing or storage facilities; radio, television, microwave or other towers over fifty feet in height; uses which produce loud noise or noxious odors, or which present any other environmental hazards; the overnight parking of Recreational Vehicles except 14-4-4G, 14-5-7B, 14-6-3D and established RV parks; and the sale of fireworks.

### CHAPTER 7. BOARD OF ENFORCEMENT

#### Sec. 14-7-1. Creation

There is hereby created a Board of Enforcement. Such Board is established in accordance with the provisions of OCGA 36-74-3. Such Board shall have and exercise those powers and duties as prescribed of OCGA 36-74 of such Code and this Ordinance.

#### Sec. 14-7-2. Membership and Officers

At the time of the adoption of this Ordinance the Board shall consist of the Mayor and Town Council of Gay. The Mayor shall act as the Chairman of the Board of Enforcement and the Mayor Pro-Tem shall act as the Vice-Chairman of the Board of Enforcement unless otherwise determined by a majority of the Council. In cases where neither attend, but a quorum is present, members shall elect an acting Chair as the first order of business. The Town Council may appoint a Board of Enforcement according to OCGA 36-74-22 when required. The acting Chair can exercise his right to vote when it would impact the result.

#### Sec. 14-7-3. Initiating of proceedings; time to correct violations; repeat violations; hearings.

Reference OCGA: 36-74-23.

- A. It shall be the duty of the code enforcement officer to initiate enforcement proceedings pursuant to the various codes; however, no member of a board shall have the power to initiate such enforcement proceedings.
- B. Except as provided in subsections (c) and (d) of this Code section, if a violation of any code or ordinance is found, the code enforcement officer shall notify the violator and give him or her a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement officer shall proceed with enforcement through the Board of Enforcement. The code enforcement officer shall notify the Board of Enforcement and request a hearing. The Board of Enforcement shall schedule a hearing, and serve a written notice according to 14-7-9. If the violation is corrected and then recurs or if the violation is not corrected by the time

specified for correction by the code enforcement officer, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.

- C. If a repeat violation is found, the code enforcement officer shall notify the violator but is not required to give the violator a reasonable time to correct the violation. The code enforcement officer, upon notifying the violator of a repeat violation, shall notify the Board of Enforcement and request a hearing. The Board of Enforcement shall schedule a hearing and shall provide written notice according to 14-7-9. The case may be presented to the Board of Enforcement even if the repeat violation has been corrected prior to the board hearing, and the notice shall so state.
- D. If the code enforcement officer has substantial reason to believe a violation presents a serious threat to the public health, safety, and welfare or if the violation is irreparable or irreversible in nature, the code enforcement officer shall make a reasonable effort to notify the violator and may immediately notify the Board of Enforcement, mayor, and Town Council and request a hearing.

#### Sec. 14-7-4. Calling Board of Enforcement hearing; hearing proceedings

Reference OCGA: 36-74-24

- A. Upon request of the code enforcement officer, or at such other times as may be necessary, the chairperson of the Board of Enforcement may call a hearing of an enforcement board; a hearing also may be called by written notice signed by at least two members of the five-member enforcement board or see OCGA 36-74-24. Minutes shall be kept of all hearings. All hearings and proceedings shall be open to the public.
- B. Each case before the Board of Enforcement shall be presented by the Town's attorney or the code enforcement officer or building official or town clerk.
- C. The Board of Enforcement shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The Board of Enforcement shall take testimony from the code enforcement officer and alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
  - (1) The public hearing will be held in the Town Community Building.
  - (2) Written comments on the subject of the public hearing may be submitted by any citizen or property owner at any time prior to the adjournment of the hearing.
  - (3) Persons desiring to be heard orally may present their views at the public hearing. The length of time of each presentation will be governed by the Mayor and Council, depending upon the number of persons present and desiring to speak, however a minimum of 10 minutes per side is required per OCGA 36-66-5. Personal remarks will not be tolerated.
  - (4) Any person desiring a transcript of the public hearing must arrange for court reporter at their own expense.
  - (5) Cross-examination of persons making oral presentations will not be permitted.
  - (6) All questions will be addressed to the Mayor or Council member then presiding.
  - (7) "Standing" to challenge a decision is not conferred by being permitted to speak orally at a public hearing, nor by being permitted to file statement or pleadings.

- E. At the conclusion of the hearing, the Board of Enforcement shall issue findings of fact, based on evidence of record and conclusions of law, code of standards on Appendix C and shall issue an order affording the proper relief consistent with powers granted in article OCGA 36-74. The findings and conclusions shall be by motion approved by a majority of those members present and voting, except that at least three members of a five-member enforcement board must vote in order for the action to be official. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by said date. A certified copy of such order may be recorded in the public records of the county and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the Board of Enforcement shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.

#### Sec. 14-7-5. Authority of the Board of Enforcement

Reference OCGA: 36-74-25

The Enforcement Board shall have the power to:

- A. Adopt rules for the conduct of its hearings, which rules shall, at a minimum, ensure that each side has an equal opportunity to present evidence and argument in support of its case;
- B. Subpoena alleged violators and witnesses to its hearings, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance. Subpoenas may be served by the sheriff, marshal, or police department of the county or by the police department of the municipality or by any other individual authorized by OCGA Code Section 24-13-24 to serve subpoenas;
- C. Subpoena evidence to its hearings in the same way as provided in 14-7-5B of this Code section, with the approval of the court with jurisdiction over a criminal violator of the county or municipal code or ordinance;
- D. Take testimony under oath;
- E. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance; and
- F. The Board of Enforcement shall have the authority to grant relief in the form of appeals to the provisions of this Ordinance, subject to the standards established herein:
  - (1) Special Exceptions. The Board of Enforcement shall have the authority to grant minor special exceptions when required to do so under this Ordinance.
  - (2) Administrative Review. The Board of Enforcement shall have the authority to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision, or determination made by the Building Official, in the interpretation or enforcement of this Ordinance. Appeals may be taken to and before the Board by any person aggrieved, or by any officer, department, or bureau of the Town.
  - (3) Variances. The Board of Enforcement shall have the authority to authorize in specific cases a variance from the terms of this Ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this Ordinance would result in unnecessary hardship, and so that the spirit of this Ordinance is observed and substantial justice is done.

#### Sec. 14-7-6. Administrative fines; public record

- A. The Board of Enforcement, upon notification by the code enforcement officer that an order of the Board of Enforcement has not been complied with by the set time may order the violator to pay an administrative fine in an amount specified in this Code section.
- (1) An administrative fine imposed pursuant to this Code section for a violation involving the health or safety of a third party shall not exceed \$1,000.00 per day.
  - (2) An administrative fine imposed pursuant to this Code section for a violation that is not a violation involving the health or safety of a third party shall not exceed a total of \$1,000.00.
  - (3) In determining the amount of the fine, if any, The Board of Enforcement shall consider the following factors:
    - a. The gravity of the violation;
    - b. Any actions taken by the violator to correct the violation; and
    - c. Any previous violations committed by the violator.
  - (4) The Board of Enforcement may reduce a fine imposed pursuant to this Code section.
- B. A certified copy of an order imposing an administrative fine may be recorded in the public records of Meriwether county and thereafter shall constitute a lien against the land on which the violation exists and upon any real or personal property owned by the violator. Upon petition to the superior court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. After three months from the filing of any such lien which remains unpaid, The Board of Enforcement may request the Town Council attorney to foreclose on the lien.

#### Sec. 14-7-7. Length of liens

Reference: OCGA 36-74-27.

No lien imposed under this article shall continue for a period longer than 20 years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. In an action to foreclose on a lien, the prevailing party is entitled to recover all costs, including a reasonable attorney's fee, that it incurs in the foreclosure. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

#### Sec. 14-7-8 Appeals to superior court.

Reference OCGA: 36-74-28

An aggrieved party, including the local governing body, may appeal a final administrative order of an enforcement board to the superior court. Such an appeal shall be a hearing de novo. An appeal shall be filed within 30 days of the execution of the order to be appealed.

#### Sec. 14-7-9. Notice required; form of notice.

- A. All notices required by this article shall be provided to the alleged violator by certified mail or statutory overnight delivery, return receipt requested; by hand delivery by the sheriff or other law enforcement officer, code enforcement officer, or other person designated by the local governing

body; or by leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice.

- B. In addition to providing notice as set forth in subsection (a) of this Code section, at the option of the code enforcement board, notice may also be served by publication or posting, as follows:
1. Notice may be published once during each week for four consecutive weeks (four publications being sufficient) in the newspaper in which the sheriff's advertisements are printed in the county where the code enforcement board is located. Proof of publication shall be made by affidavit of a duly authorized representative of the newspaper;
  2. If there is no newspaper of general circulation in the county where the code enforcement board is located, three copies of such notice shall be posted for at least 28 days in three different and conspicuous places in such county, one of which shall be at the front door of the courthouse in said county. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting; or
  3. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery, mail, or statutory overnight delivery as required under subsection (a) of this Code section. Evidence that an attempt has been made to deliver notice by hand, mail, or statutory overnight delivery as provided in subsection (a) of this Code section, together with proof of publication or posting as provided in this subsection, shall be sufficient to show that the notice requirements of this Code section have been met, without regard to whether or not the alleged violator actually received such notice.

#### Sec. 14-7-10. Other enforcement methods.

It is the intent of this chapter to provide means of obtaining compliance with Town of Gay codes. Nothing contained in this article shall prohibit the Town Council from enforcing its codes by any other lawful means including criminal and civil proceedings; provided, however, that the Town Council shall not pursue a specific instance of an alleged violation of an ordinance against one violator before both the Board of Enforcement and a magistrate court authorized to hear ordinance violations. OCGA 36-74-30

## CHAPTER 8. ADMINISTRATION, PETITIONS, AND HEARINGS

#### Sec. 14-8-1. Building Official

The mayor shall appoint, with the concurrence of the Town Council, a Building Official whose duties and responsibilities shall include, but not be limited to, the following:

- A. Receive, review, and administratively process for submission to the appropriate body all applications for amendments to the Land Use code, including special use permits, and variances, that may from time to time be submitted to the Town in accordance with OCGA 36-66-4 and this Ordinance.

Discretion of Building Official - The Building Official may, at his or her own discretion, issue permits for the following items without the review of Town Council:

- (1) Approve special paint colors or schemes;
- (2) Approve the trimming or removal of damaged or diseased trees;
- (3) Installation of approved fences;



- (4) Determination of whether an issue is a repair, and therefore needs no permit; or is a new installation, requiring a permit;
  - (5) Temporary Occupancy Permits;
  - (6) Issuing Occupancy Permits where no significant exterior improvements are planned and where the use is specifically noted as acceptable in this Ordinance;
  - (7) Issuing a Building Permit for the installation of a new roof on a building where no other significant exterior improvements are planned, and the roofing material is specifically noted as acceptable in this Ordinance.
- B. Serve as staff support to the Mayor and Town Council regarding development proposals and related Land Use matters;
  - C. Serve as code enforcement officer for the Town of Gay. May issue citations for violations of the Town of Gay Ordinances and perform duties of code enforcement officer in consistence with CHAPTER 8 of this Ordinance and OCGA 36-74-21.
  - D. Appear on behalf of the Town at all public hearings under this Ordinance before the Town Council and the Board of Enforcement, and present facts and information as required by this Ordinance and as requested by each of said bodies;
  - E. Establish administrative procedures and maintain all records related to Land Use matters brought before the Town Council and the Board of Enforcement;
  - F. Assist the Town Clerk in maintaining the official Land Use district map and maintain copies of all maps and plans that provide documentation for planning and Land Use or that are otherwise required by this Ordinance.
  - G. Perform such other duties as are required or prescribed under this Ordinance or by the Town Council.
- In the absence of a duly appointed Building Official, the Town Council of the Town of Gay shall hold the same authority as the building official as outlined in this section.

#### **Sec. 14-8-2. Petition for Variance, Special Use Permit, or Appeal to the Ruling of the Board of Enforcement**

Any petition for variance, special use, or an appeal to a ruling by the Board of Enforcement shall be prepared in the prescribed form, to be furnished and filed by the Town Clerk and copied to the Building Official and Board of Enforcement and appear in front of the Town Council for a hearing. See Appendix B.

- A. To apply for a variance, special use permit, or appeal under the provisions of this Ordinance:
  - 1. The applicant must be an owner of the property to be affected.
  - 2. An application form must be accompanied by a nonrefundable fee. See Consolidated fee schedule.
  - 3. Each applicant must include the following information:
    - a. The Property Owner's or Property Owners' name(s) and address(es).
    - b. A specific description of proposed petition.
    - c. A statement of the need or justification for said request, including its consistency with this Zoning and Land Use Ordinance.
- B. The Town Council shall then schedule a hearing for that application within forty (40) days after receiving the application from the Town Clerk allowing time for a 30-day public notice. Only the Town Council has the authority to change or modify the requirements of the Zoning and Land Use Ordinance.



**Sec. 14-8-3. Petition for Amendment to the Regulations of the Zoning and Land Use Ordinance, Land Use Classification, or the Boundaries of the Official Land Use District Map**

Any petition to apply for an amendment to the regulations of this Ordinance, Land Use Classification, or the boundaries of the Official Land Use District Map shall be prepared in the prescribed form, to be furnished and filed by the Town Clerk and copied to the Building Official and Town Council. To apply for an amendment to the regulations or boundaries, the applicant must be an owner, or the owner's representative, of the property to be affected by that amendment.

Any person or group desiring to file such an appeal to the Town Council must submit that form accompanied by a nonrefundable fee of \$500.00, or in such amount as may be established from time to time by the Town Council.

Each application must include the following information:

- A. The Property Owner's or Property Owners' name(s) and address(es).
- B. A specific description of proposed amendment.
- C. A statement of the need or justification for said amendment, including its consistency with this Zoning and Land Use Ordinance.
- D. In the event the proposed amendment is to change a district boundary or land use classification, the application must also include:
  - (1) The legal description of the property affected and the boundaries of said property, and the present Land Use classification and existing uses of the property proposed to be reclassified.
  - (2) The signed consent of the property owner or owners whose property would be affected by the proposed amendment, including and adjacent property owners.
  - (3) The names and addresses of all property owners within two hundred feet (200') of the property.

The Town Council shall then schedule a hearing for that application within forty (40) days after receiving the application from the Town Clerk allowing time for a 30-day public notice. Only the Town Council has the authority to change or modify the requirements of this Ordinance or District Boundaries.

#### Sec. 14-8-4. Public hearing

- A. Before enacting an amendment to this Ordinance, the Mayor and Council must conduct a public hearing. Notice of the public hearing must be published in a newspaper of general circulation at least thirty (30) days but not more than forty-five (45) days before the public hearing and posted on the Town's website. In cases where the subject of the hearing is a change in a district boundary or Land Use classification, notice of such hearing shall also be sent to each property owner as indicated by the most recently approved Town tax roll, of real property within two hundred feet (200') of the property on which the change in a district boundary or Land Use classification is proposed. Such notice shall be served by the United States Post Office and town website. Notice of such request must be posted on such parcel in public view.
1. The public hearing will be held in the Town Community Building.
  2. Written comments on the subject of the public hearing may be submitted by any citizen or property owner at any time prior to the adjournment of the hearing.
  3. Persons desiring to be heard orally may present their views at the public hearing. The length of time of each presentation will be governed by the Mayor and Council, depending upon the number of persons present and desiring to speak, however a minimum of 10 minutes per side is required per OCGA 36-66-5. Personal remarks will not be tolerated.
  4. Any person desiring a transcript of the public hearing must arrange for court reporter at their own expense.
  5. Cross-examination of persons making oral presentations will not be permitted.
  6. All questions will be addressed to the Mayor or Council member then presiding.
  7. "Standing" to challenge a decision is not conferred by being permitted to speak orally at a public hearing, nor by being permitted to file statement or pleadings.
- B. After conducting the public hearing and considering recommendations from the Planning Commission and building official, the Mayor and Council will then make an official decision on the proposed amendment. The decision may or may not concur with the recommendations of the Planning Commission or building official. The Town Council shall derive their decision upon standards listed in Appendix C of this ordinance.
- C. If the Mayor and Council denies a proposed amendment, a minimum period of six (6) months must pass before the same amendment proposal is again submitted for consideration.

#### Sec. 14-8-5. Time Limits on Appeals and Hearing Process

Appeals should be filed within thirty (30) days of the decision, determination, or interpretation which is the subject of the appeal. Failure to file as required herein shall constitute a waiver of any rights under this Ordinance to appeal any such decision, interpretation, or determination. Upon the filing of an application on an appeal, the Building Official shall transmit to the Town Council all of the papers constituting the record upon which the action appealed from was taken. Filing a notice of appeal shall stay any proceedings in furtherance of the action appealed.

## CHAPTER 9. MISCELLANEOUS PROVISIONS

### Sec. 14-9-1 Inspections

The Building Official, building inspector, or any duly authorized person, in accordance with applicable federal and state law, shall have the right to enter upon any premises at any reasonable time for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this Ordinance.

Whenever said official finds any construction work being done contrary to the provisions of this Ordinance, said official may order the work stopped by serving notice in writing to the owner or contractor doing or causing such work to be done, and any such person shall immediately stop such work until authorized by such official to proceed with the work.

### Sec. 14-9-2. Permit & Architectural Review

Under this section, the Mayor & Town Council will have the power to review and act upon permit applications according to Title 6- Building Codes and Permitting and this ordinance for:

- A. New construction and renovation within the Town, and to evaluate such applications based upon the architectural standards approved by the Town Council set forth in Sections 14-4-5.
- B. Town Council shall further have the authority to recommend initial architectural standards for various districts and to periodically review the architectural standards and recommend changes or amendments thereto.
- C. Any other permit applications determined by the Building Official to require consultation with the Town Council.
- D.

### Sec. 14-9-3. Review of Building permit application

Inspection of plans shall be done in a timely manner and a determination made as to compliance with applicable provisions of this Ordinance, Title 6- Building Code and Permitting Ordinance, and Title 15 Development Regulations Ordinance prior to the issuance of a building permit. One (1) copy of such plot plans shall be returned to the owner when such plans have been approved. All dimensions shown on these plans relating to the location and size of the lot to be built upon shall be based on an actual survey by a qualified registered surveyor and the lot shall be staked out on the ground before construction is started. Property owner or contractor shall schedule an inspection of the staked area by the Building Official before construction is to begin.

### Sec. 14-9-4. Existing permits and private agreements

This Ordinance is not intended to abrogate or annul any permits issued before the effective date of this Ordinance or any easement, covenant, or any other private agreement.

### Sec. 14-9-5. Preserving rights in pending litigation and violations under existing ordinances

By adoption of this Ordinance or any amendment hereto no existing illegal use shall be deemed to have been legalized unless specifically such use falls within a district where the actual use is a conforming use. Otherwise such uses shall remain nonconforming uses where recognized, or an illegal use, as the case may be. It is further the intent and declared purpose of this Ordinance that no offense committed, and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time this Ordinance was adopted shall be discharged or affected by the adoption of this Ordinance; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures may be instituted and causes presently pending proceeded with in all respects.

#### Sec. 14-9-6. Fees

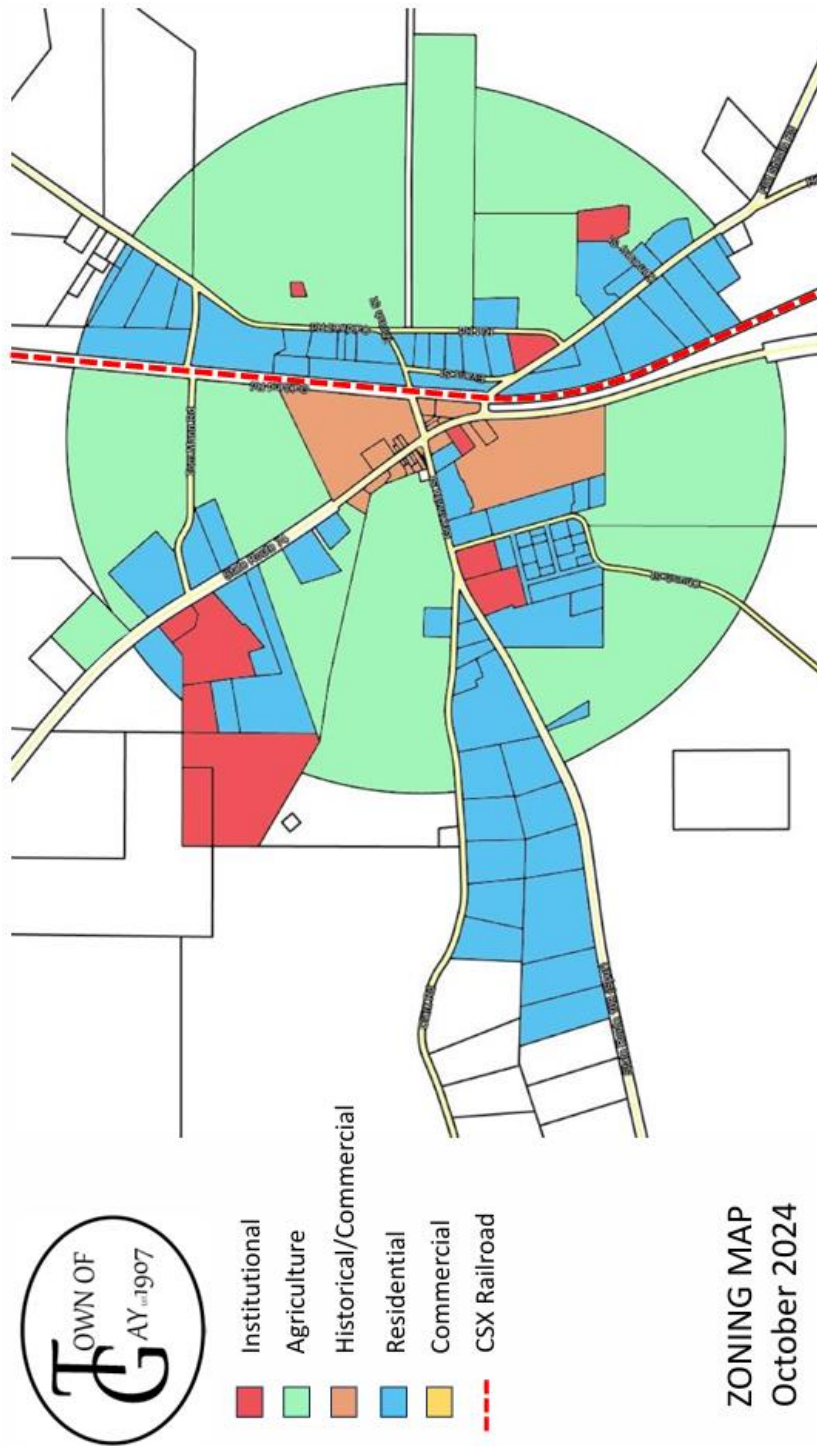
Permits and other fees: The Town Council has set fees for specific permits under this Ordinance. All fees must be paid with the application before review by the Building Official or the Town Council. See Consolidated Fee Schedule for complete list.

#### Sec. 14-9-7 Severability Clause

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the Town Council of the Town of Gay, Georgia, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

# Appendix A

## Land Use Map 2024



ZONING MAP  
October 2024

## Appendix B

### Town of Gay Application for Rezoning, Special Use, or Variance

This application must be filed at the clerk's office of the Town of Gay, Georgia 45 days prior to the Town Council General meeting which is the 2<sup>nd</sup> Monday of each month. Along with your application, please submit the following:

1. Appropriate fee (see consolidated fee schedule);
2. Legal description (Deed) and legal survey plat of the property; and
3. Written confirmation from the Tax Commissioner's Office that all property taxes are current.

#### Office Use Only

Case # \_\_\_\_\_ Date Received: \_\_\_\_\_

# Additional Pages received: \_\_\_\_\_

☐ Fee Received; amount: \_\_\_\_\_

☐ Legal description

☐ Property Taxes current

**Application for:** ☐ Rezoning ☐ Special Use ☐ Variance ☐ Appeal

**I (we) undersigned make an application and petition for the Town of Gay Council to allow the above selection as hereinafter requested. In support of this application the following facts are shown:**

#### The property is owned by:

Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_

**The property is located at:** (☐ same as above)

#### And is further identified on:

Tax Map# \_\_\_\_\_

LD# \_\_\_\_\_

Parcel# \_\_\_\_\_

LL# \_\_\_\_\_

#### The property has:

a road frontage of \_\_\_\_\_ feet; an area of \_\_\_\_\_ acres; and is zoned as \_\_\_\_\_.

**The request is for approval of the foregoing property to be (attach additional sheets if necessary):**

☐ Rezoned: Proposed classification: \_\_\_\_\_

☐ Special Use: Describe Proposed Special Use as Requested: \_\_\_\_\_

☐ Variance: Describe Proposed Variance Requested: \_\_\_\_\_

**Has prior application for rezoning, special use, or variance been made to the Town of Gay Council?** ☐ yes ☐ no

If yes, case # \_\_\_\_\_ and date \_\_\_\_\_. Action taken by Council: \_\_\_\_\_

**Describe any proposed structure(s) to be constructed on the property (attach additional sheets if necessary):**

**Does the property currently have existing structures?** ☐ yes ☐ no If yes, what is the use(s): \_\_\_\_\_

**Will existing structure(s) be demolished or renovated for proposed use?** ☐ yes ☐ no ☐ n/a

☐ I certify that no gifts or contributions were made to any member of the Town of Gay Council within the last two years.

Applicant(s) Signature: \_\_\_\_\_

Date: \_\_\_\_\_ Print: \_\_\_\_\_

#### Certification of Ownership

I (We) \_\_\_\_\_ are the legal owners of the property described in this application and have legal standing to execute this application. Owner's Signatures: \_\_\_\_\_

I appoint the following individuals as my (our) authorized agent(s) Agent, Address and phone#:

\_\_\_\_\_

Case # \_\_\_\_\_

Your application for:    ☐ Rezoning   ☐ Special Use   ☐ Variance   ☐ Appeal

Will be reviewed by:

☐ Planning Committee

Date: \_\_\_\_\_

Time: \_\_\_\_\_

At the ☐ Town Hall, ☐ Community Building

☐ Town of Gay Council

Date: \_\_\_\_\_

Time: \_\_\_\_\_

At the ☐ Town Hall, ☐ Community Building

You or your authorized agent should attend these meetings. Failure to attend may result in your application being denied or tabled.

Action of Planning Committee:

Date: \_\_\_\_\_

Action of Town Council:

Date: \_\_\_\_\_

**Appendix C**  
**Code of Standards Governing the Exercise of the Zoning Power**

The Town Council shall derive their decision upon standards that include factors that balance the interest in promoting public health, safety, morality, and/or general welfare against the right to the unrestricted use of property. Decisions shall be made to:

- A. To promote and protect the peace, good order, health, safety and general welfare of the residents, citizens and inhabitants of the Town of Gay.
- B. To foster orderly and healthful development, good government, peace and order, trade, economic development, and commerce.
- C. To preserve and protect the rural and historical character of the Town, and its unique historical, cultural, and architectural buildings, places and areas.
- D. To promote high standards of building and site design within residential and nonresidential districts to preserve an atmosphere consistent with the character of the Town.
- E. To protect and enhance the appeal and attraction of the Town of Gay to residents, visitors and tourists, and to serve as a support and stimulus to business and economic development.
- F. To foster civic pride in the beauty and notable accomplishments of the past.
- G. To enhance and protect the natural environment, natural areas, and rural atmosphere of the Town of Gay.
- H. Accommodate a mixture of new commercial and residential development that will strengthen the Town's existing dynamic character of land uses.
- I. Promote a healthy balance between residential and nonresidential land uses designed to maintain and enhance property values and revenue.
- J. Support private and public initiatives, which encourage investment in beautification programs, and stimulate such programs by providing for adequate open space through land use.
- K. Protect the natural environment and preserve natural areas and the rural atmosphere of the Town.