

**REGULAR MEETING  
ASHEBORO CITY COUNCIL  
CITY COUNCIL CHAMBER, MUNICIPAL BUILDING  
THURSDAY, NOVEMBER 6, 2014  
7:00 p.m.**

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This being the time and place for a regular meeting of the Asheboro City Council, a meeting was held with the following elected officials and staff members present:

David H. Smith ) – Mayor Presiding

Talmadge S. Baker )  
Clark R. Bell )  
Edward J. Burks )  
Linda H. Carter ) – Council Members Present  
Michael W. Hunter )  
Walker B. Moffitt )

Charles A. Swiers ) – Council Member Absent

John N. Ogburn, III, City Manager  
Timothy E. Cockman, Assistant Fire Chief (Administration)  
Holly H. Doerr, CMC, NCCMC, City Clerk/Paralegal  
Michael W. Leonard, P.E., City Engineer  
Trevor L. Nuttall, Community Development Director  
Deborah P. Reaves, Finance Director  
Michael D. Rhoney, Water Resources Director  
James O. Smith, Police Major  
Jeffrey C. Sugg, City Attorney  
Michael R. Wiseman, Wastewater Treatment Plant Manager  
Roy C. Wright, Fire Chief

**1. Call to order.**

A quorum thus being present, Mayor Smith called the meeting to order for the transaction of business, and business was transacted as follows.

**2. Silent prayer and pledge of allegiance.**

After a moment of silence was observed in order to allow for private prayer or meditation, Mayor Smith asked everyone to stand and repeat the pledge of allegiance.

**3. Recognition of municipal employees for their military service in honor of Veterans Day.**

In honor of Veterans Day, Mayor Smith acknowledged a video that was streaming immediately prior to the meeting honoring the city's employees who have served in the military. On that note, Mayor Smith recognized and thanked those employees for their service.

**4. Presentation on the Neighborhood Energy Saver Program.**

Mr. Evans Taylor of Duke Energy presented an overview of the company's Neighborhood Energy Saver Program. The program, which began in 2009, offers free energy saving home improvements to over 20,000 homes in selected communities in North Carolina and South Carolina. Duke Energy chooses communities where the program would be most beneficial by targeting low-income neighborhoods.

In essence, qualified customers receive a free walk-through assessment of their home. An energy specialist identifies opportunities for saving energy, and based upon the needs of the home, the customers may then receive a certain amount in energy-saving improvements. The improvements and installations are completely free. Additionally, with this program, customers receive education on energy efficiency techniques and are encouraged to make behavior changes that will reduce and control energy usage in the future.

Duke Energy has planned a kickoff event for Asheboro on December 9, 2014 at 6:00 p.m. at Lindley Park Elementary School. The event will include dinner and an information session about the program.

**5. Presentation of the North Carolina Housing Finance Agency Award to the City of Asheboro.**

Mr. Nuttall discussed the City of Asheboro's receipt of the North Carolina Housing Finance Agency Award for its excellence in affordable housing, specifically the development of the Asheboro Mill Lofts and Sunset Place Apartments.

**6. Presentation by Ms. Robin Whatley, Randolph County EMS Training Coordinator, concerning Chief Roy Wright and the Asheboro Fire Department's lifesaving efforts in the EMS "Team Focused CPR Initiative."**

Ms. Robin Whatley, Randolph County EMS Training Coordinator, recognized Chief Roy Wright and the members of the Asheboro Fire Department for their lifesaving efforts in the EMS "Team Focused CPR Initiative." Ms. Whatley presented Chief Wright and the Asheboro Fire Firefighters with an award from the North Carolina Office of EMS for Team Focused CPR with ten (10) CPR saves.

**7. Presentation by Mr. Michael Rhoney, P.E. and Mr. Mike Wiseman, Wastewater Treatment Plant Manager, concerning the selection of the City of Asheboro as a Top Performer by Treatment Plant Operator Magazine.**

Mr. Rhoney reported to the Council that the City of Asheboro has been selected as a Top Performer by the Treatment Plant Operator Magazine. Mr. Mike Wiseman, Wastewater Treatment Plant Manager and his operations team were featured in an article in the November 2014 issue of Treatment Plant Operator Magazine. The article highlights the innovation at the city's wastewater treatment plant.

A copy of the article is on file in the City Clerk's office.

**8. Consent agenda:**

Upon motion by Mr. Burks and seconded by Mr. Bell, Council voted unanimously to adopt the following consent agenda items. Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted in favor of the motion.

- (a) **Acknowledged the receipt of the Asheboro ABC Board's minutes of its meeting on September 2, 2014.**

[A copy of the above-referenced minutes received from the Asheboro ABC Board is on file in the City Clerk's office.]

- (b) **The minutes of the City Council's special meeting on October 6, 2014.**
- (c) **The minutes of the City Council's regular meeting on October 9, 2014.**
- (d) **Approval of the request from the Asheboro/Randolph Chamber of Commerce to temporarily close the following sections of public streets for the annual Christmas parade that officially begins at 7:00 p.m. on Friday, December 5, 2014: West Kivett Street between South Fayetteville Street and South Church Street, Church Street from West Walker Avenue to Hoover Street, Sunset Avenue from Church Street east to Fayetteville Street, and South Fayetteville Street from Salisbury Street to Kivett Street.**
- (e) **Approval of the request from the Asheboro/Randolph Chamber of Commerce Downtown Development Committee to temporarily close the following sections of public streets for the annual "Christmas on Sunset" street festival that runs from 6:00 p.m. to 9:00 p.m. on Friday, December 12, 2014: Sunset Avenue from Park Street to Fayetteville Street, and Church Street from West Academy Street to Hoover Street.**
- (f) **Approval of a resolution prepared in order to authorize a Memorandum of Understanding between the Asheboro Police Department and the Randolph County Sheriff's Office that will clarify operational responsibilities when the two agencies are acting on the basis of the involuntary commitment process established in Chapter 122C of the North Carolina General Statutes.**

**RESOLUTION NUMBER 38 RES 11-14**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**APPROVAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE ASHEBORO POLICE DEPARTMENT AND THE RANDOLPH COUNTY SHERIFF'S OFFICE**

**WHEREAS**, Section 122C-251(a) of the North Carolina General Statutes authorizes cities and counties to contract with each other to provide transportation in connection with the involuntary commitment process found in Chapter 122C of the North Carolina General Statutes; and

**WHEREAS**, Section 122C-251(g) of the North Carolina General Statutes authorizes the governing body of a city or county to adopt a plan for the transportation of individuals who are subject to involuntary commitment proceedings; and

**WHEREAS**, the city's Chief of Police and the Randolph County Sheriff have jointly developed procedures that will generate operational efficiencies for their respective agencies and have thereby enhanced the ability of their officers to meet a wide spectrum of demands for services, including the prevention of crime and performing duties pertaining to noncriminal law issues such as support for the involuntary commitment process established in Chapter 122C of the North Carolina General Statutes; and

**WHEREAS**, the agreed upon procedures are primarily designed to reduce to writing and to clarify the interactive functions that have evolved over time for the city's police officers and the sheriff's deputies when the two agencies are called upon to work together to provide transportation for an individual subject to an involuntary commitment order that directs a law enforcement officer to transport the individual to a 24-hour facility located outside of the county; and

**WHEREAS**, the said procedures for interagency cooperation are described in detail in the accompanying Memorandum of Understanding (hereinafter referred to as the "MOU") that is attached to this Resolution as EXHIBIT 1 and is hereby incorporated into this instrument by reference as if copied fully herein; and

**WHEREAS**, the Chief of Police, with the concurrence of the City Manager, has submitted the proposed MOU to the city council for approval; and

**WHEREAS**, the Chief of Police and the City Manager have recommended approval of the proposed MOU because this instrument provides value to the city in the form of definitive and workable operational guidelines that will enable the city, along with the county, to enhance the services provided to the citizens served by the two agencies; and

**WHEREAS**, the Asheboro City Council concurs with this recommendation from the Chief of Police and the City Manager;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, North Carolina that the MOU attached to this Resolution as EXHIBIT 1 is hereby approved, and this approval is a continuing approval that shall not lapse unless and until another Resolution providing otherwise is adopted by the Asheboro City Council; and

**BE IT FURTHER RESOLVED** that the Chief of Police is authorized and directed to execute, without unnecessary delay, the said MOU on behalf of the City of Asheboro.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 6<sup>th</sup> day of November, 2014.

/s/David H. Smith  
David H. Smith, Mayor  
City of Asheboro, North Carolina

ATTEST:

/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk  
City of Asheboro, North Carolina

## EXHIBIT 1

### MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (hereinafter referred to as the "MOU") is an agreement between the **CITY OF ASHEBORO**, a North Carolina municipal corporation acting for the limited purpose of this MOU by and through the Asheboro Police Department (hereinafter referred to as "APD"), and the **RANDOLPH COUNTY SHERIFF'S OFFICE** (hereinafter referred to as "RCSO"). The intent of the parties to this MOU is to clarify the functions performed by APD officers in conjunction with RCSO deputies so as to achieve operational efficiencies that enhance the service provided by both agencies in support of the involuntary commitment process established in Chapter 122C of the North Carolina General Statutes.

#### I. PURPOSE

The purpose of this MOU is to resolve in a definitive and mutually agreed upon manner certain problematic issues that arise when APD officers receive involuntary commitment orders instructing the officers to transport a respondent directly to a facility that qualifies as a 24-hour facility under G.S. 122C-252. There is no such facility within Randolph County. Thus, when an APD officer receives for service an order to transport a respondent directly to a 24-hour facility, the officer has been asked to serve an order to transport a respondent to another county. This MOU's purpose is to clarify the APD officer's authority and responsibilities in this situation.

The purpose of this MOU is not to change in any manner the long-standing practice of APD officers and RCSO deputies in situations where a petitioner personally appears before a magistrate who issues a custody order directing a law enforcement officer to take a respondent into custody and transport the respondent to his or her first examination (the form currently utilized for this type of case is Form AOC-SP-302A, New 11/12). Similarly, no ambiguities have arisen with regard to the service of transport orders issued in conjunction with outpatient treatment for respondents, and this MOU does not address these types of transport orders.

Notwithstanding any term or condition of this MOU, nothing herein shall be construed or otherwise interpreted to limit the jurisdiction, powers, or rights possessed by APD officers and RCSO deputies, specifically including by way of illustration and not limitation the ability of the agencies to provide mutual aid to each other in accordance with the applicable laws and the directives of the chief executives for the respective agencies.

#### II. STATUTORY AUTHORITY FOR THIS MOU

- A. Transportation within a County [G.S. 122C-251(a)]:** In general, the transportation of a respondent within a county as part of the involuntary commitment proceedings, including admission and discharge, is provided by the county or the cities located within the county. A city is responsible for transporting a respondent who is either a resident of that city or has been taken into custody within that city's corporate limits. The county is responsible for transporting respondents who either reside within the county, but outside the city limits of a municipality, or have been taken into custody within the county and outside of the city limits of a municipality.
- B. Transportation between Counties for Admission to a 24-Hour Facility [G.S. 122C-251(b)]:** When a custody order directs a law enforcement officer to transport a respondent to a 24-hour facility located in another county, such transportation shall be provided by the county where the respondent has been taken into custody.
- C. Cost and Expense of Transporting a Respondent to and from a 24-Hour Facility [G.S. 122C-251(h)]:** The cost and expense of transporting a respondent to and from a 24-hour facility is the responsibility of the respondent's county of residence. A city or a county, as well as the State when providing transportation under G.S. 122C-408(b), may recover from the respondent's county of residence the reasonable cost of transporting a respondent to and from a 24-hour facility.
- D. Authorization for Agreement as to Transportation Responsibilities [G.S. 122C-251(a) and (g)]:** G.S. 122C-251(a) authorizes cities and counties to contract with each other to provide transportation. Additionally, G.S. 122C-251(g) explicitly authorizes the governing body of a city or county to adopt a plan for the transportation of respondents who are subject to involuntary commitment proceedings.
- E. Law Enforcement Officer's Duty upon Receipt of Custody Order:**
  1. **G.S. 122C-261(e):** When a petitioner appears before a magistrate and a custody order (Form AOC-SP-302A, New 11/12) is issued, the law enforcement officer to whom the order is directed shall take the respondent into custody within twenty-four (24) hours after the order is signed and proceed according to G.S. 122C-263.
  2. **G.S. 122C-263(a):** After assuming custody of the respondent and without unnecessary delay,

the law enforcement officer is to transport the respondent to the area facility for the initial examination by a physician or eligible psychologist. In the event that a physician or eligible psychologist is not available in the area facility, the officer is to transport the respondent to a locally available physician or eligible psychologist. When a physician or eligible psychologist is not immediately available to conduct the initial examination, the respondent may be detained under appropriate supervision in an area facility or, among other places, a general hospital such as Randolph Hospital. A jail or other penal facility is the only type of facility that is explicitly prohibited as a location for such a temporary detention.

3. **G.S. 122C-263(d)(2):** After a physician or eligible psychologist completes the initial examination referenced in the immediately preceding paragraph, and the clinician recommends inpatient commitment, a law enforcement officer is to transport the respondent to a 24-hour facility pending a district court hearing. When a 24-hour facility is not immediately available or transport to a designated 24-hour facility is not medically appropriate, the respondent may be temporarily detained under appropriate supervision at a local facility such as the transitional unit at Randolph Hospital until the respondent is transported to a 24-hour facility or released in accordance with the provisions of G.S. 122C-263(d)(2).
  4. **G.S. 122C-263(b):** In contrast to the above-stated scenario, when the affiant seeking an order from the magistrate is the physician or eligible psychologist recommending inpatient commitment for the respondent, the affiant is not required to make a personal appearance before the magistrate, and, due to the fact that the clinician has already examined the respondent, the initial examination referenced in paragraph (2) above is not required. Consistent with the text of the statutory provision cited at the beginning of this paragraph, the order in such a case (Form AOC-SP-302B, New 11/12) instructs the officer to take the respondent into custody and transport the respondent directly to a 24-hour facility.
  5. **G.S. 122C-261(d):** The North Carolina General Statutes do not explicitly reconcile the directive found in G.S. 122C-263(b) and mirrored in AOC-SP-302B to transport the respondent directly to a 24-hour facility with the fact that such direct transport of the respondent may not be possible due to the unavailability of a 24-hour facility or the medical condition of the respondent. However, by referencing the authority to temporarily detain and release such a respondent in accordance with G.S. 122C-263(d)(2), G.S. 122C-261(d) does provide support for the proposition that a respondent in custody pursuant to an AOC-SP-302B Order may be temporarily detained under appropriate supervision at a local facility such as the transitional unit at Randolph Hospital until the respondent can be transported to a 24-hour facility or is released in accordance with the provisions of G.S. 122C-263(d)(2).
- F. Limited Transport Options with Special Emergency Procedure [G.S. 122C-262]:** In contrast to the statutory support discussed in the immediately preceding paragraph for the temporary detention of respondents when a 24-hour facility is unavailable or when the completion of transport to such a facility is not medically appropriate, there is no support within the statutorily prescribed involuntary commitment process for interrupting the transport of a respondent to a 24-hour facility when the respondent has been taken into custody under the special emergency procedures prescribed in G.S. 122C-262 for individuals in need of immediate hospitalization. When this special emergency procedure is utilized, a physician or eligible psychologist completes a form known as the Supplement to Examination and Recommendation for Involuntary Commitment / Certificate to Support Immediate Hospitalization (Form DMH 5-72-01-A, Revised September 2001) that serves as the order authorizing continued custody of the respondent for direct transport to a 24-hour facility.

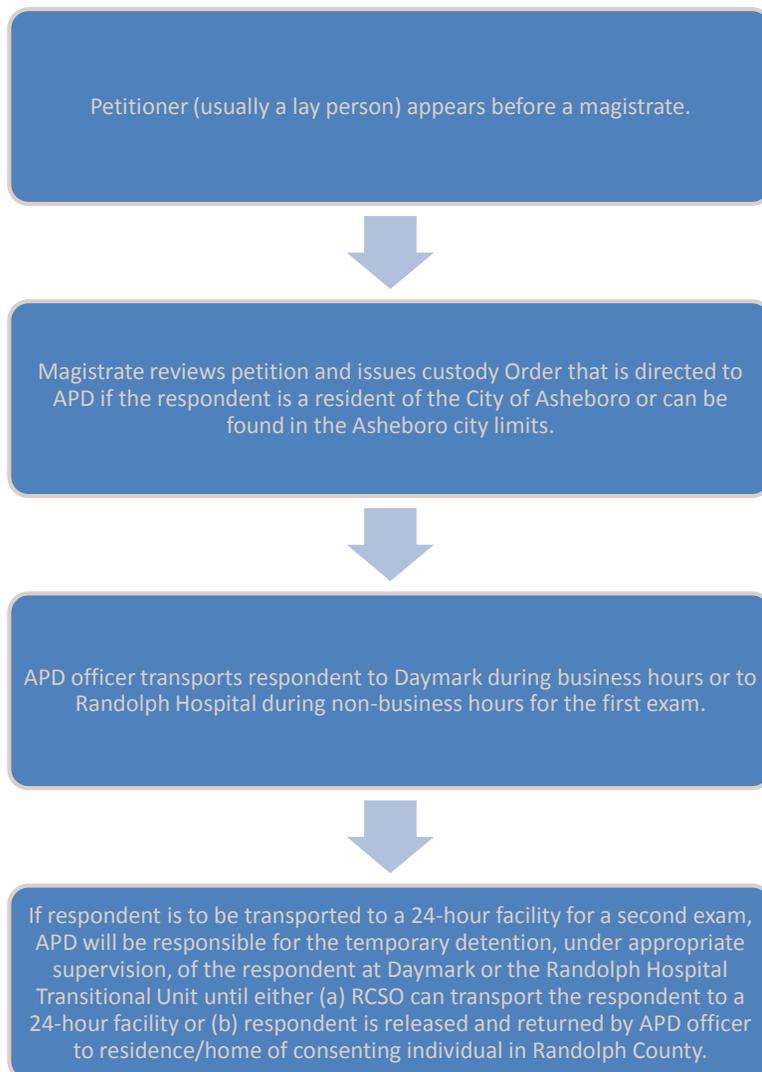
### III. DESIGNATION OF TRANSPORT RESPONSIBILITIES UNDER THIS MOU

#### A. Petitioner Appears before Magistrate or Clerk [Form AOC-SP-302A]

This MOU does not alter in any manner the long-standing procedure that has been followed by the APD and the RCSO when serving custody orders issued in response to a petitioner (usually a layperson) appearing before a magistrate or clerk. The flow chart for service by the APD of Form AOC-SP-302A is as follows:

[The remainder of this page intentionally left blank. See chart on next page.]

**APD Service of Form AOC-SP-302A**



**B. Petitioner Is a Clinician Who Has Examined the Respondent  
[Form AOC-SP-302B]**

Due to the fact that a first examination has already been completed when a clinician seeks an order from a magistrate for the transportation of a respondent to his or her second examination, the instruction in AOC-SP-302B for the law enforcement officer to transport the respondent directly to a 24-hour facility is logical and straight forward. The practical difficulties addressed by this MOU arise when, at the time the order is received by the law enforcement officer, a 24-hour facility is not available or the direct transport of the respondent to a 24-hour facility is not medically appropriate.

The issue(s) to be clarified by this MOU are most clearly understood by boiling the two (2) types of orders down to their essence. When a magistrate directs an order to a law enforcement officer with Form AOC-SP-302A, the officer is to take the respondent into custody for examination by a physician or eligible psychologist that is located in Randolph County. In contrast, when a magistrate directs an order to a law enforcement officer with Form AOC-SP-302B, the officer is to transport the respondent to a 24-hour facility. There is no such facility in Randolph County.

The absence of a 24-hour facility in Randolph County raises concerns about the appropriateness of an

APD officer receiving and then serving a Form AOC-SP-302B Order that instructs the officer to take an action, transporting a respondent to a facility in another county, that, in the absence of an agreement approved by the Asheboro City Council, is not contemplated for a municipal officer under the statutorily prescribed involuntary commitment process. This MOU is designed to address the above-stated issue and to authorize APD officers, under narrowly drawn circumstances, to receive and serve, in part, certain Form AOC-SP-302B Orders.

As noted above, the service of Form AOC-SP-302B requires the law enforcement officer serving the order to take custody of the respondent and transport the respondent to a 24-hour facility. Pursuant to G.S. 122C-251(b), transportation between counties for admission to a 24-hour facility is to be provided by the county where the respondent is taken into custody. However, there is authority within G.S. 122C-251 to allow the city and county to agree on a plan for transportation of respondents. Such a plan could, and under this MOU does, allocate to APD officers some of the responsibility for serving AOC-SP-302B Orders.

The City of Asheboro recognizes the tremendous logistical burden placed on the RCSO to transport all of the respondents taken into custody in Randolph County to 24-hour facilities located across the state. The willingness of the RCSO to partner with the city to facilitate APD officers seamlessly assuming responsibility for respondents who are residents of Asheboro or who, at the onset of an involuntary commitment process that began in advance of a clinician transmitting a petition to a magistrate for an AOC-SP-302B Order, were taken into custody by law enforcement officers within the Asheboro city limits is deemed by the Asheboro City Council to be sufficient consideration to support the city undertaking the following support functions designed to improve the level of service offered to individuals who reside, work, or are visiting within the City of Asheboro.

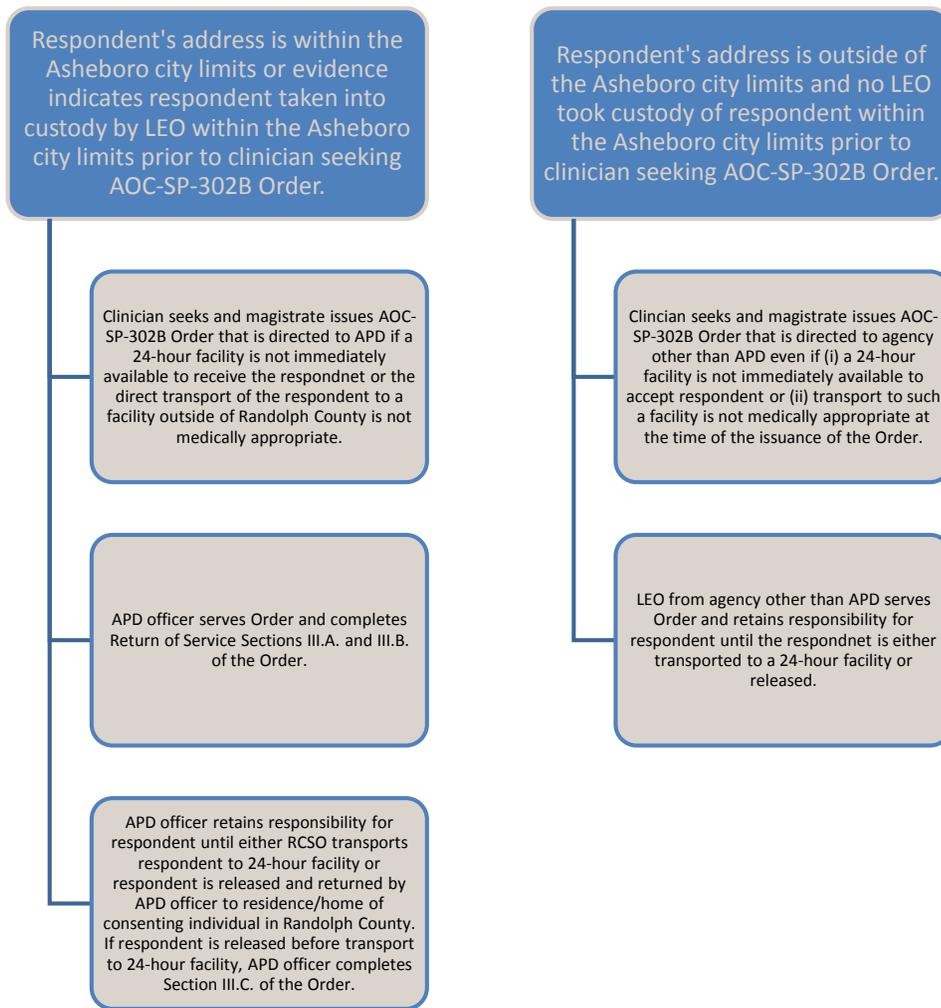
The flow chart for the provision by the APD of these support functions is as follows:

**APD Service of Form AOC-SP-302B**

**Order Directed to APD in the  
Following Situations:**

**Order Not Directed to APD in the  
Following Situation:**

**[The remainder of this page intentionally left blank. See chart on next page.]**



**C. Special Emergency Procedure for Individuals Needing Immediate Hospitalization [Form DMH 5-72-01-A]**

Unlike the procedures under consideration with the preceding subsections (A) and (B), the special emergency procedure authorized by G.S. 122C-262 does not involve submitting a petition to a magistrate and obtaining a magistrate's order. When an individual is brought to a physician or eligible psychologist because of the perceived need for immediate hospitalization, the clinician completes the required examination form and an emergency certificate that are forwarded to the clerk of superior court for review by the district court.

While a district court hearing is pending, the emergency certificate, as a supplement to the standard form for the examination and recommendation for involuntary commitment, serves as a custody order that directs a law enforcement officer to transport the respondent to a 24-hour facility. This emergency certificate is not a form generated by the Administrative Office of the Courts. Instead, the form, which is identified as Form DMH 5-72-01-A, is produced by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This division is a component of the North Carolina Department of Health and Human Services.

In stark contrast to the AOC-SP-302A and AOC-SP-302B forms, the DMH 5-72-01-A form does not contain a return of service section that accommodates the temporary detention of a respondent at a facility other than a 24-hour facility, even if a 24-hour facility is not immediately available or the transport of the respondent to such a facility is not medically appropriate. The absence of a return of service

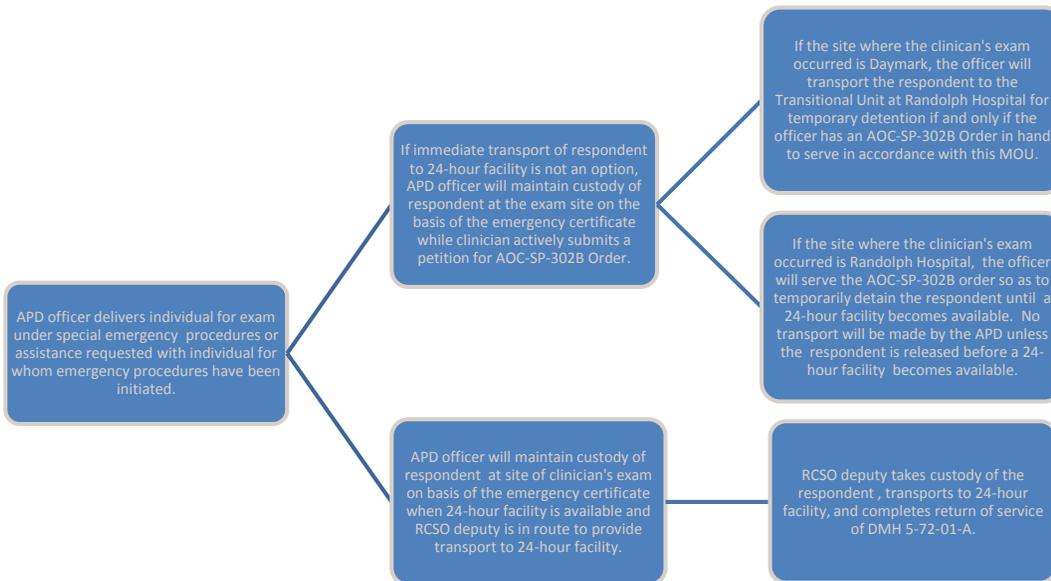
section to address this type of temporary detention is consistent with the absence of a statutory provision contemplating any action other than the uninterrupted transport of the respondent to a 24-hour facility for immediate hospitalization.

Due to the absence of a 24-hour facility within Randolph County, the APD does not perform the transport duties contemplated by the emergency certificate. The statutorily authorized emergency procedure provides authority for an APD officer to transport a respondent found within the Asheboro city limits to a clinician for an examination and, with the completion of the examination and the emergency certificate, to assist the staffs at Daymark and Randolph Hospital with the temporary detention of a respondent at the site of the clinician's exam until a RCSO deputy arrives to transport the respondent to a 24-hour facility. The RCSO deputy would complete the return of service for the DMH 5-72-01-A once the transport has been completed.

If a 24-hour facility is not immediately available, or transport to such a facility is not medically appropriate for a respondent who has been examined under the emergency procedure and found to be in need of immediate hospitalization, the emergency procedure should be terminated and a clinician's petition should be submitted to a magistrate for the purpose of seeking the issuance of an order in the form of AOC-SP-302B. An AOC-SP-302B Order issued as a consequence of the termination of a special emergency procedure with an Asheboro resident as the respondent or that originated in the Asheboro city limits shall be directed to the APD for service.

The following flow chart summarizes the role of APD officers when they initiate or are summoned to a clinician's facility to assist with a respondent subject to the special emergency procedures for individuals needing immediate hospitalization:

**APD Officers and Special Emergency Procedures**



**Notes:**

1. APD officers do not transport respondents pursuant to Form DMH 5-72-01-A, and they do not complete, under any circumstances, the return of service for a Form DMH 5-72-01-A.
2. Regardless of whether an APD officer is involved in initiating the special emergency procedures or otherwise assisting with a respondent during the clinician's examination of the individual pursuant to the special emergency procedures, the APD will assume responsibility for receiving and serving an AOC-SP-302B Order that is obtained for any respondent with an address located within the Asheboro city limits.

**IV. MODIFICATION OF THIS MOU**

Any modifications to this MOU must be proposed in writing and approved by the signatories. In order to be valid, the approval on behalf of the City of Asheboro must include the concurrence of the Asheboro City Council with the actions of the Chief of Police. However, the modification or amendment of any statute, regulation, AOC form, or any other legal authority cited herein shall be deemed to be automatically incorporated into this Agreement by reference so as to update this MOU to include any such modification or amendment.

**V. DURATION AND TERMINATION OF THIS MOU**

This MOU will be in effect from the date of signing by both parties until terminated by any party hereto. Any party to this MOU, upon thirty (30) days prior written notice to the other party, may terminate the Agreement at any time. Such notice shall be delivered personally or by certified or registered mail.

**VI. NO THIRD PARTY RIGHTS AND AUTHORITY TO SIGN MOU**

This MOU does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOU, each party represents it is fully authorized to enter into this Agreement and accepts the terms, responsibilities, and limitations of the Agreement. With specific regard to the entry of the Asheboro Police Department into this MOU, the execution of the Agreement by the Chief of Police was authorized pursuant to the adoption of a resolution (Resolution No. \_\_\_\_\_) by the City Council of the City of Asheboro, North Carolina in open session during a regular meeting held on the \_\_\_\_ day of \_\_\_\_\_, 2014.

_____	_____
Ralph W. Norton, Chief of Police City of Asheboro, North Carolina	Maynard B. Reid, Sheriff Randolph County, North Carolina
Date: _____	Date: _____

**9. Community Development Division items:**

(a) **Zoning Case RZ-14-08: The Applicant, Richard H. Lyda, is requesting a continuance of this case, which was initially heard by the Council on October 9, 2014 to the Council's meeting on January 8, 2015.**

Mayor Smith reconvened the public hearing on the following request.

Mr. Nuttall reported that the Applicant, Mr. Richard H. Lyda, has requested a continuance of the above-referenced zoning case which was initially heard by the Council on October 9, 2014. The continuance has been requested because an appeal has been properly filed with the Board of Adjustment concerning the final zoning decision that impacts the analysis of the land use currently occurring on the property that is subject of this request. A continuance of the case will allow the land use issue(s) in front of the Board Adjustment to be resolved before the City Council resumes its consideration of the matter.

Upon motion by Mr. Bell, and seconded by Mr. Baker, Council voted unanimously to continue Zoning Case RZ-14-08 to the Council's regular January meeting on January 8, 2015. Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted in favor of the motion.

(b) **Zoning Case RZ-14-10: A legislative zoning hearing on the application filed by Steven David Wright to rezone property located at 509 E. Salisbury Street from CU-OA6 (Conditional Use Office-Apartment) and R7.5 (Medium-Density Residential) to M (Mercantile).**

Mayor Smith opened the public hearing on the following request.

The requested rezoning pertains to approximately 24,000 square feet of land. The property of Stephen David and Rebecka Wright is located at 509 East Salisbury Street and is more specifically identified as Lots 5 and 6 on a plat recorded in Plat 3, Page 21 in the Randolph County

Register of Deeds. The land for which rezoning has been requested is a portion of Randolph County Parcel Identification Number 7761132130.

Mr. Nuttall presented the Community Development Division Staff's analysis of the request submitted by Mr. Stephen David Wright to rezone the above-described property from CU-OA6 (Conditional Use Office-Apartment) and R7.5 to (Medium-Density Residential) to M (Mercantile).

The staff report noted the following:

1. East Salisbury Street is a major thoroughfare, and all city services are available.
2. The property is currently zoned CU-OA6 with a conditional use permit allowing a "professional office and/or residential use." The property is currently being used for a professional contractor's office. The applicant also owns the adjoining undeveloped property to the east, which is zoned CU-OA6 and will require a Conditional Use Permit prior to development activity. No changes are proposed to the zoning of this portion of the applicant's property.
3. The request is to rezone the affected property to Mercantile (M). The zoning ordinance Statement of Intent defines the Mercantile (M) district as follows: *The Mercantile (M) District is intended to provide for a greater number of potential business activities than the B1 Zoning District. The Mercantile District is distinguished from the B2 General Commercial District by excluding certain uses permitted in the B2 District that are likely to create the greatest external impact (traffic, noise, lighting, etc.) and by its additional standards that address compatibility with adjoining residential neighborhoods. These districts should be located in nodes along major or minor thoroughfares.*
4. Examples of standards in the Mercantile District include limits on building sizes (i.e. 6,000 square feet total, 1,500 for eating establishments) and prohibition of drive through service and open storage.
5. The area includes a mix of uses, with single and multi-family uses immediately surrounding the property but commercial uses scattered along East Salisbury Street in the vicinity of the property.

Multiple Land Development Plan Goals/Policies were cited in support of the requested rezoning. None were listed in opposition to the request.

The Planning Board concurred with the following Community Development Division staff's analysis and recommended approval of the requested rezoning:

"The Mercantile District designation was designed to be applied to properties where commercial development is suitable but the potential uses and larger scale of development allowed by the B2 is less appropriate for the area. The Central Small Area Plan discusses the accommodation of some future development along corridors such as East Salisbury Street but seeks to keep commercial development strategically located and at a smaller scale. Similar to the Land Development Plan's intent to accommodate limited local-scale office uses, the Mercantile request is consistent with the property's commercial designation but requires development at an appropriate scale with the heaviest commercial uses excluded."

Mr. Steven Wright presented comments in support of the requested rezoning. No one spoke in opposition to the requested rezoning. There being no further comments, Mayor Smith transitioned to the deliberative phase of the hearing.

Upon motion by Mr. Bell and seconded by Ms. Carter, Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted unanimously to adopt the recommendation/analysis of the Community Development Division staff and the Planning Board and approved the requested rezoning as well as adopting the following consistency statement that was initially proposed in the staff report:

quoted After considering the above factors (the excerpt from the staff report that is above), the M designation is in the public interest by allowing a reasonable use of the property and ensuring consistency with the Land Development Plan.

[A copy of the visual presentation utilized by Mr. Nuttall during the hearing is on file in the City Clerk's office.]

(c) **Zoning Case RZ-14-11: A legislative zoning hearing on the application filed by H.R. Gallimore to rezone property located at 379 Patton Avenue from R10 (Medium-Density Residential) to OA6 (Office-Apartment).**

Subsequent to the initial issuance of the agenda, the applicant requested a continuance of the hearing of this matter to the next meeting on December 4, 2014.

Upon motion by Mr. Baker and seconded by Mr. Burks, Council voted unanimously to continue the above-referenced requested to the Council's regular December meeting on December 4, 2014. Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted in favor of the motion.

- (d) **Zoning Case RZ-14-12: A legislative zoning hearing on the application filed by the City of Asheboro Community Development Division for general text amendments to the Zoning Ordinance. The text amendments concern watershed protection and accessory apartments as well as correctional and professional residential facilities.**

Mayor Smith opened the public hearing on the following request.

Mr. Nuttall utilized a visual presentation in order to present an overview of the Community Development Division staff's proposed general text amendments to the zoning ordinance concerning watershed protection requirements, accessory apartments, correctional facilities, and professional residential facilities/structured environments (i.e. halfway houses). The articles impacted by this request are Article 300, Article 300A, Article 300B, Article 400, Article 600, Article 1100, and Table 200-2. The general analysis of the city staff for this package of amendments is as follows:

1. **Watershed Protection Ordinance:** The proposed amendments will improve and streamline the review process when hazardous materials are stored in the non-critical watershed areas. The proposed amendments are not in conflict with the state's (N.C. Department of Environment and Natural Resources) model watershed ordinance.
2. **Accessory Apartments:** The proposed update of the zoning ordinance text concerning accessory dwelling apartments is designed to ensure consistency with state law.
3. **Correctional Facilities/Structured Environments (Halfway Houses), Professional Residential Facilities:** The proposed amendments are designed to ensure these facilities are allowed in districts that are best suited for their external impacts and update Ordinance language to reflect the present location of these facilities in the City. The proposed amendments will also change the way these facilities are identified and regulated.

The Planning Board concurred with the following Community Development Division staff's analysis of the package of amendments:

"The Land Development Plan emphasizes periodic review of provisions within the zoning ordinance to ensure that they are up-to-date with current legislation and land use trends, which is the intent of the proposed amendments. Staff recommends approving the proposed text amendments to improve clarity, reflect current state legislation, streamline review processes, and better mirror model language provided by the State of North Carolina. The proposed amendments are also intended to ensure that certain land uses requiring special care due to their potential negative external impacts are managed effectively through appropriate siting and developmental standards."

Based on its approval of the above-stated analysis, the Planning Board recommended approval of the package of proposed text amendments.

During the course of the City Council's public hearing, there were no comments, either positive or negative, offered by the public. Consequently, and in order to give focused attention to each of the three distinct subgroups within the package of amendments, the Council discussed, deliberated, and voted on each of the following three groupings of amendments in the following order:

**1. Watershed Protection Text Amendment Proposals:**

310B.3 Back Creek Lake Watershed -- Balance of Watershed UT to Cedar Creek -- Balance of Watershed WS-II-BW

A. Intent.

In order to maintain a predominantly undeveloped land use intensity pattern, single family residential uses shall be allowed at a maximum of one dwelling unit per acre. All other residential and nonresidential development shall be allowed a maximum of 12% built-upon area. In addition, non residential uses may occupy ten percent (10%) of the balance of the watershed which is outside the critical area, with a seventy percent (70%) built upon area when approved as a special non residential intensity allocation (SNIA).

The City Council is authorized to consider a Special Use Permit for SNIAs consistent with the provisions of Article 600 and Section 647-

1. Allowed Uses:

- a. All uses allowed in the underlying zoning districts where the watershed is located, subject to the modifications noted below unless specifically excluded in (2) Prohibited Uses.
- b. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- c. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- d. Non-discharging landfills and sludge application sites are allowed.

2. Prohibited Uses:

- a. discharging landfills,
- b. new underground fuel or chemical storage tanks,
- c. storage of hazardous materials except by Special Use Permit as set forth in Article 600 as provided in 3, Hazardous Material Storage Requirements

3. Hazardous Material Storage Requirements:

a. The applicant shall submit a spill prevention, containment, and control plan (SPCC) prepared by a professional competent in SPCC development.

b. The SPCC shall demonstrate that the proposed hazardous materials which are to be stored cannot pose a threat of contamination to the watershed.

c. All spill containment structures shall be designed by a North Carolina registered professional engineer or architect.

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d. The applicant shall enter into a binding Operation and Maintenance Agreement between the City of Asheboro and all interests in the development. Said agreement shall require the owning entity to maintain, repair, and if necessary, reconstruct any spill containment structure in accordance with the operation and management plan or manual provided. The Operation and Maintenance Agreement shall be filed with the Randolph County Register of Deeds by the Watershed Review Board.

e. The spill containment structure shall be inspected by the Watershed Administrator, or his designated representative, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide a certification sealed by an engineer or architect stating that any spill containment structure is complete and consistent with the approved plans and specifications.

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f. A Watershed Protection Occupancy permit shall not be issued for any building within the permitted development until the SPCC is approved and any spill containment structure's construction has been properly certified approved.

g. The property owner shall have all spill containment structures inspected at least on an annual basis to determine whether the controls are performing as designed and intended.

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h. In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All corrective action or improvements shall be made consistent with the plans and specifications and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed corrective action or improvements.

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B. Density and Built-upon Limits:

- 1. Single family Residential -- development shall not exceed one dwelling unit per acre on a project by project basis. No residential lot shall be less than one acre, except within an approved cluster development.
- 2. All other residential and nonresidential development shall not exceed twelve (12%) percent built-upon area on a project by project basis except that up to ten percent (10%) of the balance of the watershed may be developed for nonresidential uses to seventy percent (70%) built upon area on a project by project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

642 Storage of Hazardous Material within Balance of Watershed (Reserved for future amendments)

~~No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from the absence or improper implementation of a spill containment plan for hazardous materials or any other situation found to pose a threat to water quality.~~

~~642.1 Application of this SUP shall demonstrate that the proposed hazardous materials which are to be stored cannot pose a threat of contamination to the watersupply~~

~~642.2 All spill containment structures and plans shall be designed by a North Carolina registered professional engineer or architect.~~

~~642.3 All spill containment structures shall be conditioned on the posting of adequate financial assurance for the purpose of maintenance, repairs or reconstruction necessary for adequate performance. Financial assurance shall be in the form of a Security Performance Bond. The bond shall be in an amount equal to 1.25 times the total cost of the spill containment structure. (The total cost shall include the value of all materials, design and engineering, and grading, excavation, fill, etc. The costs shall not be prorated as part of a larger project, but rather under the assumption of an independent mobilization.)~~

~~642.4 The applicant shall enter into a binding Operation and Maintenance Agreement between the Watershed Review Board and all interests in the development. Said agreement shall require the owning entity to maintain, repair, and if necessary, reconstruct the spill containment structure in accordance with the operation and management plan or manual provided by the developer. The Operation and Maintenance Agreement shall be filed with the Randolph County Register of Deeds by the Watershed Review Board.~~

~~642.5 The spill containment structure shall be inspected by the Watershed Administrator, or his designated representative, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:~~

~~1. A certification sealed by an engineer or architect stating that the spill containment structure is complete and consistent with the approved plans and specifications.~~

~~2. The Watershed Administrator shall approve the materials submitted by the developer and the inspection report.~~

~~a. A Watershed Protection Occupancy permit shall not be issued for any building within the permitted development until the spill containment structure and/or plan is approved.~~

~~b. All spill containment structures shall be inspected **at least on an annual basis** to determine whether the controls are performing as designed and intended.~~

~~In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications and the operation and maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed improvements.~~

After deliberating on the watershed related proposals, and upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to accept the recommendation/analysis of the Community Development staff and the Planning Board and approved the amendments to the Asheboro Zoning Ordinance as proposed. Additionally, the following consistency statement that was initially proposed in the staff report was adopted by the City Council as part of the motion to approve the proposed watershed amendments:

As described in the general analysis, Council believes that the proposed text amendments are consistent with the adopted comprehensive plan, reasonable, and in the public interest in protecting public health, safety, and general welfare.

**2. Accessory Apartments Text Amendments:**

ARTICLE 1100

Accessory Apartments

A ~~second~~ dwelling unit, either in or added to an existing ~~single family detached principal~~ dwelling or in a separate accessory structure on ~~a lot containing a the same lot as the main principal~~ dwelling, for use as a complete, independent living facility with provision within the accessory apartment for cooking, eating, sanitation, and sleeping ~~for use by an a extended family member on a nonecommercial basis. Such use shall not include manufactured homes as the accessory structure.~~

ARTICLE 300

303 Accessory detached Structures

Accessory structures shall be permitted in all districts subject to the Floor Area Ratio restrictions in those Districts

where FAR applies. In no instance shall the FAR of all permitted structures exceed the maximum permitted for that lot. Accessory structures lawfully in existence prior to the application of these requirements which otherwise conformed to this Article shall be considered conforming uses.

303.1 Accessory detached structures including, but not limited to storage shed, storage tank, greenhouse, horse stall, gazebo or garage shall be permitted in residential districts provided that all of the following are met:

- (a) There shall be a dwelling located on the lot.
- (b) In the R-40, R-15 and R-10 districts, accessory structures shall be located no closer than 10 feet to any rear or side lot line.
- (c) In the R-7.5, RA-6, OA-6, O&I, M and TH districts, accessory structures shall be located no closer than 5 feet to any rear lot line or no closer than 5 feet to side lot line.

~~(d) If the accessory structure is to be used for an accessory apartment, the same setback requirements in (c) above shall be met. However, there can be no dwelling unit closer than 10 feet to the accessory apartment as per the N. C. Building Code.~~

(ed) Recreational equipment including but not limited to basketball hoops, slides, swings, jungle gyms, and volleyball nets may encroach into front yard setbacks for a distance of up to ten feet in residential districts. Recreational vehicles shall comply with setbacks as established in Section 303A.

### 303.2 Accessory Apartments

~~(a) No more than one (1) accessory apartment is permitted on the same lot with a principal dwelling, except that one (1) Temporary Family Health Care Structure as defined by G.S. 160A-383.5 shall be permitted notwithstanding the presence of an accessory apartment.~~

~~(b) The accessory structure setback requirements listed in 303.1 shall be met.~~

~~(c) Accessory apartments shall be constructed and located in accordance with the standards set forth in the North Carolina State Building Code. A manufactured/mobile home is not a permitted accessory apartment.~~

~~(d) Except for accessory apartments that qualify as a Temporary Family Health Care Structure as defined by G.S. 160A-383.5, accessory apartments shall be permitted as an accessory to single-family dwelling only.~~

~~(e) Accessory apartments shall be occupied by individuals that, in combination with the owner(s) or occupant(s), of the principal dwelling, use the zoning lot in a manner functionally equivalent to the land use activities of a group of people substantively structured as an integrated extended family unit with a relatively stable and permanent group composition that is comparable to a single-family occupancy rather than fellow residents in a boarding house.~~

~~303.2~~ 303.3 Accessory detached structures in commercial and industrial districts shall be permitted provided that all of the following is met:

(a) In commercial districts, accessory structures, with the exception of accessory recreational equipment, must meet all setback requirements. Recreational equipment including but not limited to basketball hoops, slides, swings, jungle gyms, and volleyball nets may encroach into front yard setbacks for a distance of up to ten feet in commercial districts. Equipment, structures, and/or rides associated with Circuses, Carnivals, Fairs, and Limited Duration Events shall not be considered accessory recreational equipment. No accessory structure may be located within any required buffer yard.

(b) In industrial districts, accessory structures must meet all setback requirements, and no accessory structure may be located within any required buffer yard.

~~303.3~~ 303.4 Accessory structures shall be limited to 25 feet in height except television and radio receiving and transmitting antenna and their supporting structures which shall be permitted to exceed this limit. No such antenna shall be permitted to exceed seventy five (75) feet in height in any residential district or one hundred (100) feet in any other district except as permitted in Section 302.4.

**Table 200-2  
Table of Permitted Uses by District**

Use	Buffer Group	Buffer Group											See Note				
		R40	R15	R10	R7.5	RA6	OA6	O&I	B1	M	B2	TH		B3	I1	I2	I3
<del>Accessory Apartment - Non Commercial - Manufactured homes not permitted</del> Refer to Section 303	SF	A	A	A	A	A	A										1

Delete Note 1 (shown below) from Table and Notes section  
~~For related family members only of the owner who shall reside at the residence.~~

TABLE 400-1 (Off-Street Parking and Loading)

**Table 400-1**

Use	# of Spaces
<del>Accessory Apartment - Non Commercial - Manufactured homes not permitted</del>	2.0 per dwelling unit

After deliberating on the accessory apartments related proposals, and upon motion by Mr. Bell and seconded by Mr. Burks, Council voted unanimously to accept the recommendation/analysis of the Community Development staff and the Planning Board and approved the amendments to the Asheboro Zoning Ordinance as proposed. Additionally, the following consistency statement that was initially proposed in the staff report was adopted by the City Council as part of the motion to approve the proposal accessory apartments amendments:

As described in the general analysis, Council believes that the proposed text amendments are consistent with the adopted comprehensive plan, reasonable, and in the public interest in protecting public health, safety, and general welfare.

**3. Text Amendments relating to Correctional Facilities/Structured Environments (Halfway Houses) and Professional Residential Facilities:**

**CURRENT ORDINANCE:**

Article 1100 defines a correctional facility as "a public facility for the housing of persons convicted of a crime".

**TABLE 200-2**

Correctional Facilities are permitted by right in B2 (General Commercial), B3 (Central Commercial), I1 (Light Industrial), and I2 (General Industrial) districts.

Correctional facilities are in a Buffer Group 3. *Staff Note: The buffer group relates to the width and amount of landscaping or screening required along the perimeter of property adjacent to other adjacent uses. The buffer or screen number ranges from one (1) to three (3). Buffer Group 1 requires the least amount of planting or screening materials and width; Buffer Group 3 requires the most.*

**PROPOSAL:**

Leave the definition as-is.

Leave the use as a Buffer Group 3.

Remove "correctional facilities" as a permitted use in the B3 (Central Business) zoning district.

**Table 200-2  
Table of Permitted Uses by District**

Use	Buffer Group	R40	R15	R10	R7.5	RA6	OA6	O&I	B1	M	B2	TH	B3	I1	I2	I3	See Note
Correctional Facilities	3										P		P	P	P		

**Ordinance Proposal Concerning Professional Residential Facilities/Structured Environment**

**CURRENT ORDINANCE:**

"Professional Residential Facility" and "Structured Environment- halfway houses" are grouped into the same use in the Table of Uses 200-2. They are permitted with a Special Use Permit in the B2 (General Commercial) and B3 (Central Commercial Districts). They are defined separately (in Article 1100).

**Table 200-2:**

The use (listed in Table 200-2 as "Professional Residential Facility/Structured Environment (halfway houses):"

Permitted in the B2 (General Commercial) and B3 (Central Commercial) Districts with a Special Use Permit.

Professional Residential Facility/Structured Environment are in a Buffer Group 2.

**PROPOSAL:**

Delete "professional residential facility" and "structured environment" definitions from Article 1100 (Definitions).

~~Professional Residential Facility: Any residential establishment, other than a hospital or nursing home, providing to persons in need of a structured environment board, lodging, supervision, medication, counseling, or other diagnostic or therapeutic services and licensed by the N.C. Department of Social Services.~~

~~Structured Environment: A residential setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in community life, are provided professional staff services, as well as board, lodging, supervision, medication and other treatment.~~

Add new use, "Professional Recovery Facility." Add a definition to Article 1100 (Definitions) as follows:

Any establishment, other than a family care home, hospital or nursing home, licensed by the N.C. Department of Social Services, or other unit of state government, to provide persons a structured environment. A structured environment shall be defined as a setting within which persons, progressing from relatively intensive treatment for crime, delinquency, mental or emotional illness, alcoholism, drug addiction or similar conditions to full participation in community life, are provided professional staff services, as well as board, lodging, supervision, medication and other treatment.

Amend definition of "Congregate Living Facility" as follows:

Any building, buildings, section of a building, or distinct part of a dwelling unit, home for the aged or other place, whether operated for profit or not, which undertakes through its ownership or management to provide to individuals, for a period exceeding twenty-four hours, housing, food services, and one or more personal care services. For purposes of this definition "Personal Care Services," means services, in addition to housing and food service which include, but are not limited to, personal assistance with bathing, dressing, ambulation, supervision of self-administered medication, transportation, emotional security, and other related service. Furthermore, personal care services are deemed to include on-site ancillary services to mentor and provide personal support and improve life skills of residents, including but not limited to, job training, homemaking skills, personal budgeting, parenting, personal counseling and GED programs. Personal care services do not include nursing or medical treatment. Such facilities shall contain congregated kitchen, dining and living areas only, with separate sleeping rooms. Further, such facilities shall not be used for those persons in need of a structured environment, as it is defined herein. For purposes of this Ordinance, Congregate Living Facilities shall not be deemed to include boarding/rooming houses; fraternities/sororities; monasteries; convents; hotels/motels; professional residential recovery facilities; or nursing, convalescent and extended care facilities. A congregated living facility is synonymous with a family care home as defined by NCGS § 168, Article 3.

**Table of Uses 200-2**

Delete notation in "Congregate Living Facility" use stating "DOES NOT INCLUDE STRUCTURED ENVIRONMENT."

Proposed permitted districts for Professional Recovery Facility:

B2 (General Commercial) with Special Use Permit (SUP) (which is currently required for professional residential facility/structured environment).

I1 (Light Industrial) by right (new)

I2 (General Industrial) by right (new)

Staff Note: Proposed does not designate B3 as a district permitting the use.

**Table 200-2  
 Table of Permitted Uses by District**

Use	Buffer Group	R40	R15	R10	R7.5	RA6	OA6	O&I	B1	M	B2	TH	B3	I1	I2	I3	See Note
Professional <del>Residential</del> <b>Recovery Facility</b> <del>STRUCTURED ENVIRONMENT</del> (halfway houses)	2										S		S		P		

Designate the use as a Buffer Group 2 (as currently required for "professional residential facility structured environment").

Table 400-1 Required Off-Street Parking Spaces  
 Rename "Professional Residential Facility" to "Professional Recovery Facility"

**Table 400-1**

Use	# of Spaces
<b>Professional Residential Recovery Facility</b>	1.0 per employee of largest shift plus 1.0 per facility vehicle, plus 0.2 per resident

When a Special Use Permit is required (B2 District), rename the current Special Use Permit requirements of Section 639 from "Professional Residential Facility (Structured Environment)" to "Professional Recovery Facility" and amend as follows:

**639 Professional ~~Residential Facility (Structured Environment)~~ Recovery Facility**

~~639.1 All professional residential facilities shall have direct frontage onto a collector street as or arterial street, as shown on the Thoroughfare Plan.~~

~~639.12 No such use shall be established within one-half mile of another such use, congregate living facility, or family care home.~~

~~639.23 No sign identifying the facility shall be permitted beyond the name of the facility on the mailbox.~~

~~639.34 At the time of the Special Use request, the operator of such a the facility shall provide evidence information on, and if approved, shall be provided indicating utilize adequate measures to prevent the unauthorized exit of clients, the patients. The more dangerous the patients are to the public, the more elaborate and certain the security measures shall be.~~

~~639.45 The applicant shall prove the ability to meet and, if approved, maintain, all required governmental licensure requirements of any applicable state governmental body responsible for licensing operations of the facility.~~

~~639.5 Buffering and screening shall be as required by Article 300A.~~

~~639.6 Parking shall be provided as required by Article 400.~~

~~639.7 The facility shall comply with all applicable Federal, State and local requirements~~

After deliberating on the correctional facilities and professional recovery facilities related proposals, and upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to accept the recommendation/analysis of the Community Development staff and the Planning Board and approved the amendments to the Asheboro Zoning Ordinance as proposed. Additionally, the following consistency statement that was initially proposed in the staff report was adopted by the City Council as part of the motion to approve the proposed correctional facilities and professional recovery facilities amendments.

As described in the general analysis, Council believes that the proposed text amendments are consistent with the adopted comprehensive plan,

reasonable, and in the public interest in protecting public health, safety, and general welfare.

[A copy of the visual presentation utilized by Mr. Nuttall is on file in the City Clerk's office.]

**(e) Consideration of a request to extend the time allowed between the Preliminary and Final Plat subdivision reviews for Waterford Villas.**

Mr. Nuttall presented a written request from Mr. Kevin Jessup, Manager of Waterford RE, LLC for a twelve month extension of the deadline to submit a final subdivision plat for review. This delay is requested because of the overall building market conditions and financing of the project. The developers expect to continue the project as market conditions improve.

Upon motion by Mr. Burks and seconded by Mr. Bell, Council voted unanimously to approve the requested extension. Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted in favor of the motion.

**(f) Consideration of a resolution setting and authorizing the publication of notice of a public hearing to be held on December 4, 2014, on the question of the adoption of a nonresidential building or structure maintenance code.**

Mr. Nuttall presented and recommended adoption, by reference, of the aforementioned resolution. Upon motion by Mr. Bell and seconded by Ms. Carter, Council voted unanimously to adopt the following resolution by reference. Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted in favor of the motion.

**RESOLUTION NUMBER 39 RES 11-14**

**CITY COUNCIL OF THE CITY OF ASHEBORO, NORTH CAROLINA**

**SCHEDULING OF A PUBLIC HEARING ON THE QUESTION OF THE ADOPTION OF A MAINTENANCE CODE FOR NONRESIDENTIAL BUILDINGS**

**WHEREAS**, Section 160A-439 of the North Carolina General Statutes enables the City Council to adopt ordinances that establish minimum standards of maintenance, safety, and sanitation for nonresidential buildings or structures; and

**WHEREAS**, the above-referenced minimum standards are to be limited to addressing conditions that are dangerous and injurious to public health, safety, and welfare, and these standards are to identify circumstances under which a public necessity exists for the repair, closing, or demolition of dilapidated nonresidential buildings; and

**WHEREAS**, staff members in the city's community development division have recommended consideration, and the City Council concurs with the recommendation to consider, the adoption of ordinances to implement a maintenance code for nonresidential buildings or structures located within the corporate limits of the City of Asheboro; and

**WHEREAS**, pursuant to Section 160A-364 of the North Carolina General Statutes, a public hearing on the question of adopting such ordinances must be held before the City Council makes a decision as to the adoption of ordinances to implement a nonresidential building maintenance code;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, North Carolina that a public hearing is hereby called on the question of the adoption of ordinances to implement a nonresidential building maintenance code pursuant to the statutory authorization found in Section 160A-439 of the North Carolina General Statutes; and

**BE IT FURTHER RESOLVED** that the said public hearing shall be held during the regular meeting of the Asheboro City Council that is to begin at 7:00 p.m. on Thursday, December 4, 2014, in the Asheboro City Hall Council Chamber located at 146 North Church Street, Asheboro, North Carolina 27203; and

**BE IT FURTHER RESOLVED** that the City Clerk is hereby directed to publish notice of the said public hearing in *The Courier-Tribune*, a newspaper of general circulation within the City of Asheboro, in accordance with the notice requirements listed in Section 160A-364(a) of the North Carolina General Statutes.

This Resolution was adopted by the Asheboro City Council in open session during a regular meeting held on the 6<sup>th</sup> day of November, 2014.



**WHEREAS**, in order to properly consider taking the requested action, the City Council must adopt a resolution declaring the governing board's intent to permanently close the described section of unopened street, and the City Council must set a date for a public hearing on the question of the proposed permanent street closure;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Asheboro, North Carolina as follows:

**Section 1.** It is the intent of the City Council of the City of Asheboro to permanently close the unopened street labeled as Old Hammer Road on a plat of survey recorded in Plat Book 8, Page 43, Randolph County Registry. The 40-foot right-of-way for this unopened street, which has never been accepted or maintained by the city, is located within the corporate limits of the City of Asheboro. The unopened street proposed for permanent closure is more particularly described as follows:

Asheboro Township, Randolph County, North Carolina:

BEGINNING at a ½" new iron rod set flush with the ground in the western margin of the public right-of-way for Shamrock Road, this ½" new iron rod is located the following courses and distances from the centerline intersection of Shamrock Road and Stowe Avenue: North 07 degrees 10 minutes 29 seconds West 1.34 feet from the said ½" new iron rod to a computed point on the western margin of the public right-of-way for Shamrock Road; thence departing from the western margin of the public right-of-way for Shamrock Road and proceeding North 04 degrees 22 minutes 35 seconds East 104.79 feet to the centerline intersection of Shamrock Road and Stowe Avenue; thence from the said beginning point along the western margin of the public right-of-way for Shamrock Road the following courses and distances: South 07 degrees 10 minutes 29 seconds East 20.63 feet to a computed point; thence South 07 degrees 10 minutes 29 seconds East 20.63 feet to a ½" new iron rod set flush with the ground; thence departing from the western margin of the public right-of-way for Shamrock Road and following the southern margin of the 40-foot right-of-way shown for the unopened Old Hammer Road on a plat of survey recorded in Plat Book 8, Page 43, Randolph County Registry by proceeding in accordance with the following courses and distances across the property of Jerry M. Ward (the Ward property that is located to the north and south of the unopened Old Hammer Road is described in the Office of the Randolph County Register of Deeds in Deed Book 549, Page 228; Deed Book 573, Page 21; and Deed Book 585, Page 324): South 68 degrees 34 minutes 42 seconds West 69.26 feet to a computed point; thence continuing in a southwesterly direction along the southern margin of the platted right-of-way for the unopened Old Hammer Road by following the arc of a curve with a radius of 248.68 feet and an arc length of 104.41 feet a chord bearing and distance of South 56 degrees 55 minutes 32 seconds West 103.64 feet to a computed point; thence South 86 degrees 23 minutes 09 seconds West 30.91 feet within the above-described Jerry M. Ward property and along the southern terminus of the unopened Old Hammer Road to a ½" new iron rod that is 6" above the ground at the northeast corner of the Mary K. Lemons property described in Deed Book 1569, Page 1216, Randolph County Registry; thence continuing along the southern terminus of Old Hammer Road and the Lemons property line South 86 degrees 10 minutes 37 seconds West 24.71 feet to a ½" new iron rod that is 6" above the ground at the southwest corner of the platted right-of-way for Old Hammer Avenue; thence departing from the southern terminus of the platted right-of-way and following the northern margin of the unopened street along the Thomas S. and Bernadette Such property described in Deed Book 1389, Page 833, Randolph County Registry North 52 degrees 49 minutes 15 seconds East 3.66 feet to a ½" new iron rod that is 6" above the ground on the boundary line between the Such and Ward properties; thence continuing within the Ward property along the northern margin of the platted right-of-way for Old Hammer Road in a northeasterly direction by following the arc of a curve with a radius of 288.68 feet and an arc length of 160.37 feet a chord bearing and distance of North 52 degrees 49 minutes 15 seconds East 158.32 feet to a computed point; thence North 68 degrees 34 minutes 42 seconds East 78.02 feet along the northern margin of the platted right-of-way to the point and place of the BEGINNING, and being all of that certain 0.1891 of an acre (8,236 square feet) of land, more or less, encompassed by the preceding metes and bounds description, specifically including the entirety of the platted right-of-way for the above-described section of the unopened Old Hammer Road. The right-of-way to be permanently closed is shown on the plat of survey referenced below.

The preceding description is in accordance with a plat of survey drawn under the supervision of Glenn Lee Brown, a Professional Land Surveyor with registration number L-3663. The said plat, which is identified as job no. G14060P and is dated September 18, 2014, is titled "ROAD CLOSURE PLAT PREPARED FOR CITY OF ASHEBORO OLD HAMMER ROAD." The plat of survey identified in the two (2) immediately preceding sentences is hereby incorporated into this Resolution by reference as if copied fully herein.

**Section 2.** A public hearing on the question of the proposed permanent closure of the above-described platted right-of-way for the unopened Old Hammer Road is hereby called and is to be held during the regular meeting of the City Council of the City of Asheboro that will begin at 7:00 p.m. on January 8, 2015, in the Asheboro City Hall Council Chamber, 146 North Church Street, Asheboro, North Carolina 27203. At this public hearing, any person may be heard on the question of whether the proposed permanent street closure would be detrimental to the public interest or the property rights of any individual.

**Section 3.** The City Clerk is hereby directed to cause the publication of this Resolution of Intent in *The Courier-Tribune*, a newspaper of general circulation in the City of Asheboro and Randolph County, once a week for four (4) successive weeks prior to the above-referenced public hearing.

**Section 4.** The City Clerk is further directed to transmit a copy of this Resolution of Intent by registered or certified mail to each owner of property adjoining the above-described platted right-of-way for the unopened Old Hammer Road. The property owners' identities are to be determined on the basis of the Randolph County Tax Department's records.

**Section 5.** The City Clerk is further directed to cause the prominent posting of this Resolution of Intent in a minimum of two (2) locations along the above-described section of the unopened Old Hammer Road.

This Resolution of Intent was adopted in open session during a regular meeting of the Asheboro City Council that was held on the 6<sup>th</sup> day of November, 2014.

\_\_\_\_\_  
/s/David H. Smith  
David H. Smith, Mayor  
City of Asheboro, North Carolina

ATTEST:

\_\_\_\_\_  
/s/Holly H. Doerr  
Holly H. Doerr, CMC, NCCMC, City Clerk  
City of Asheboro, North Carolina

**13. Change Order No. 1 for the Wastewater Treatment Plant Digester Gas Holder Cover and Mixing System Project.**

Mr. Rhoney presented the proposed Change Order No. 1 for the Wastewater Treatment Plant Digester Gas Holder Cover and Mixing System Project. This change order reflects an increase in the contract amount by \$45,381.02 to \$823,381.02 for the following changes:

1. Replace two (2) proposed 30" access manholes and covers with one (1) 48" manhole and cover. The 48" manhole cover will be equipped with a lever lifting mechanism for easy removal and replacement.
2. Add OSHA approved stainless steel safety handrail with kick plate along circumference of cover.

These changes are requested by the owner and are intended to enhance the safety of operator personnel during the maintenance of the digester cover.

Upon motion by Mr. Bell and seconded by Mr. Hunter, Council voted unanimously to adopt the Change Order No. 1 for the Wastewater Treatment Plant Digester Gas Holder Cover and Mixing System Project. Council Members Baker, Bell, Burks, Carter, Hunter, and Moffitt voted in favor of the motion

[A copy of the approved change order form is on file in the City Clerk's office.]

**14. Upcoming events that were announced by Mayor Smith:**

- Annual Veterans Parade on Tuesday, November 11, 2014 at 4:00 p.m.
- City Offices will be closed on Thursday, November 27, 2014 and Friday, November 28, 2014 in observance of the Thanksgiving Holiday.
- Asheboro Housing Authority Annual Christmas Dinner on Tuesday, December 2, 2014 at 6:00 p.m.
- Regular City Council Meeting on Thursday, December 4, 2014 at 7:00 p.m.
- Annual Christmas Parade on December 5, 2014 at 7:00 p.m.
- "Christmas on Sunset" street festival on December 12, 2014 at 6:00 p.m.

