

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**INVOLUNTARY COMMITMENT (“IVC”)
CUSTODY AND TRANSPORTION
AGREEMENT**

THIS INVOLUNTARY COMMITMENT (“IVC”) CUSTODY AND TRANSPORTION AGREEMENT (“Agreement”) is made and entered into this the 26th day of January, 2021 (the “Effective Date”), by the Town of Apex, a municipal corporation in the State of North Carolina (“Town”), which includes its police department, the Apex Police Department (“APD”).

RECITALS:

WHEREAS, the Apex Town Council desires to make clear the policies of the Town and the APD regarding the custody and transportation of involuntarily commitment (“IVC”) Respondents and the APD’s role and responsibilities with respect to custody, commitment, supervision, and transportation of IVC Respondents in accordance with Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes;

WHEREAS, specifically, pursuant to and in accordance with N.C.G.S. § 122C-251(g), the Town intends and desires that this Agreement shall serve as its “Involuntary Commitment Transportation Agreement” or “Transportation Agreement” for the custody and transportation of individuals in IVC proceedings under Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes, applicable to all APD law enforcement officers (“LEOs”); and

WHEREAS, this Agreement shall be utilized to comply with N.C.G.S. § 122C-251(g) and assure adequate safety and protections for both the public and Respondents.

NOW, THEREFORE, the Apex Town Council ordains that the following is the Town’s plan for the custody and transportation of persons subject to involuntary commitment proceedings.

AGREEMENT

**ARTICLE I
DEFINED TERMS**

1.0 Unless otherwise specified or defined herein, the following terms, wherever used herein, shall have the following meanings:

1.1 **IVC Order**. A custody order issued by a Magistrate or a Clerk of Court or an Involuntary Commitment Custody Order entered by a District Court Judge.

1.2 **LEO**. Law enforcement officer.

1.3 **Respondent.** The individual who is committed under an IVC Order and subject to IVC proceedings pursuant to Chapter 122C, Article 5 of the North Carolina General Statutes, including IVC custody and transport.

1.4 **Alliance Behavioral Health (“Alliance”).** Alliance is the Local Management Entity/Managed Care Organization (“LME/MCO”) for Wake County as defined by N.C.G.S. § 122C-3(1), N.C.G.S. § 122C-3(20b), and N.C.G.S. § 122C-3(20c). Alliance is responsible for managing, coordinating, facilitating and monitoring mental health, developmental disability, and substance abuse services in Wake County. Alliance’s contact information is as follows:

Alliance Health
5200 W. Paramount Parkway, Suite 200
Morrisville, NC 27560
Telephone: 1-919-651-8500 (Offices)
Telephone: 1-800-510-9132 (Access and Information Center)
Website: <https://www.alliancehealthplan.org/>

1.5 **Crisis Service Providers.** The following is a list of current crisis service providers in Wake County:

- 24-Hour crisis telephone line
 - Alliance Health Access Call Center
- Walk-in crisis services:
 - Monarch Behavioral Health Urgent Care
 - WakeBrook Crisis and Assessment
 - Holly Hill Respond
 - Triangle Springs Hospital
- Mobile crisis outreach
 - Therapeutic Alternatives MCM
 - Enhanced Mobile Crisis/Advanced Para-medicine team
 - Advanced Para-medicine ED diversion
- Crisis respite/residential services
 - Lutheran Family Services child respite
 - Methodist Home for Children and Access Family Services Rapid Response Beds
- Crisis stabilization units/facilities
 - 23-Hour beds: UNC WakeBrook
 - Facility Based Crisis UNC WakeBrook
 - Detox Services: UNC WakeBrook

1.6 **24-Hour Facility.** A medical facility where a Respondent is taken if the first examination by a commitment examiner or other physician determines that the Respondent is mentally ill and requires inpatient commitment. A physician will conduct the second examination of a Respondent at a 24-Hour Facility.

ARTICLE II
APPLICABILITY

2.0 To the extent required to provide all or parts of the custody and transportation required by IVC proceedings, the Town shall follow the procedures in Chapter 122C, Article 5 of the North Carolina General Statutes. Moreover, the custody and transportation of individuals in IVC proceedings by APD LEOs shall be in accordance with Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes and this Agreement. This Agreement does not in any way change any statutorily prescribed responsibility for IVC custody and transport.

2.1 To the extent this Agreement does not address or incorrectly addresses any statutory obligation or procedure, or if any inconsistency exists between the Agreement and a corresponding statutory provision, the Parties understand that the statute shall control.

ARTICLE III
DESIGNATED WAKE COUNTY
COMMITMENT EXAMINER FACILITIES

3.0 Pursuant to the Alliance Community Crisis Services Plan for Wake County; Chapter 122C, Article 5, specifically including but not limited to N.C.G.S. § 122C-3(8a), N.C.G.S. § 122C-252, N.C.G.S. § 122C-261, N.C.G.S. § 122C-262, N.C.G.S. § 122C-263, and N.C.G.S. § 122C-283; the following non-emergency facilities may provide first examinations and health screenings:

- UNC WakeBrook Crisis and Assessment: 107 Sunnybrook Rd., Raleigh, NC 27610
- Monarch Behavioral Health Urgent Care: 319 Chapanoke Rd., Suite 120, Raleigh, NC 27603
- Holly Hill Hospital: 3019 Falstaff Rd., Raleigh, NC 27610
- Triangle Springs Hospital: 10901 World Trade Blvd., Raleigh, NC 27617

ARTICLE IV
TRANSPORTATION OBLIGATIONS FOR APD

4.0 Transportation of a Respondent within the Town of Apex corporate limits, under the IVC proceedings of Chapter 122C, Article 5, Parts 6, 7, and 8 of the North Carolina General Statutes shall be provided by the APD in accordance with the duties listed below. However, a Respondent being discharged from a facility may use his or her own transportation at his or her own expense.

A. Apex Police Duties

(1) IVC Orders:

- (a) APD will provide the service of IVC Orders upon any Respondent physically located at an address inside the Town of Apex corporate limits, regardless of the Respondent's residential address.

- (b) If the Respondent cannot be served at the call for service address inside the Apex corporate limits, but the Respondent has a home address inside the corporate limits, APD will continue to attempt to serve the Respondent at any other address inside the Town corporate limits until the IVC Order expires.
- (c) If the Respondent cannot be served at the call for service address inside the Apex corporate limits, but the Respondent has a home address in Wake County but outside of the Town of Apex, APD will endeavor to pass the IVC Order to the Wake County Sheriff's department if the Respondent resides in the county limits and outside a municipal jurisdiction, or the police department in the municipality in Wake County in which the Respondent resides if inside municipal corporate limits.
- (d) After serving the initial IVC Order APD will provide the initial transport of the Respondent to a Commitment Examiner Facility or 24 Hour Facility as required. APD will primarily transport individuals to UNC WakeBrook but may transport to any other qualified facility in Wake County.

(2) Voluntary Respondent:

In the event a respondent has a home address inside the Apex corporate limits and voluntarily seeks mental health treatment at a facility outside the Apex corporate limits, and is then issued an IVC Order, service of the IVC Order and the transport of the Respondent to any other 24 Hour Facility in Wake County shall be provided by the Wake County Sheriff's Office.

(3) Out of County Transport:

APD will have no responsibility to transport a Respondent to any facility located outside Wake County.

(4) Subsequent Transport:

Following initial transport by APD, The Wake County Sheriff's Office, either through their personnel or through contract with a private agency, will handle all subsequent transports inside Wake County to another facility regardless of the facility location within Wake County or the residence of the Respondent.

ARTICLE V
TRANSPORTATION BETWEEN COUNTIES

5.0 Transportation between counties under the IVC proceedings of Chapter 122C, Article 5 of the North Carolina General Statutes for a first examination as described in N.C.G.S.

§ 122C-263(a) and N.C.G.S. § 122C-283(a) and for admission to a 24-hour facility shall be provided by the county where the Respondent is taken into custody.

5.1 Transportation between counties under the IVC proceedings of Chapter 122C, Article 5 of the North Carolina General Statutes for Respondents held in 24-hour facilities who have requested a change of venue for the district court hearing shall be provided by the county where the petition for involuntary commitment was initiated.

5.2 Transportation between counties under the IVC proceedings of Chapter 122C, Article 5 of the North Carolina General Statutes for discharge of a Respondent from a 24-hour facility shall be provided by the county of residence of the Respondent. However, a Respondent being discharged from a facility may use his own transportation at his own expense.

ARTICLE VI

TRANSPORTATION PROCEDURES

6.0 **LEO Vehicles and Manner of Dress.** Transportation of a Respondent by the APD shall be in a Town-owned vehicle. To the extent feasible, APD LEOs transporting Respondents shall dress in plain clothes and shall travel in unmarked vehicles.

6.1 **Advising Respondents.** To the extent possible, APD LEOs transporting Respondents shall advise Respondents when taking them into custody that they are not under arrest and have not committed a crime, but are being taken into custody and transported to receive treatment and for the Respondent's own safety and that of others.

6.2 **Driver or Attendant of Same Sex as Respondent.** To the extent feasible, in providing transportation of a Respondent, the APD shall provide a driver or attendant who is the same sex as the Respondent, unless the LEO allows a family member of the Respondent to accompany the Respondent in lieu of an attendant of the same sex as the Respondent.

6.3 **Use of Force to Restrain by LEO.** In taking custody and providing transportation as required by statute, APD LEOs may use reasonable force to restrain the Respondent if it appears necessary to protect the LEO, the Respondent, or others. Any use of restraints shall be as reasonably determined by the LEO to be necessary under the circumstances for the safety of the Respondent, the LEO, and other persons. Every effort to avoid restraint of a child under the age of 10 shall be made by the transporting LEO unless the child's behavior or other circumstances dictate that restraint is necessary.

6.4 **LEO Response to Facility Inquiries.** The LEO shall respond to all inquiries from the facility concerning the Respondent's behavior and the use of any restraints related to the custody and transportation of the Respondent, except in circumstances where providing that information is confidential or would otherwise compromise a law enforcement investigation.

ARTICLE VII

CRIMINAL OR CIVIL LIABILITY

7.0 No APD LEO or other person designated or required to provide custody or transport of a Respondent under N.C.G.S. § 122C-251 may be held criminally or civilly liable for assault, false imprisonment, or other torts or crimes on account of reasonable measures taken under the authority of Chapter 122C, Article 5 of the North Carolina General Statutes.

7.1 In accordance with N.C.G.S. § 122C-210.1, no facility, person, or entity, including an area facility, a facility licensed under Chapter 122C of the North Carolina General Statutes, an acute care hospital, a general hospital, an area authority, a law enforcement officer, an LME, or an LME/MCO, or any of their officials, staff, or employees, or any other physician or individual who is responsible for the custody, transportation, examination, admission, management, supervision, treatment, or release of a Respondent or client and who is not grossly negligent, is civilly or criminally liable, personally or otherwise, for that person's or entity's actions or omissions arising from the responsibilities of Chapter 122C of the North Carolina General Statutes or for the actions or omissions of a Respondent or client. This immunity is in addition to any other legal immunity from liability to which these persons, entities, facilities, agencies, or individuals may be entitled and applies to actions performed in connection with, or arising out of, the custody, transportation, examination, commitment, admission, management, supervision, treatment, or release of any individual pursuant to or under the authority of Chapter 122C, Article 5 of the North Carolina General Statutes or otherwise.

ARTICLE VIII **OTHER AUTHORIZED TRANSPORT**

8.0 It is understood by the APD that pursuant to N.C.G.S. § 122C-251(f), a clerk, a magistrate, or a district court judge, where applicable, may authorize the family or immediate friends of the Respondent, if they so request, to transport the Respondent in accordance with the procedures of Chapter 122C, Article 5 of the North Carolina General Statutes. This authorization shall only be granted in cases where the danger to the public, the family, or friends of the Respondent, or the Respondent himself or herself is not substantial. The family or immediate friends of the Respondent shall bear the costs of providing this transportation.

ARTICLE IX **COST AND EXPENSES OF CUSTODY AND TRANSPORTATION**

9.0 The cost and expenses of custody and transportation of a Respondent as required by the IVC procedures of Chapter 122C, Article 5, to the extent they are not reimbursed by a third-party insurer, are the responsibility of the county of residence of the Respondent, to the extent they are not reimbursed by a third-party insurer. The State (when providing transportation under N.C.G.S. § 122C-408(b), a municipality, or a county is entitled to recover the reasonable cost of transportation from the county of residence of the Respondent. The county of residence of the Respondent shall reimburse the State, another county, or a municipality the reasonable transportation costs incurred as authorized by N.C.G.S. § 122C-251(h). The county of residence of the Respondent is entitled to recover the reasonable cost of transportation it has paid to the State, a municipality, or a county. Provided that the county of residence provides the Respondent or other individual liable for the Respondent's support a reasonable notice and opportunity to object to the reimbursement, the county of residence of the Respondent may recover that cost from:

- A. The Respondent, if the Respondent is not indigent;
- B. Any person or entity that is legally liable for the resident's support and maintenance provided there is sufficient property to pay the cost;
- C. Any person or entity that is contractually responsible for the cost; or
- D. Any person or entity that otherwise is liable under federal, State, or local law for the cost.

ARTICLE X **TRAINING**

10.0 APD LEOs may, from time to time, at their convenience, participate in Crisis Intervention Training (CIT), or other related training, as offered by Alliance or any other approved provider, as set forth in N.C.G.S. § 122C-202.2(a)(3).

ARTICLE XI **OTHER**

11.0 **Mutual Assistance.** Nothing herein shall change any APD agreement to provide mutual assistance to another agency when necessary and upon request for any matter involving crime control and public safety.

11.1 **Recitals Incorporated.** The recitals hereto are incorporated herein by reference and constitute an integral part hereof.

11.2 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11.3 **Amendment or Modification.** This Agreement may only be amended, modified, or supplemented by an agreement in writing adopted by the Apex Town Council. If the Town modifies this Agreement, the Town will submit the modified agreement to the Wake County Magistrate's Office, the Wake County Clerk of Superior Court's Office, Alliance, and the NCDHHS, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services at least 10 days prior to the effective date of the new Agreement.

11.4 **Required Distribution of Agreement.** In accordance with N.C.G.S. § 122C-251(g)(3), this Agreement shall be submitted to the Wake County Magistrate's Office, the Wake County Clerk of Superior Court's Office, to Alliance, and to the North Carolina Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

11.5 **Inclusion of Agreement in Alliance Community Crisis Services Plan.** Pursuant to N.C.G.S. § 122C-202.2, the Alliance Community Crisis Services Plan shall incorporate this Agreement.

This Agreement is hereby approved and adopted by the Apex Town Council this the 26th day of January, 2021.

TOWN OF APEX

By: _____
Name: Jacque K. Gilbert
Title: Mayor

The foregoing is agreed to and will be adhered to by myself and my agency for the transports of persons subject to the involuntary commitment process.

This the _____ day of _____, 2021.

APEX POLICE DEPARTMENT

By: _____
Name: Tony Godwin
Title: Interim Chief of Police