

City Council Meeting
10 N. Public Square
February 2, 2012
6:00 P.M. – Work Session 7:00 P.M.

I. Opening Meeting

Invocation by Council Member Tate

Pledge of Allegiance led by Council Member Stepp

The City Council met in Regular Session with Matt Santini, Mayor presiding and the following present: Kari Hodge, Council Member Ward One; Jayce Stepp, Council Member Ward Two; Louis Tonsmeire, Sr., Council Member Ward Three; Lindsey McDaniel Council Member Ward Four; Dianne Tate, Council Member Ward Five; Lori Pruitt, Council Member Ward Six; Sam Grove, City Manager; Connie Keeling, City Clerk and David Archer, City Attorney.

II. Regular Agenda

A. Council Meeting Minutes

1. January 19, 2012

A motion to approve the January 19, 2012 City Council Meeting Minutes as presented was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

B. Public Hearing – 2nd Reading of Zoning/Annexation Requests

1. File AZ12-01: Annexation and zoning application by A I Cartersville 1 LLC (Jeff Watkins, representative) for property located at 23 Redcomb Drive (approximately 1.6 acres) from Bartow County to City MF-14 (Multi-family 14 units per acre)

Richard Osborne, City Planner stated that the Public Official Forms have been received and there are no conflicts of interest. All adjacent property owners have been notified and the required legal notices have been advertised. Mr. Osborne requested that the application and zoning ordinance be made part of the official record. Copies of the adopted procedures and zoning standards are available upon request. Mr. Osborne stated that this tract is located on Redcomb Drive at the intersection with Mount Olive Street, and is the northern half of the Gazebos Apartment Complex. The applicant seeks to annex the property and to have MF-14 (Multi Family Residential) zoning to be consistent with the southern half of the complex, which has been in the City limits since the complex was constructed in 2000. Mr. Osborne stated that there have been no changes since the first reading and the Planning Commission recommended approval of the annexation and MF-14 zoning.

Mayor Santini opened the floor for a public hearing on the zoning. With no comments Mayor Santini closed the floor.

Mayor Santini opened the floor for a public hearing on the annexation. With no comments Mayor Santini closed the floor.

A motion to approve the annexation Ordinance No. 05-12 was made by Council Member Tonsmeire and seconded by Council Member Hodge. Motion carried unanimously. Vote 6-0

A motion to approve zoning Ordinance No. 06-12 was made by Council Member Hodge and seconded by Council Member Stepp. Motion carried unanimously. Vote 6-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 05-12

Petition No. AZ12-01

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by A I Cartersville Investments 1LLC. Property is located 23 Redcomb Drive off Porter Street. Said property contains 1.6 acres located in the 4th District, 3rd Section, Land Lot(s) 340 as shown on the attached plat Exhibit "A". Annexation will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

**/s/ Matthew J. Santini
Matthew J. Santini
Mayor**

ATTEST:

**/s/ Connie Keeling
Connie Keeling
City Clerk**

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 06-12

Petition No. AZ12-01

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by A I Cartersville Investments 1 LLC. Property is located 23 Redcomb Drive off Porter Street. Said property contains 1.6 acres located in the 4th District, 3rd Section, Land Lot(s) 340 as shown on the attached plat Exhibit "A". Property is hereby rezoned from Bartow County R-3 (Multi-family) to MF-14 (Multi Family). Zoning will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

**/s/ Matthew J. Santini
Matthew J. Santini
Mayor**

ATTEST:

**/s/ Connie Keeling
Connie Keeling
City Clerk**

2. File AZ12-02: Annexation and zoning application by Lara Jeanneret for property located at 40 Natchi Trail (approximately 1.7 acres) from Bartow County -0 City R-20 (Single Family Residential)

Richard Osborne, City Planner stated that the Public Official Forms have been received and there are no conflicts of interest. All adjacent property owners have been notified and the required legal notices have been advertised. Mr. Osborne requested that the application and zoning ordinance be made part of the official record. Copies of the adopted procedures and zoning standards are available upon request. Mr. Osborne stated that this tract is located at 40 Natchi Trail off Indian Mounds Road. This property backs up to Dellinger Park and includes a single-family house built in 2004. If annexed this property would include the last house on the north side of Natchi Trail to be incorporated into the City Limits. Mr. Osborne stated that the applicant stated that they wanted to be annexed for the City Schools, there have been no changes since the first reading and the Planning Commission recommended approval of the annexation and the R-20 zoning.

Mayor Santini opened the floor for a public hearing on the zoning. With no comments Mayor Santini closed the floor.

Mayor Santini opened the floor for a public hearing on the annexation. With no comments Mayor Santini closed the floor.

A motion to approve the annexation Ordinance No. 07-12 was made by Council Member McDaniel and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

A motion to approve zoning Ordinance No. 08-12 was made by Council Member Tonsmeire and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

Ordinance
of the
City of Cartersville, Georgia

Ordinance No. 07-12

Petition No. AZ12-02

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by Lara Jeanneret. Property is located 40 Natchi Trail off Indian Mounds Road. Said property contains 1.7 acres located in the 4th District, 3rd Section, Land Lot(s) 812 as shown on the attached plat Exhibit "A". Annexation will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

/s/ Matthew J. Santini

Matthew J. Santini

Mayor

ATTEST:

/s/ Connie Keeling

Connie Keeling

City Clerk

Ordinance
of the
City of Cartersville, Georgia

Ordinance No. 08-12

Petition No. AZ12-02

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that all that certain tract of land owned by Lara Jeanneret. Property is located 40 Natchi Trail off Indian Mounds Road. Said property contains 1.7 acres located in the 4th District, 3rd Section, Land Lot(s) 812 as shown on the attached plat Exhibit "A". Property is hereby rezoned from Bartow County A-1 (Agricultural) to R-20 (Single Family Residential). Zoning will be duly noted on the official zoning map of the City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

C. Second Reading of Ordinances

1. Amendment to Planning and Development Ordinance Regarding Planning Commission

Richard Osborne, City Planner stated that in 2010 the Zoning Ordinance was amended to allow Planning Commission appointments to be at large; however, the Code of Ordinances under the Planning and Development Section required appointment by ward. Additionally in 2005 the meeting compensation for the Planning Commission members was increased from \$35.00 per meeting to \$50.00 per meeting. This ordinance will correct any conflicts. Mr. Osborne stated that there had been no changes since the first reading and recommended approval.

A motion to approve Ordinance No. 09-12 was made by Council Member McDaniel and seconded by Council Member Pruitt. Motion carried unanimously. Vote 6-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 09-12

Now be it and it is hereby ORDAINED by the Mayor and City Council of the City of Cartersville, that the CITY OF CARTERSVILLE CODE OF ORDINANCES CHAPTER 17. PLANNING AND DEVELOPMENT. ARTICLE II. PLANNING COMMISSION. Section 17-27 is hereby amended by deleting said section in its entirety and replacing it as follows:

1.

Section 17-27. Members.

- (a) The planning commission shall be composed of seven (7) members, to be appointed as follows:
- (1) All seven (7) members to be appointed by the mayor and city council from the city at large and to serve until a successor is duly appointed.
- (b) In addition to the seven (7) members referred to in subsection the City Clerk may be appointed as secretary of the commission.
- (c) Members of the commission shall be paid fifty dollars (\$50.00) for each meeting attended.

2.

It is the intention of the City Council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

Second Reading and Adoption this the 2nd day of February, 2012.

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

2. Amendment to Utilities Ordinance Regarding Electric Distributed

Generation Energy Rider

David Myers, Electric Superintendent stated that the City of Cartersville Electric System has had interest from residential and commercial customers who want to install distributed generation at their home or business such as solar photovoltaics, wind turbines, and fuel cells. By state law, we are obligated to purchase excess energy generated by these systems within certain guidelines. Mr. Myers stated that this ordinance is the Distributed Generation Energy Rider, DGE-1 in which the city will purchase excess energy from qualified customers at a cost of 1.5 cents per kWh above what is required by law. Mr. Myers stated that there have been some changes since the first reading due to the city's utility software that created the need for two separate ordinances and recommended approval

A motion to approve Ordinance No. 10-12 and Ordinance No. 11-12 as amended was made by Council Member Tonsmeire and seconded by Council Member Pruitt. Motion carried unanimously. Vote 6-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 10-12

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that the CITY OF CARTERSVILLE CODE OF ORDINANCES, CHAPTER 24. UTILITIES, ARTICLE X. ELECTRIC SYSTEM, DIVISION 33. RESERVED, Section 24-416 is hereby amended by adding said Division as follows:

1.

DIVISION 33. DISTRIBUTED GENERATION ENERGY "A" RIDER; SCHEDULE DGEA-1

Section 24-416. Generally.

- (a) EFFECTIVE DATE:** Bills rendered on or after February 16, 2012.
- (b) AVAILABILITY:** Available in all areas served by the City of Cartersville Electric System (CES) and subject to CES's service rules and regulations.
- (c) APPLICABILITY:** Customers desiring to interconnect and/or sell electrical energy to CES produced by a distributed generation facility must be eligible for participation.

A distributed generation facility must:

- 1) Be owned and operated by an electrical customer of CES for production of electric energy; and,
- 2) Be located on the customer's premises; and,
- 3) Be connected to and operate in parallel with CES's distribution facilities; and,
- 4) Be intended primarily to offset part or all of the customer's requirement for electricity; and,
- 5) Be a "Renewable Energy Source" as defined by the State of Georgia such that energy supplied is from a technology approved in the Georgia Green Pricing Accreditation Program.

(d) **TYPE OF SERVICE:** Power accepted under this rider shall conform to power quality requirements as outlined in the distributed generation agreement between the customer and the City of Cartersville.

(e) **METERING:** Bi-directional metering uses one (1) meter to separately measure both the flow of electricity from the utility to the customer and the flow of electricity from the customer to the utility. Bi-directional metering shall be used where distributed generation facilities are connected on the customer's side of the utility meter.

(f) **PAYMENT FOR ENERGY:** Payment for electricity shall be consistent with The Georgia Cogeneration and Distributed Generation Act of 2001 (OCGA § 46-3-50).

Bi-directional metering:

- CES shall own the bi-directional meter. CES shall measure electricity provided to customer and electricity received from customer during the billing period.
- Electricity provided to customer shall be billed in accordance with the standard tariff.
- Customer shall be billed an administration charge each billing period and credited for energy delivered to CES in accordance with the distributed generation energy rider.

(g) **MONTHLY RATE:**

Administrative Charge \$0.00

Distributed Generation Energy Credit Avoided Energy Cost plus 1.5¢ per kWh

(h) **AVOIDED ENERGY COST:** CES's avoided energy cost is the wholesale market cost provided by MEAG. The Avoided Energy Cost will change each year with January's consumption and extend through December's consumption at the average hourly price of the previous calendar year.

(i) **TERMS AND CONDITIONS:**

- 1) An Electrical Interconnection and Power Exchange Agreement is required prior to service being initiated under this rider.
- 2) Any costs for application review, metering, engineering, or installation will be paid by the customer prior to service being initiated under this rider.

- 3) CES is not obligated to permit interconnection or to purchase energy from a distributed generation facility that does not meet the requirements above or that has a peak generating capacity exceeding 10 kW per residential installation or 100 kW per nonresidential installation.
- 4) CES will only be required to purchase energy from eligible distributed generation facilities on a first-come, first-served basis until the cumulative generating capacity of all renewable energy sources from all customers equals 0.2% of the City's annual peak demand in the previous year. CES may purchase, but is not obligated to purchase, additional energy at a cost agreed to by it and the customer.
- 5) CES reserves the right to inspect and test customer's equipment at any time to ensure proper operation, compliance with safety requirements, or compliance with power quality requirements. CES may separate customer generation from utility system when, as determined by CES, customer system is unsafe or not in compliance.
- 6) CES reserves the right to separate customer generation from utility system when, as determined by CES, continued parallel operation with distribution system is unsafe or may cause damage to persons or property or when working on de-energized lines to isolate all sources of generation.
- 7) If utility service to customer is disconnected for any reason, distributed generation service will also be disconnected.
- 8) CES shall not be liable to any person, directly or indirectly, for loss of property, injury, or death resulting from the interconnection of a co-generator or distributed generation facility to its electrical system.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

/s/ **Matthew J. Santini**

Matthew J. Santini

Mayor

ATTEST:

/s/ **Connie Keeling**

Connie Keeling

City Clerk

Ordinance

of the
City of Cartersville, Georgia

Ordinance No. 11-12

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that the CITY OF CARTERSVILLE CODE OF ORDINANCES, CHAPTER 24. UTILITIES, ARTICLE X. ELECTRIC SYSTEM, DIVISION 34. FLAT ECONOMIC DEVELOPMENT; TARIFF FED-2, Section 24-417 is hereby amended by deleting said Division in its' entirety and replacing it with the following:

1.

**DIVISION 34. DISTRIBUTED GENERATION ENERGY "B" RIDER;
SCHEDULE DGEB-1**

Section 24-417. Generally.

- (j) **EFFECTIVE DATE:** Bills rendered on or after February 16, 2012.
- (k) **AVAILABILITY:** Available in all areas served by the City of Cartersville Electric System (CES) and subject to CES's service rules and regulations.
- (l) **APPLICABILITY:** Customers desiring to interconnect and/or sell electrical energy to CES produced by a distributed generation facility must be eligible for participation.
- A distributed generation facility must:
- 6) Be owned and operated by an electrical customer of CES for production of electric energy; and,
 - 7) Be located on the customer's premises; and,
 - 8) Be connected to and operate in parallel with CES's distribution facilities; and,
 - 9) Be intended primarily to offset part or all of the customer's requirement for electricity; and,
 - 10) Be a "Renewable Energy Source" as defined by the State of Georgia such that energy supplied is from a technology approved in the Georgia Green Pricing Accreditation Program.
- (m) **TYPE OF SERVICE:** Power accepted under this rider shall conform to power quality requirements as outlined in the distributed generation agreement between the customer and the City of Cartersville.
- (n) **METERING:** Single directional metering uses two (2) meters and is used where the generation facilities are not located on the customer's side of the utility meter. One meter

measures the flow of electricity from the utility to the customer for the non-generating facility and the other meter measures the flow of electricity from the customer to the utility for the generating facility.

(o) **PAYMENT FOR ENERGY:** Payment for electricity shall be consistent with The Georgia Cogeneration and Distributed Generation Act of 2001 (OCGA § 46-3-50).

Single directional metering:

- CES shall own both single directional meters. CES shall measure electricity provided to customer and electricity received from customer during the billing period.
- Electricity provided to customer shall be billed in accordance with the standard tariff.
- Customer shall be billed an administration charge each billing period and credited for energy delivered to CES in accordance with the distributed generation energy rider.

(p) **MONTHLY RATE:**

Administrative Charge \$10.00

Distributed Generation Energy Credit Avoided Energy Cost plus 1.5¢ per kWh

(q) **AVOIDED ENERGY COST:** CES's avoided energy cost is the wholesale market cost provided by MEAG. The Avoided Energy Cost will change each year with January's consumption and extend through December's consumption at the average hourly price of the previous calendar year.

(r) **TERMS AND CONDITIONS:**

- 9) An Electrical Interconnection and Power Exchange Agreement is required prior to service being initiated under this rider.
- 10) Any costs for application review, metering, engineering, or installation will be paid by the customer prior to service being initiated under this rider.
- 11) CES is not obligated to permit interconnection or to purchase energy from a distributed generation facility that does not meet the requirements above or that has a peak generating capacity exceeding 10 kW per residential installation or 100 kW per nonresidential installation.
- 12) CES will only be required to purchase energy from eligible distributed generation facilities on a first-come, first-served basis until the cumulative generating capacity of all renewable energy sources from all customers equals 0.2% of the City's annual peak demand in the previous year. CES may purchase, but is not obligated to purchase, additional energy at a cost agreed to by it and the customer.
- 13) CES reserves the right to inspect and test customer's equipment at any time to ensure proper operation, compliance with safety requirements, or compliance with power quality requirements. CES may separate customer generation from utility system when, as determined by CES, customer system is unsafe or not in compliance.

- 14) CES reserves the right to separate customer generation from utility system when, as determined by CES, continued parallel operation with distribution system is unsafe or may cause damage to persons or property or when working on de-energized lines to isolate all sources of generation.
- 15) If utility service to customer is disconnected for any reason, distributed generation service will also be disconnected.
- 16) CES shall not be liable to any person, directly or indirectly, for loss of property, injury, or death resulting from the interconnection of a co-generator or distributed generation facility to its electrical system.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

3. Amendment to Utilities Ordinance Regarding Electric Time of Use Rates

David Myers, Electric Superintendent stated that the City of Cartersville Electric System has had interest from industrial customers for Time of Use rates. In these type rates, the price varies depending on what time the energy is used. Time of Use rates are not beneficial to all customers but are of benefit to customers that can control their manufacturing process and beneficial to the City in reducing demand costs and peak times. Mr. Myers stated that this ordinance is a Time of Use rate for Large and Extra Large Power customers and are optional for those customers electing to use them. Mr. Myers stated that there had been no changes since the first reading and recommended approval.

A motion to approve Ordinance No. 12-12 and Ordinance No. 13-12 was made by Council Member Stepp and seconded by Council Member McDaniel Motion carried unanimously. Vote 6-0

Ordinance
of the
City of Cartersville, Georgia

Ordinance No. 12-12

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that the CITY OF CARTERSVILLE CODE OF ORDINANCES, CHAPTER 24. UTILITIES, ARTICLE X. ELECTRIC SYSTEM, DIVISION 17. LOAD MANAGEMENT ECONOMIC DEVELOPMENT; TARIFF LMED-2, Section 24-336 is hereby amended by deleting said Division in its' entirety and replacing it with the following:

1.

DIVISION 17. LARGE POWER TIME OF USE; TARIFF LP-TOU-1

Section 24-336. Generally.

(s) EFFECTIVE DATE: Bills rendered on or after February 16, 2012.

(t) AVAILABILITY: Available in all areas served by the City of Cartersville Electric System (CES) and subject to CES's service rules and regulations.

(u) APPLICABILITY: Optional to all commercial or industrial electric service which is delivered or compensated to one standard voltage and where the following criteria are met:

- 1) Billing demand for the current month and the preceding 11 months must be greater than or equal to 1,000 kW and less than 3,500 kW as defined in the Billing Demand section of this tariff.**
- 2) In the event that Billing Demand becomes permanently less than 1,000 kW, the customer may switch to the appropriate tariff following 12 months of service on this tariff.**
- 3) Customer must request this rate in writing.**

(v) TYPE OF SERVICE: Single or three-phase, sixty (60) hertz, at a standard voltage.

(w) MONTHLY RATE:

Administrative Charge: **\$400.00**
Delivery Charge: **\$1.50 per kW of Billing Demand**
Power Supply Charge:

SUMMER – April through October consumption (kWh):

Peak 1 41.28¢ per kWh
Four-hour period from 1:00 P.M. through 5:00 P.M. for July and August only

Peak 2 9.95¢ per kWh
Eight-hour period from 11:00 A.M. through 7:00 P.M. not including Peak 1 hours

Off-Peak 4.81¢ per kWh
All other hours

WINTER – November through March consumption (kWh):

Peak 3 8.92¢ per kWh
Four-hour period from 6:00 A.M. through 10:00 A.M.

Off-Peak 4.85¢ per kWh
All other hours

(x) MINIMUM MONTHLY BILL: Administrative Charge, plus Delivery Charge, plus Power Supply Charge, plus Reactive Demand Charge, plus Power Cost Adjustment as applied to the current month metered energy in kWh, plus charges in any applicable rider.

(y) POWER COST ADJUSTMENTS: The amount calculated in this tariff is subject to increase or decrease under the provisions of the effective Power Cost Adjustment Rider.

(z) RIDERS: The amount calculated in this tariff is subject to increase or decrease under the provisions of any applicable rider that may be approved by the City Council of the City of Cartersville.

(aa) PEAK RATING PERIODS: Peak rating periods occur on weekdays only and do not apply on national holidays of the United States of America. Peak periods are stated in Eastern Standard or Daylight Times, whichever is currently in effect.

(bb) BILLING DEMAND: The maximum billing demand shall be based on the highest thirty-minute kW measurement during the current month and the preceding eleven (11) months.

The Billing Demand shall be the greater of:

- 1) The current actual demand; or**
- 2) Ninety-Five percent (95%) of the highest actual demand occurring in any previous applicable month.**

However, in no case shall the Billing Demand be less than the greater of:

- 1) The Contract Minimum Demand; or**
- 2) Fifty-percent (50%) of the contract capacity; or**
- 3) 950 kW (95% of 1,000 kW).**

(cc) **REACTIVE DEMAND:** Where there is an indication of a power factor of less than 95% lagging, CES may at its' option install metering equipment to measure Reactive Demand. The Reactive Demand is the highest 30-minute kVAR measured during the month. The Excess Reactive Demand is the kVAR which is in excess of one-third of the measured actual kW in the current month. CES will bill Excess Reactive Demand at the rate of \$0.33 per excess kVAR.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

/s/ Matthew J. Santini
Matthew J. Santini
Mayor

ATTEST:

/s/ Connie Keeling
Connie Keeling
City Clerk

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 13-12

NOW BE IT AND IT IS HEREBY ORDAINED by the Mayor and City Council of the City of Cartersville, Georgia, that the CITY OF CARTERSVILLE CODE OF ORDINANCES, CHAPTER 24. UTILITIES, ARTICLE X. ELECTRIC SYSTEM, DIVISION 30. WATER HEATING SERVICE; TARIFF WH-14, Section 24-401 is hereby amended by deleting said Division in its' entirety and replacing it with the following:

1.

**DIVISION 30. EXTRA LARGE POWER TIME OF USE;
TARIFF XLP-TOU-1**

Section 24-401. Generally.

(dd) EFFECTIVE DATE: Bills rendered on or after February 16, 2012.

(ee) AVAILABILITY: Available in all areas served by the City of Cartersville Electric System (CES) and subject to CES's service rules and regulations.

(ff) APPLICABILITY: Optional to all commercial or industrial electric service which is delivered or compensated to one standard voltage and where the following criteria are met:

- 1) Billing demand for the current month and the preceding 11 months must be greater than or equal to 3,500 kW as defined in the Billing Demand section of this tariff.
- 2) In the event that Billing Demand becomes permanently less than 3,500 kW, the customer may switch to the appropriate tariff following 12 months of service on this tariff.
- 3) Customer must request this rate in writing.

(gg) TYPE OF SERVICE: Three-phase, sixty (60) hertz, at a standard voltage.

(hh) MONTHLY RATE:

Administrative Charge \$400.00
Delivery Charge \$1.50 per kW of Billing Demand
Power Supply Charge:

SUMMER – April through October consumption (kWh):

Peak 1 38.21¢ per kWh
Four-hour period from 1:00 P.M. through 5:00 P.M. for July and August only

Peak 2 9.21¢ per kWh
Eight-hour period from 11:00 A.M. through 7:00 P.M. not including Peak 1 hours

Off-Peak 4.45¢ per kWh
All other hours

WINTER – November through March consumption (kWh):

Peak 3 8.25¢ per kWh
Four-hour period from 6:00 A.M. through 10:00 A.M.

Off-Peak 4.49¢ per kWh
All other hours

(ii) **MINIMUM MONTHLY BILL:** Administrative Charge, plus Delivery Charge, plus Power Supply Charge, plus Reactive Demand Charges, plus Power Cost Adjustment as applied to the current month metered energy in kWh, plus charges in any applicable rider.

(jj) **POWER COST ADJUSTMENTS:** The amount calculated in this tariff is subject to increase or decrease under the provisions of the effective Power Cost Adjustment Rider.

(kk) **RIDERS:** The amount calculated in this tariff is subject to increase or decrease under the provisions of any applicable rider that may be approved by the City Council of the City of Cartersville.

(ll) **PEAK RATING PERIODS:** Peak rating periods occur on weekdays only and do not apply on national holidays of the United States of America. Peak periods are stated in Eastern Standard or Daylight Times, whichever is currently in effect.

(mm) **BILLING DEMAND:** The maximum billing demand shall be based on the highest thirty-minute kW measurement during the current month and the preceding eleven (11) months.

The Billing Demand shall be the greater of:

- 3) The current actual demand; or
- 4) Ninety-Five percent (95%) of the highest actual demand occurring in any previous applicable month.

However, in no case shall the Billing Demand be less than the greater of:

- 4) The Contract Minimum Demand; or
- 5) Fifty-percent (50%) of the contract capacity; or
- 6) 3,325 kW (95% of 3,500 kW).

(nn) **REACTIVE DEMAND:** Where there is an indication of a power factor of less than 95% lagging, CES may at its' option install metering equipment to measure Reactive Demand. The Reactive Demand is the highest 30-minute kVAR measured during the month. The Excess Reactive Demand is the kVAR which is in excess of one-third of the measured actual kW in the current month. CES will bill Excess Reactive Demand at the rate of \$0.33 per excess kVAR.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Cartersville, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

**/s/ Matthew J. Santini
Matthew J. Santini
Mayor**

ATTEST:

**/s/ Connie Keeling
Connie Keeling
City Clerk**

4. Amendment to Motor Vehicle and Traffic Ordinance Regarding All-Way Stop at Pointe North Drive and Pointe Way

Bobby Elliott, Public Works Director stated that his staff and Chief Culpepper met with representatives from the North Pointe Subdivision Homeowners Association concerning the traffic in their subdivision. The HOA has requested that a three way stop be put in at the intersection of Pointe North Drive and Pointe Way. Mr. Elliott stated that Public Works and the City Police Department concur with this request. Mr. Elliott stated that there have been no changes since the first reading and recommended approval.

A motion to approve Ordinance No. 14-12 was made by Council Member Hodge and seconded by Council Member Stepp. Motion carried unanimously. Vote 6-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 14-12

Now be it and it is hereby ORDAINED by the Mayor and City Council of the City of Cartersville, that the CITY OF CARTERSVILLE CODE OF ORDINANCES. CHAPTER 12. MOTOR VEHICLES AND TRAFFIC ARTICLE IX. TRAFFIC SCEDULES CODE SECTION 12-1003. STOP STREETS is hereby amended by inserting the following in Section 12-1003:

1.

Pointe North Drive at Pointe Way, all directions.

2.

It is the intention of the city council and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of

Cartersville, Georgia, and that section 12-1003 is amended by adding the above provisions and that said section may be alphabetized as necessary to accomplish such intention. The remaining provisions of said section shall remain as is except for alphabetizing.

BE IT AND IT IS HEREBY ORDAINED

First Reading this the 19th day of January 2012.

ADOPTED this the 2nd day of February 2012. Second Reading.

/s/ Matthew J. Santini

Matthew J. Santini

Mayor

ATTEST:

/s/ Connie Keeling

Connie Keeling

City Clerk

**5. Amendment of Licenses, Taxation and Miscellaneous Business Regulations
Ordinance Regarding “Pill Mills”**

Tommy Culpepper, Police Chief stated that in response to the national outcry of the abuse of pain medication through so-called “pill mills” the Cartersville Police Department is recommending this ordinance be enacted. Chief Culpepper stated that having researched the issue and having discovered that these types of non-beneficial businesses are located within the vicinity of Cartersville, Georgia it is his opinion that such an ordinance should be in place. As proof of the damage that these businesses can do to a community, the Bartow Cartersville Drug Task Force was engaged in what many are calling a landmark case involving “Pill Mills”. Chief Culpepper stated that this ordinance will be a major enhancement to ensuring that future generations have the quality of life that has become the hallmark of Cartersville. Chief Culpepper stated that there have been no changes since the first reading and recommended approval.

A motion to approve Ordinance No. 15-12 was made by Council Member Tonsmeire and seconded by Council Member Stepp. Motion carried unanimously. Vote 6-0

Ordinance

of the

City of Cartersville, Georgia

Ordinance No. 15-12

WHEREAS, the Mayor and City Council of the City of Cartersville are charged with the protection of the public health, safety, and welfare of the citizens of Cartersville;

WHEREAS, the State of Georgia authorizes the City of Cartersville to exercise its regulations where it sees fit to maintain the safety and welfare of the citizens;

WHEREAS, the City of Cartersville Police Department Drug Task Force has conducted a study and accumulated information regarding Pain Clinics and Pain Medication;

WHEREAS, the Marietta-Cobb-Smyrna Prescription Drug Task Force issued a “Final Recommendation Report” recommending that action be taken regarding the licensing of certain entities;

WHEREAS, information received from law enforcement officials in several States indicate that criminal activity increases in areas where Pain Management Clinics operating as no more than “pill mills” are located;

WHEREAS, the Grand Jury in Broward County, Florida, heard testimony and considered evidence concerning the proliferation of such pain clinics in Broward County and South Florida;

WHEREAS, the Broward County, Florida, Grand Jury issued its Interim Report on November 19, 2009, concerning The Proliferation of Pain Clinics in South Florida (“Broward County Grand Jury Report”);

WHEREAS, the Broward County Grand Jury Report found that, “In 2007 there were 4 pain clinics operating in Broward County. From those 4 pain clinics in Broward County the number swelled to 66 pain clinics operating in South Florida in 2008. From August 2008 to November 2009 the number of pain clinics opening and operating in South Florida exploded in number from 66 to 176, and the number of pain clinics opening and operating in Broward County increased from 47 to 115. Pain clinics, which dispense prescription drugs on site, dispensed almost 9 million does units of Oxycodone in South Florida during the last months of 2008. 6.5 million dose units of the 9 million does units were dispensed in Broward County alone.” Broward County Grand Jury Report at page 6;

WHEREAS, the Broward County Grand Jury Report reported that the Florida Medical Examiners Commission reported as follows:

Calendar Year	Number of Deaths Detected that were Caused by Lethal Doses of Prescription Drugs	Average Number of Deaths Detected that were Caused by Lethal Doses of Prescription Drugs
2006	2,780	7 deaths/day
2007	3,317	9 deaths/day
2008	3,750	10 deaths/day

Broward County Grand Jury Report at pages 9-10;

WHEREAS, the Broward County Grand Jury Report reported as follows: “The National Survey on Drug Use and Health conducted annually by the Substance Abuse Mental Health Services Administration estimates that in the last 30 days over 5 million Americans used non-medical prescription opioids or narcotic analgesics or pain relievers. In 2005, 11,300,000 Americans age 12 and above had used prescription pain medication in a non-medical use. In 2007, the number increased almost 50% to 16,280,000 Americans. One of the age groups that have shown the highest levels of prescription non-medical use has been young adults age 18 to 25. In 2007, 2,147,000 Americans were first time non-medical users of prescription pain medication.” Broward County Grand Jury Report, at pages 11-12;

WHEREAS, the City of Cartersville has great respect for reputable medical practitioners who are attempting to diagnose and treat pain being experienced by their patients;

WHEREAS, the typical pain clinic which is operating as no more than a “pill mill” has little or no interest in treating pain or the symptom of the pain but is interested in only dispensing prescription pain medication with little or no diagnosis of the “patient”. See Broward County Grand Jury Report at pages 19-20;

WHEREAS, the Broward County Grand Jury Report found that “[a] couple of cities in Broward County have attempted to restrict the growing number of clinics in their cities by enacting ordinances to prohibit the location of pain management clinics that dispense narcotic drugs on site.” Broward County Grand Jury Report at page 33;

WHEREAS, the typical “pill mill” prescribes and dispenses the Pain Medications on-site;

WHEREAS, the City of Cartersville has been made aware of numerous news reports describing a “pipeline” of trafficking drugs from pain management clinics in South Florida to users in States such as Georgia, Kentucky, West Virginia and Ohio;

WHEREAS, prescription drug abuse is becoming a major problem in Georgia and according to the Georgia Drug and Narcotics Agency deaths due to prescription drug overdoses have surpassed those of all other illicit drugs;

WHEREAS, some pain clinics have no interest in the diagnosis and treatment of medical issues or problems that are resulting in pain being experienced by the patients, but are operated solely to write prescriptions for highly addictive pain medications which are then sold by the clinic to the “patient” making such a clinic as no more than a “pill mill”;

NOW BE IT AND IT IS HEREBY ORDERED by the Mayor and City Council of the city of Cartersville that the City of Cartersville Code of Ordinances Chapter 10. LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATION is hereby

amended by adding a new Article IV. Medical, Pharmacy, Pain Management Establishments as follows:

“ARTICLE XIV. Medical, Pharmacy, Pain Management Establishments

Sec. 10-505. Purpose and findings.

Since the 1990’s, the abuse of prescription opioids has risen dramatically, due in large part to the increase in the use of these analgesics to manage pain. Opioids are prescribed to alleviate pain ranging from moderate to severe, as described by the patient. These analgesics principally affect the nervous system, suppressing the signals of pain sent to the brain; examples of these medications can include, but not be limited to morphine, codeine, oxycodone (e.g., OxyContin, Percodan, Percocet), and related drugs. As opioids “block the perception of pain” they also have the affect of creating a state of euphoria, which may be heightened when abused. Side effects can include drowsiness, nausea, constipation, and respiratory constraint.

Opioids are recognized as very effective when taken as prescribed for legitimate purposes, post surgery, for example. As the National Institute on Drug Abuse states, “Many studies have shown that the properly managed, short-term medical use of opioid analgesic drugs is safe and rarely causes addiction – defined as the compulsive and uncontrollable use of drugs despite adverse consequences – or dependence, which occurs when the body adapts to the presence of a drug, and often results in withdrawal symptoms when that drug is reduced or stopped.” Unfortunately, opioids taken long-term can create physical dependency in some patients, producing withdrawal symptoms when the medication is not taken. Cessation side effects can include bone pain, insomnia, and vomiting, to name a few.

Since the tragic events of September 11, 2001, the rise in the diversion of legal prescription drugs has grown exponentially, due to increased security at the borders and ports. Amplified security has effectively reduced the supply of illegal drugs, traditional smuggled by the drug trade, necessitating the need to find alternative methods of supplying drugs to users; consequently, legal prescription drugs are now being diverted to illegal uses – “Diversion.” These diverted drugs are Schedule II, III, and IV drugs, which principally include opioids as well as complementary drugs.

In recent years, South Florida, including Miam-Dade, Broward, and Palm Counties, have witnessed tremendous growth in the number of “pain clinics” that have opened in addition to the rapid increase of the diversion of prescription drugs. Broward County has been termed “The Painkiller Capital of the Unites States,” and “The Columbia for Pharmaceutically Diverted Drugs.” Broward County had four pain clinics in 2007, jumping to 115 by November 2009, of a total of 176 such clinics in all of South Florida. The majority of these pain clinics are nothing more than pill mills, diverting these scheduled drugs to illegal uses. As “clinics” have multiplied, the deaths due to overdoses of prescription drug medications, specifically opioids, have skyrocketed.

With Broward County on the forefront of this epidemic, a grand jury was empanelled to investigate, issuing a report on November 19, 2009, after hearing testimony from prescription drug abusers and their families, federal and state law enforcement officials, physicians, prosecutors, and many more stakeholders. The report provides valuable information regarding the current state of this epidemic as well as recommendations to curtail this rapidly growing public safety concern.

As Broward County and other South Florida jurisdictions struggle to eliminate “pill mills”, this outbreak of illicit pain clinics crossed into other states, notably Georgia and Texas. In fact, the *Cobb County Prescription Drug Task Force* reports that in 2007, 82.46% overdose deaths statewide involved pharmaceuticals, going to 85.11% in 2008. Alprazolam, Hydrocodone, and Oxycodone were found to constitute the top five substances involved in all of these overdose deaths. Alprazolam, commonly known by the trade name *Xanax*, an anxiety medications, is often combined and distributed with opioids at illegal pain clinics.

Illegal pain clinics commonly known as “pill mills” dispense large quantities of Schedule II, III and IV drugs for cash, with little examination of the patient conducted. Scheduled drugs are dispensed at these establishments or prescriptions are written to be filled at a legitimate pharmacy. Often, out of jurisdiction and out-of-state license plates are in the parking lots of these clinics, with individuals driving great distances to receive these “prescriptions.” Pill mills often hire security guards to handle unruly patients and perhaps even scout for law enforcement. Individuals seeking these services will often fake an ailment, forging an MRI or providing falsified medical documentation to receive prescriptions. In turn, the physicians conduct lackadaisical examinations of these individuals, simply asking them “what they want” with regard to medication.

The City of Cartersville City Council adopted a 12-month moratorium on the issuance of business licenses to “pain management clinics” on April 21, 2011, to conduct the proper research and vetting to create a new ordinance and municipal code addressing “pill mills.” After thorough research, the City Council has prepared this ordinance to eliminate this rapidly emerging epidemic, creating a new section in the code of the City of Cartersville.

Not all pain clinics are “pill mills,” thus the challenge of regulating this epidemic is daunting. Pill mills could easily be found in establishments that provide physical therapy, chiropractics, or general medicine, through the “pain clinic” title is most commonly associated with such operation. Therefore, the City Council finds that “pill mills,” pose a current and real threat to the health, safety, and welfare of the people of the City of Cartersville, and therefore make the following declarations:

- 1.) The “pill mill” has become a store front for the new illegal drug trade, as legitimate prescription medication is diverted for illicit purposes.
- 2.) “Pill mills” must be regulated and differentiated from legitimate healthcare providers, as they attempt to enter the Georgia market from

Florida and other neighboring states which are beginning to adopt regulatory legislation.

3.) “Pill mills” are often owned, operated, and staffed by unlicensed proprietors, with little or no medical training.

4.) “Pill mills” masquerade as legitimate pain management establishments or medical providers, but instead perform few, if any, medical examinations with often sparsely furnished offices and no typical medical equipment.

5.) “Pill mills” operate on a cash basis, usually not accepting checks, credit cards, or health insurance, creating an environment that poses a security threat in light of the clientele seeking these illicit services.

6.) Individuals seeking “pill mill” services often falsify symptoms or provide bogus documentation of an ailment to receive powerful Schedule II, III and IV drugs. Alternative methods of treatment – physical therapy, surgery, etc. – are rarely ever proposed to a patient seeking services from a “pill mill”.

7.) Individuals will often “shop” various “pill mills” receiving multiple prescriptions on the same day or during a short period of time, thereafter reselling the pills to generate a profit to fund their own addiction and purchase additional supplies.

8.) “Dealers” or groups of dealers often sponsor individuals who obtain Schedule II, III and IV drugs repeatedly over multiple “pill mills”, during a short period of time. These large quantities may then be resold at a much higher value to fund the purchase of larger quantities as well as to continue the abuse of these powerful drugs by the individuals involved.

9.) Individuals seeking “pill mill” services will often be consuming these scheduled drugs as they search for the next pill mill. These individuals may be under the influence of one or more of these powerful drugs or suffering from withdrawal symptoms. Pill mills can usually supply scheduled drugs on site for individuals to consume immediately, as well. Both the influence of the scheduled drug as well as the debilitating withdrawal symptoms affecting a driver operating a motor vehicle in City of Cartersville while seeking a “pill mill” is of grave concern.

10.) Legitimate pain clinics should be owned, operated, and staffed by licensed physicians, boarded in a pain management-related field recognized by the American Board of Medical Specialists.

Sec. 10-506. Definitions.

Dispense means to issue one or more doses of any drug in a suitable container with appropriate labeling for subsequent administration to or use by a patient. This excludes hospitals, surgery centers, inpatient care facilities, assisted living facilities, outpatient facilities operated or owned by a hospital system or pharmacy, and pharmacies.

Dispenser shall mean any person licensed or authorized by the State of Georgia and any board thereof to dispense drugs.

Dispensing Physician is a state licensed physician who has notified the Georgia Composite Medical Board in writing of their intent to act as a dispensing physician. This notification may be made by letter to the Board, or may be noted on the state license renewal form.

Medical Establishment means, for the purpose of this chapter, any person, sole proprietor, corporation, or entity proposing to offer services to include: general and family medicine, specialists, chiropractic services, physical therapy, physical rehabilitation, urgent care, clinics, or any other similar healthcare services offered to the general public, excluding pain clinics. Shall not include facilities owned and operated by a hospital system.

Medical Treatment means the primary services expected and received from a medical establishment.

Opioids are narcotic drugs typically prescribed to manage pain. For the purposes of this ordinance, included under Schedule II, III and IV drugs.

Pain Clinic means a medical establishment, often multidisciplinary, devoted to the diagnosis and treatment of patients with acute and chronic pain. Also known as “pain management clinics,” “pain relief centers,” and similar variations.

Patient means an individual receiving medical care from a medical establishment and the intended end user of prescribed medication(s).

Person includes sole proprietors, corporations, partnerships, nonprofits or any other form of business organization.

Pharmacy is a commercial establishment with a physical location, where the practice of pharmacy occurs, as defined in O.C.G.A. § 26-4-4, now and as amended.

Physician means a person licensed to practice medicine under O.C.G.A. § 43-34-21, now and as amended.

Practice of pharmacy means the interpretation, evaluation, or dispensing of prescription drug orders in the patient’s best interest; participation in drug and device selection, drug administration, drug regimen reviews, and drug or drug related research; provision of patient counseling and the provision of those acts or services necessary to provide pharmacy care; performing capillary blood tests and interpreting the results as a

means to screen for or monitor disease risk factors and facilitate patient education, and a pharmacist performing such functions shall report the results obtained from such blood tests to the patient's physician of choice; and the responsibility for compounding and labeling of drugs and devices, as defined in O.C.G.A. § 26-4-4, now and as amended. Individuals engaged in the practice of pharmacy shall be properly licensed and in good standing with the State of Georgia (O.C.G.A. 26-4-40 et seq., now and as amended).

Practicing Medicine means holding oneself out to the public as being engaged in the diagnosis or treatment of disease, defects, or injuries of human beings; or the suggestion, recommendation, or prescribing of any form of treatment for the intended palliation, relief, or cure of any physical, mental, or functional ailment or defect of any person with the intention of receiving therefore, either directly or indirectly, any fee, gift, or compensation whatsoever; or the maintenance of an office for the reception, examination, and treatment of person suffering from disease, defect, or injury of body or mind; or attaching the title "M.D.", "Oph.", "D.", "Dop.", "Surgeon", "Doctor", "D.O.", "Doctor of Osteopathy", "Allopathic Physician", "Osteopathic Physician", or "Physician", either alone or in connection with other words, or any other words or abbreviations to one's name, indicating that such person is engaged in the treatment or diagnosis of disease, defects, or injuries to human beings, provided that the terms "doctors of medicine", "doctors of osteopathic medicine", "doctors of medicine licensed to practice in the state", and similar terms wherever used or appearing in O.C.G.A. § 43-34-21 et seq., now and as amended.

Schedule I, III or IV drugs shall mean the drugs defined in O.C.G.A. § 16-13-26 through 16-13-29, now and as amended as well as those so defined and regulated by the Controlled Substances Act adopted by the U.S. Congress in 1970, now and as amended.

Sec. 10-507. Compliance required.

It shall be unlawful for any person to operate a medical establishment or pharmacy without having first complied with the provisions of this chapter.

Sec. 10-508. Preliminary information; questionnaire; classification.

While studies and research illustrate that "pill mills" more often than not pose as "pain clinics", this perception can be inaccurate. Many legitimate pain clinics operate daily throughout the state and nation, faithfully treating their patients with the highest ethical standards. Pill mills are capable of posing as urgent care clinics, family medical practices, and neighborhood pharmacies, for example. In fact, any medical "store front" could operate as a pill mill.

The reality, however, is that the vast majority of medical establishments and pharmacies are absolutely legitimate. Preliminary information will be gathered from proposed medical establishments and pharmacies to properly route the business through the applicable regulatory and zoning reviews, prior to the issuance of a business license (occupation tax permit). A questionnaire shall be provided to persons seeking to operate a

medical establishment or pharmacy in the City of Cartersville (“applicant”), in conjunction with the completion of occupation tax/business license and zoning preclearance forms.

The Planning and Development Department and the Police Department are hereby directed to create a questionnaire for those seeking to operate a medical establishment or pharmacy in the City of Cartersville. Included with relevant contact and corporate information as required by the Planning and Development Director and Police Chief, the following questions shall be included:

- 1.) Detail services offered at the proposed medical establishment or pharmacy.
- 2.) If opening a pain clinic, please detail the methods of evaluation, treatment, and rehabilitation offered at the proposed establishment.
- 3.) If not opening a pain clinic, what percentage of your practice will be devoted to the treatment and diagnosis of acute and chronic pain?
- 4.) If opening a pharmacy, do you intend to provide medical treatment services at the location?
- 5.) Do you intend to prescribe Schedule II, III or IV drugs at your proposed location?
- 6.) Do you intend to dispense Schedule II, III or IV drugs at your proposed location or on the premises?
- 7.) Do you plan to accept healthcare insurance from your patients?

Each applicant, representing a proposed medical establishment or pharmacy, shall in good faith complete this questionnaire, answering the questions to the best of their ability. Signatures of the applicant and establishment owner or corporate officer (if not the same as applicant) shall be required on the questionnaire, attesting that all answers and information provided are true and correct to the best of their knowledge. Deception, false statements, and misrepresentations on the questionnaire shall cause enforcement action and penalties against the entity as detailed under Sec. 10-519 and Sec. 10-521.

The Planning and Development Department shall review each completed questionnaire to determine if a pain clinic’s license, as mandates by this article, is required for the proposed establishment. The City Manager, Police Chief, or Planning and Development Director may review each questionnaire to determine if a proposed business shall be classified as a medical establishment, pharmacy, or pain clinic. The decision to classify a proposed business as a pain clinic is at the discretion of the City Manager, Police Chief, or Planning and Development Director, appealable to City Council, as detailed under Sec. 10-520.

Sec. 10-509. Pharmacy Regulations.

A proposed business classified as a pharmacy under Section 10-508, shall adhere to the following regulations:

(a) *Supervision.* A pharmacy shall only be operated under the supervision of a state licensed pharmacist.

(b) *State Licensure Required.* A pharmacy or those seeking to practice pharmacy in the City of Cartersville are required to apply for and receive a business license in accordance with Chapter 10. Additionally, prior to the issuance of a business license, the proposed pharmacy establishment and all employed pharmacists shall provide all current and proper facility and staff licensure in accordance with the laws of the State of Georgia, O.C.G.A. § 26-4-4; O.C.G.A. 26-4-40 et seq., now and as amended). The most recent state licensure for each pharmacist is due each year with annual occupation tax renewals with the City.

(c) *Clinic Services.* Pharmacies may elect to provide clinic services on site, offered to customers as a convenient ancillary service. These clinics shall not prescribe Schedule II, III and IV drugs.

Sec. 10-510. Medical establishment regulations.

A proposed business classified as a medical establishment under Section 10-508, shall adhere to the following regulations:

(a) *Ownership/manager.* The owner or manager of a medical establishment shall be licensed by the State of Georgia, in the respective field corresponding to the provision of services proposed, in good standing.

(b) *State Licensure Required.* All medical establishments, as defined by this article, are required to apply for and receive a business license in accordance with Chapter 22, Article II. Additionally, prior to the issuance of a business license, the proposed medical establishment shall provide licensure for all practitioners in the respective field corresponding to the services proposed in accordance with the laws of the State of Georgia (O.C.G.A. Title 43, now and as amended). Respective state licenses shall remain in good standing and are due each year with annual occupation tax renewals with the City.

(c) *Dispensing.* If the medical establishment proposes to dispense Schedule II, III, or IV drugs to patients on site, the dispenser shall be dispensing physician, as required by the Georgia Composite Medical Board and State of Georgia. All dispensing physicians at the medical establishment shall provide to the City a copy of the notification sent to the board, seeking to dispense.

(d) *Pharmacy.* Should a medical establishment seek to provide pharmacy services on site, compliance with O.C.G.A. § 26-4-4; O.C.G.A 26-4-40 et seq., now and as amended is required. A state licensed pharmacist, in good standing, shall be on site and responsible for the pharmacy operation.

Sec. 10-511. Pain management establishments and pain clinic requirements.

A proposed business classified as a pain clinic under Section 10-508, shall adhere to the following regulations:

(a) *Municipal License Required.* Clinics that specialize in the diagnosis and treatment of patients with acute and chronic pain (“pain clinics”) are required to apply for and receive a license from the City of Cartersville. These establishments are often termed “pain clinics”, “pain relief clinics”, “pain management”, or similar title. Procedures are detailed under Section 10-512 et. seq.

(b) *State License Required.* The owner, physicians, and any managers of a pain clinic shall be state licensed physicians, in good standing. Proof of licensure shall be submitted with each annual renewal. The manager or owner shall maintain an office on site at the establishment. All physicians writing prescriptions shall be on site when the patient is issued said prescription, also maintaining an office at the establishment location.

(c) *Board Certification.* The owner and all staff physicians of a pain clinic shall be board certified by the American Board of Physical Medicine and Rehabilitation or the American Board of Anesthesiology and in good standing. Certification by the American Board of Pain Management or other organizations not recognized by the American Board of Medical Specialists is not accepted. Proof of said board certification shall be submitted with each annual renewal.

(d) *Dispensing.* No dispensing of Schedule II, III or IV drugs shall occur or be permitted on the premises of a pain clinic, unless dispensed by a licensed pharmacist. This restriction includes “Dispensing Physicians.” A pharmacy on the premises is permitted, if constructed and licensed separately as a pharmacy, as mandated by the laws of the State of Georgia. Nothing herein, however, shall preclude licensed surgeons and physicians so qualified from administering injections and medications associated with surgeries and procedures occurring at the establishment.

(e) *Facilities.* The owner or clinic manager and physicians shall maintain separate offices in the structure proposed for the establishment. Physicians may share offices; however, exam rooms shall remain separate from any office space.

Sec. 10-512. Pain clinics license required.

Regardless of business name, if a proposed establishment seeks to operate or holds itself out to be devoted to the diagnosis and treatment of patients with acute and chronic pain, the City of Cartersville considers said establishment to be a “pain clinic” and a Pain Clinics License “license” from the City of Cartersville is required. The City Manager, Police Chief, or Planning and Development Director, shall be authorized to classify a proposed establishment as a pain clinic, if so determined.

Sec. 10-513. License application; process.

Business establishments determined to be pain clinics shall apply for the pain clinics license, completing the application and process as follows:

- 1.) Detail all services to be provided on site at the proposed location.
- 2.) Provide corporate name, d/b/a name, corporate address, owner or principal corporate officer name(s), proposed location address for the proposed establishment.
- 3.) Provide physician names, principal address and contact information for each.
- 4.) Demonstrate compliance with Section 10-511, submitting all licensure and certifications.
- 5.) All staff and employee names, addresses, and positions held at the establishment.
- 6.) All staff members and employees requiring a state license shall submit the respective licensure, which must be good standing.
- 7.) List of health insurance carriers accepted and evidence of such acceptance.
- 8.) Proof of malpractice insurance for the physicians must be provided, in the amount as prescribed by state law. Said malpractice insurance shall remain current, submitted with each annual renewal.
- 9.) Provide all additional information on the license application form, as determined by the City Manager, Police Chief, or Planning and Development Director. The completed application along with all attachments shall be submitted to the Planning and Development Department for review.
- 10.) Submit the review fee, established with resolution by City Council from time to time.

Sec. 10-514. License application review.

The Planning and Development Director or designee shall review the documentation and information provided under Section 10-513. A copy of the application file shall also be forwarded to the Police Chief or designee for concurrent review. The review shall conclude in no less than thirty (30) days from the date the completed application is submitted to the Planning and Development Department. If the application review is not completed within thirty (30) days, the application shall be void and the applicant may seek review by the City Council in accordance with Section 10-520.

A checklist shall be produced by the Planning and Development Department to complete the application review, verifying compliance with this article. Said checklist shall include the following procedures:

- 1.) Verify the application form is completed.**
- 2.) Verify compliance with Section 10-511 and all other requirements of this article.**
- 3.) License verification of each practitioner with Office of the Secretary of State and/or Georgia Composite Medical Board**
- 4.) Board certification verification for each practitioner, as required.**
- 5.) The Chief Building Official or designee shall conduct a preliminary inspection of the premises for compliance with the provisions of this article as well as adopted building and zoning codes. A final inspection will also occur prior to the issuance of a certificate of occupancy.**
- 6.) All additional information as required by the Planning and Development or Police Departments.**

Once the review is completed, the Planning and Development Department will confirm findings with the Police Chief or designee for final verification. Upon confirmation of the information and final verification, the Planning and Development Department may then notify the applicant in accordance with Section 10-516.

Sec. 10-515. Conditions for disqualifying application.

No license under this chapter shall be granted where the following conditions are found to exist:

- 1.) Failure to complete the application form and/or submit the filing fee.**
- 2.) Failure to comply with any provision of this article.**

3.) Failure to provide the requisite state licensure and board certifications in good standing for all applicable owners and employees, as detailed in this article.

4.) Evidence that the applicant failed to answer any question on the application form accurately or failed to provide accurate information to Planning and Development staff.

5.) Failure of the applicant to comply with any other adopted codes of the City.

Sec. 10-516. Compliance notification.

(a) *Approval.* At the conclusion of the license application review, the Planning and Development Director or designee shall notify the applicant by telephone or email, once compliance is verified. Along with occupation taxes due, the applicant must also submit the pain clinics license fee and receive a certificate of occupancy prior to the issuance of the business license. The pain clinics license fee is established with resolution by City Council from time to time.

(b) *Disqualification.* Should the license application be deficient as detailed under Section 10-514, the City Manager, Police Chief, or Planning and Development Director is hereby authorized to disqualify the application, notifying the applicant in writing, U.S. Certified Mail or equivalent commercial carrier, of compliance deficiency(s). Disqualification is appealable directly to the City Council in accordance with Section 10-520.

Sec. 10-517. Annual renewals; termination; transfers.

(a) *Renewals, Termination, Suspension.* The pain clinics license expires annually on December 31st, requiring renewal. All state licensure and board certifications shall be submitted with each annual pain clinics license renewal. Failure to renew by February 15th or the failure to submit state license and board certifications in good standing shall result in the termination of the pain clinics license, requiring the establishment to begin the process anew. Concurrently, the occupation tax permit (business license) shall be suspended by the Police Chief in accordance with Section 10-519.

(b) *Transfers.* Licenses are non-transferable. Each separate location shall apply for and receive a license as prescribed by this article.

Sec. 10-518. False information in application.

Any material omission or untrue or misleading information contained in or left out of an original license application or renewal issued under this chapter, shall be unlawful

and shall be the cause for the denial thereof, and if any such license or permit has previously been granted under these circumstances, such shall constitute due cause for the suspension of such license, in accordance with Sec.10-519.

Sec. 10-519. Enforcement; suspension.

In the judgment of the police chief and egregiousness of the violations of this article, the police chief shall be authorized to suspend a pain clinics license and/or occupation tax permit previously granted herein. In the event the police chief seeks to suspend an occupation tax permit, the police chief shall give written notification to the applicant of such action and such notice shall contain a specification of the violation or violations and shall be served upon the applicant/licensee. A review hearing of the suspension shall be docketed on the agenda of the next regularly scheduled City Council meeting by the City Clerk, or within thirty (30) days from the date the suspension is issued. The applicant shall be given written notice of the time and place of the hearing, upon notification of the suspension.

(a) The police chief shall be authorized to suspend a pain clinics license and/or occupational tax permit in the event that any one or more of the following conditions exist:

- 1.) An applicant provided false or misleading information in the original application;
- 2.) An applicant has allowed the illegal possession, use, sale, or distribution of controlled substances and Schedule II, III and IV drugs on the premises; or
- 3.) An applicant has knowingly allowed the violation of an ordinance of the city or a violation of any criminal law of the State of Georgia to occur on the premises; or
- 4.) An applicant has violated any provision of this article; or
- 5.) An applicant fails to pay any fee, occupation tax, fine or other amount of money due to the City of Cartersville under this chapter or any other taxing ordinance of the City of Cartersville.

(b) In the event the police chief shall suspend any occupational tax permit or pain clinics license hereunder, the suspension shall remain in effect until the City Council removes the suspension. The applicant, however, shall not be authorized to continue business operations until the suspension is lifted by the City Council.

(c) Should the applicant continue business operations, the Police Chief is hereby authorized to physically close the establishment without notice. The

establishment shall remain closed until a decision to lift the suspension is rendered by the City Council.

Sec. 10-520. Appeals; City Council review hearing.

(a) Any party aggrieved by a staff decision under this article shall have the right of appeal directly to City Council. The aggrieved party shall file a request for appeal with the City Clerk to be docketed on the next regularly scheduled City Council meeting, or within thirty (30) days from filing the appeal.

(b) If the police chief suspends a pain clinics license or occupation tax permit, a review hearing before the City Council shall be schedule in accordance with Section 10-518.

(c) The City Council shall not be bound by the traditional rules of evidence in hearings conducted under this article. Rules of evidence as applied in an administrative hearing shall apply. The City Council may release the suspension of the pain clinics license and/or an occupation tax permit issued under this article; and/or may assess penalties as detailed under Section 10-521. Decisions of the City Council are final and binding.

Sec. 10-521. Penalties; revocation.

(a) At the conclusion of the review hearing, the City Council may continue or lift the suspension of a pain clinics license and/or occupation tax permit pending the applicant complying with the provisions of this article; or

(b) Revoke the pain clinics license and/or occupation tax permit, at which time all business operations shall cease and desist indefinitely. Should the applicant fail to comply, the business operation shall be closed by the Police Chief and the establishment shall vacate the premises.

(c) Any person violating the provisions of this article shall be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 per violation per day and/or by imprisonment for a period to exceed six months, or by both such fine and imprisonment.

Section 2. If any Section, sub-section, sentence, clause, phrase or any portion of this Ordinance be declared invalid or unconstitutional by any court or competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid. It is hereby declared to be the intent of the City Council to provide separable and divisible parts and does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 3. This Ordinance shall become effective immediately upon approval by the Mayor and City Council.

BE IT AND IT IS HEREBY ORDAINED.

First Reading this the 19th day of January 2012

ADOPTED this the 2nd day of February 2012. Second Reading.

**/s/ Matthew J. Santini
Matthew J. Santini
Mayor**

ATTEST:

**/s/ Connie Keeling
Connie Keeling
City Clerk**

D. Contracts/Agreements

1. Federal Bureau of Investigation Regarding “Safe Streets Task Force”

Tommy Culpepper, Police Chief stated that this is an updated version of the current Memorandum of Understanding with the Federal Bureau of Investigation from the city’s participation in the “Safe Street Task Force”. The MOU covers the city’s participation in the program and the Agreement is for limited cost reimbursement (overtime) for participating officers. Chief Culpepper stated the agreement also outlines the duties and responsibilities of each party in the MOU. Chief Culpepper stated that the officers assigned to this task force are also assigned to the Bartow-Cartersville Drug Task Force. Chief Culpepper stated that these agreements have been in place for several years and recommended approval.

A motion to approve the Memorandum of Understanding with the Federal Bureau of Investigation was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

2. Atlanta Gas Light Petition

Michael Hill, Assistant Gas Superintendent stated that this petition by Atlanta Gas Light is necessary to comply with the Public Service Commission’s rules concerning crossing another operator’s facilities and to serve a customer in our certificated territory. Mr. Hill recommended approval for Gary Riggs to sign this affidavit.

A motion to approve for Gary Riggs to sign the AGL Affidavit was made by Council Member Pruitt and seconded by Council Member McDaniel. Motion carried unanimously. Vote 6-0

3. Georgia Power Company Encroachment Agreement

Greg Anderson, Parks and Recreation Director stated that this is an “Encroachment Agreement” with Georgia Power Company concerning the Pettit Creek Trail. Mr. Anderson recommended approval.

A motion to approve the agreement with Georgia Power was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

4. Georgia Department of Transportation Regarding Off System Safety Project

Bobby Elliott, Public Works Director stated that this agreement is for GDOT to reimburse the City up to \$63,361.44 for thermoplastic striping and raised pavement markers for various City streets. Mr. Elliott stated that the city has completed several of these Off-System Safety Projects in the last few years and recommended approval.

A motion to approve the DOT Agreement was made by Council Member Tonsmeire and seconded by Council Member Hodge. Motion carried unanimously. Vote 6-0

5. Georgia Main Street Program Memorandum of Understanding

Liz Hood, Downtown Development Director stated that Cartersville has been a member of the Georgia Main Street Program since 1987. Last year, the program began requiring a signed Memorandum of Understanding for participation in the program with both the DDA board and the city signing it. The new contract is for an 18-month period, beginning September 1, 2011 and ending December 31, 2012. Ms. Hood stated that the Cartersville DDA recommends approval.

A motion to approve the Georgia Main Street Program Memorandum of Understanding was made by Council Member Tonsmeire and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

6. Assignment of Real Estate Lease

Sam Grove, City Manager stated that a new owner has purchased the Montessori School located on city property at 324 and 326 West Cherokee Avenue. Mr. Grove stated that this real estate and maintenance agreement will allow the new owners to assume the monthly lease on these buildings and recommended approval.

A motion to approve the lease agreement was made by Council Member Stepp and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

7. North Towne Owner-Occupied Rehab Program Administrator

Richard Osborne, City Planner stated that in 2011 City Council approved a grant application for almost \$200,000.00 in federal CDBG funds for owner-occupied home improvements in North Towne. This contract would approve Home Development Resources

(HDR) as the Rehab Program Administrator based on qualifications and their low bid of the following:

1. \$12,613.00 for administrative work
2. \$2,500.00 per unit up to seven (7) units for project delivery fee
3. \$500.00 per unit if lead abatement is necessary.

Mr. Osborne stated that these home improvements are proposed to occur on homes adjacent to Martin Luther King Jr. Drive and Mary Street and work will be ongoing in late spring and summer. Mr. Osborne recommended approval of HDR as the Rehab Program Administrator.

A motion to approve the agreement with HDR was made by Council Member Tonsmeire and seconded by Council Member Stepp. Motion carried unanimously. Vote 6-0

E. Other

1. Urban Redevelopment Plan Update

Richard Osborne, City Planner stated that as part of the Urban Redevelopment Plan (URP) adopted by the Mayor and Council in September 2010, the City Council is the designated redevelopment entity. Mr. Osborne stated that this memo serves as a quarterly status update, as required in the URP..

Mayor Santini opened the floor for a public hearing. With no comments Mayor Santini closed the public hearing.

NO ACTION REQUIRED

F. Appointments

1. Cartersville Development Authority and Development Authority of Cartersville

Sam Grove, City Manager stated that Don Temples has resigned his position on both the Cartersville Development Authority and the Development Authority of Cartersville. Mr. Grove stated that it has been recommended that Mike Fields be appointed to fill both of these unexpired terms. If approved, the term on the Cartersville Development Authority would expire on January 6, 2015 and the Development Authority of Cartersville May 11, 2015. Mr. Grove recommended approval.

A motion to approve the appointment of Mike Fields to both boards was made by Council Member Hodge and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

G. Change Order

1. Change Order #2 for Potts Construction – Harris Street Paving

Sam Grove, City Manager stated that during the construction of the new Public Safety Headquarters and the installation of storm drainage and utility infrastructure adjacent to the job site, along Harris Street, the contractor informed the city that the road base on Harris Street will not withstand the heavy use of the Fire Apparatus and in the next few years this road would have to be repaired. The city could probably put this road work off for a few years, however, the time to get the work done at the best price is now. Mr. Grove stated the change order would cover the removal of all existing asphalt paving on Harris Street and bring the road up to current paving construction requirements. Mr. Grove stated that this work will be done by Bartow Paving at a cost of \$33,534.54 making the total change order amount \$3,086.52 which includes the performance bond costs and overhead. Mr. Grove recommended approval.

A motion to approve change order #2 for the Harris Street Improvements was made by Council Member McDaniel and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

H. Bid Award/Purchases

1. Flood Remediation Services by SledgePro Company

Sam Grove, City Manager stated that on December 18, 2011 the Water Department on call personnel received a call from 24 Crestwood Road that they had found standing water in the basement. Upon investigation the service man discovered that the leak was between the meter and the water main on the City side. The escaping water was following the service line ditch to the basement wall where it backed up against the wall until it began cascading over the top of the basement wall into the house. Due to the size of the job and extent of damage SledgePro Services was retained to remove the flooring and initiate the dry out. The total cost of these services was \$7,821.60. Because the water line break being on the city side of the line Mr. Grove recommended approval of these services provided by SledgePro.

A motion to approve the services of SledgePro Company was made by Council Member Tonsmeire and seconded by Council Member Pruitt. Motion carried unanimously. Vote 6-0

2. Asphalt Crack Sealing Materials

Sam Grove, City Manager stated that the city had been approached by the Airport Authority to provide labor and materials to fill in cracks on the airport runway. The cost of the material for this work is \$6,786.72 and will be reimbursed by the Airport Authority. Mr. Grove recommended approval.

A motion to approve Asphalt Crack Sealing was made by Council Member Stepp and seconded by Council Member Hodge. Motion carried unanimously. Vote 6-0

3. Swimming Pool ADA Access Equipment

Greg Anderson, Parks and Recreation Director stated that beginning March 15, 2012 all pools must be ADA compliant for pool accessibility. The Dellinger Park pool will require two ADA compliant entrance/exit points and Aubrey Street pool will require one. Mr. Anderson stated that quotes were solicited from five companies and recommended the low bid in the amount of \$8,771.73 including shipping and handling from W.M. Smith & Associates, Inc. for one lift and two easy ladders.

A motion to approve the purchase from W. M. Smith & Associates was made by Council Member Hodge and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

4. Youth Football Helmets

Greg Anderson, Parks and Recreation Director stated that the CPRD must replace several helmets that are unable to be reconditioned. Mr. Anderson stated that staff has discovered that the Riddle and Schutt brands tend to hold up better than other brands and only solicited bids for these two brands. Mr. Anderson recommended the low bid from Riddle Football Inc for the Riddle Attack I football helmet with facemask at a price of \$70.00 each for 120 helmets for a total cost of \$8,700.00.

A motion to approve the purchase from Riddle was made by Council Member Tate and seconded by Council Member Tonsmeire. Motion carried unanimously. Vote 6-0

5. Five Vehicles

Tom Rhinehart, Finance Director stated that bids were solicited for five vehicles; one (1) SUV for the Fire Department and four (4) Half - ton Pickups for the Water and Sewer Department. Mr. Rhinehart stated that the difference between the low bid and the bid from the local dealership was less than \$400.00 and recommended the best qualified bids for approval as follows:

Fire Department SUV	City Motors	\$29,741.70
Water and Sewer Department Pickups	Wynn Pontiac	\$92,375.24

A motion to approve the best qualified bids as recommended was made by Council Member McDaniel and seconded by Council Member Pruitt. Motion carried unanimously. Vote 6-0

6. Recycling Containers

Bobby Elliott, Public Works Director stated that thus far the city has purchased two large orders of recycling containers from the low bid submitted by Otto-USA as presented to the Mayor and City Council at the November 17, 2011 meeting. Mr. Elliott recommended approval to purchase an additional 1,000 containers from this same vendor at the original low bid of \$35.00 each. Mr. Elliott stated that this represents the final order that has been allotted based on the projected participation rate and recommended approval of this purchase for a total amount of

\$35,650.00 (freight included).

A motion to approve the purchase of additional recycle containers was made by Council Member Pruitt and seconded by Council Member McDaniel. Motion carried unanimously. Vote 6-0

Mayor Santini stated that there was one item to be added to the agenda. A motion to add an item to the agenda was made by Council Member Tonsmeire and seconded by Council Member Tate. Motion carried unanimously. Vote 6-0

I. Added Item

1. Rail Spur Crossings Paving Cost Estimate

Bobby Elliott, Public Works Director stated that for the past few years staff has been trying to get CSX to repair spur crossing in Cartersville. Johnny's Grading and Hauling has done sub-contract work for CSX in the past and have been approved to pave any crossing upgrades and with their help CSX has agreed to repair two of the crossings within the next two weeks. The estimated costs for paving on these crossings is as follows:

South Erwin rail spur at Cody J's	\$17,500.00
Old Mill Road spur	\$17,500.00
Sugar Valley spur	\$ 6,500.00

Mr. Elliott stated that Industrial Park Road is perhaps the worst crossing and CSX has agreed to make this crossing repair in May and that he would bring the cost estimates before council at that time. Mr. Elliott recommended approval of the estimates for Johnny's Grading and Hauling to pave these crossings.

A motion to approve Johnny's Grading and Hauling was made by Council Member Stepp and Council Member Tate. Motion carried unanimously. Vote 6-0

A motion to adjourn the meeting was made by Council Member Stepp and needing no second. Motion carried unanimously. Vote 6-0

Meeting Adjourned

/s/ _____
Matthew J. Santini
Mayor

ATTEST:

/s/ _____

Connie Keeling
City Clerk