
AGENDA
TOWN COUNCIL OF THE TOWN OF TARBORO, NC
REGULAR MEETING HELD AT 7:00 PM, MONDAY, DECEMBER 9,
2019
IN THE COUNCIL ROOM, TOWN HALL, TARBORO, NC

1. MEETING CALLED TO ORDER BY THE MAYOR

PLEASE TURN CELL PHONES OFF

- (1) Invocation
- (2) Pledge of Allegiance
- (3) Receipt and Acceptance of Certificate of Municipal Election - Wards 2, 4, 6, 8
- (4) Recognition of Outgoing Councilmember - Garland Shepherd
- (5) Oaths of Office
- (6) Election of Mayor Pro Tem

2. APPROVAL OF AGENDA BY COUNCIL

3. REQUESTS AND PETITIONS OF CITIZENS

(Five minute time limit per person)

4. REPORTS OF BOARDS AND COMMISSIONS

- (1) A representative with Petway, Mills, & Pearson, PA will present the Audit Report.

5. TOWN MANAGERS RECOMMENDATIONS

Consent Items

- (1) Approve minutes of November 12, 2019 regular meeting.
- (2) 2018 Tax Levy Memo
- (3) 2019 Tax Levy Memo
- (4) Tax Collector's Report

Action Items

- (5) Lease Agreement - Town of Tarboro and Edgecombe Community College
- (6) Facility Use Agreement - NECP
- (7) Personnel - Residency Policy
- (8) Appointment - Upper Coastal Plain Council of Government Board of Directors Representative
- (9) Appointment - RPO Transportation Advisory Committee

6. OTHER REPORTS

A. Town Manager

- (1) Elected Official Ethics Training Tuesday, December 10th @ 10:00 AM

B. Town Attorney

C. Council Members

7. ADJOURNMENT

TOWN OF TARBORO
ELECTION RESOLUTION
December 3, 2019

Having examined the abstract of votes cast at the Tarboro Municipal Election on Tuesday, November 5, 2019 for the election of four (4) Councilmembers, as certified by the Board of Elections of Edgecombe County, and having considered the certificate of the Town Clerk, with regard thereto, both of which certificates were filed with the Town Council, and having found the same in all respects to be true and correct;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL that it does find, determine and adjudicate that the said certificate of the Town Clerk, attached hereto, setting forth the names of the persons elected Councilmembers of their respective wards is in all respects true, accurate and correct and that the persons therein named have been duly and lawfully elected to their respective offices.



**RESOLUTION OF APPRECIATION FOR
GARLAND SHEPHEARD
TOWN OF TARBORO
COUNCILMAN, WARD EIGHT**

WHEREAS, Garland Shephard was first elected to serve as a Town of Tarboro Councilman for Ward Eight in 2012 and was re-elected in 2015; and

WHEREAS, Councilman Shephard has diligently served the Town of Tarboro and his Ward by promoting economic development and continuously seeking to make Tarboro a better place for its citizens; and

WHEREAS, Councilman Shephard has been uniquely attuned to the specific needs of his Ward and made himself readily available to his constituents; and

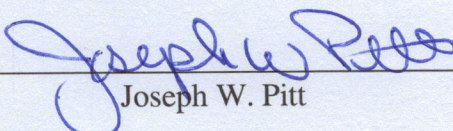
WHEREAS, Councilman Shephard has tirelessly worked to improve the appearance of Tarboro and has been instrumental in improving code enforcement policies; and

WHEREAS, Councilman Shephard has been a steadfast proponent of fiscal responsibility by the Town and has worked with his fellow Councilmembers to maintain low tax and utility rates throughout his tenure.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Tarboro hereby extends to Garland Shephard both sincere and heartfelt appreciation for his service to the residents of Ward Eight and to all the citizens of the Town of Tarboro as a member of the Tarboro Town Council.

Adopted this 9th day of December, 2019.




_____, Mayor
Joseph W. Pitt



Town of Tarboro, North Carolina Mayor and Council Communication

Subject: 2018 Tax Levy Memo

Date: 12/9/2019

Memo Number: 19-97

The Schedule of 2018 Tax Levy Adjusted as of December 9, 2019, attached hereto, lists the valuation and tax amount of one (1) release. The release has been approved by Edgecombe County Tax Assessor's Office.

It is recommended that Council:

1. Enter into the minutes 2018 Tax Levy release number 32 in the amount of \$2,045.47, and
2. Approve the Schedule of 2018 Tax Levy Adjusted as of December 9, 2019, in the amount of \$3,407,842.20.

ATTACHMENTS:

Description	Upload Date	Type
2018 Tax Levy Memo	12/3/2019	Cover Memo

TOWN OF TARBORO, NORTH CAROLINA
SCHEDULE OF 2018 TAX LEVY
Adjusted as of December 9, 2019

VALUATIONS

	<u>Real</u>	<u>Personal</u>	<u>Public Service Companies</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
Balance October 14, 2019	583,835,070	209,900,502	32,514,999	0	6,808,462	833,059,033
After list:	0	0	0	0	0	0
Less Releases: 32	<u>(498,894)</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>(498,894)</u>
Balance as of December 9, 2019	<u><u>583,336,176</u></u>	<u><u>209,900,502</u></u>	<u><u>32,514,999</u></u>	<u><u>0</u></u>	<u><u>6,808,462</u></u>	<u><u>832,560,139</u></u>

TAX CALCULATIONS

	<u>Real, Personal, & Pub. Ser. Co.</u>	<u>Late Listing Penalty</u>	<u>Auto Tax</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
Balance October 14, 2019	3,387,638.83	14,072.99	0.00	882.00	7,293.85	3,409,887.67
After list:	0.00	0.00	0.00	0.00	0.00	0.00
Less Releases: 32	<u>(2,045.47)</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>(2,045.47)</u>
Balance as of December 9, 2019	<u><u>3,385,593.36</u></u>	<u><u>14,072.99</u></u>	<u><u>0.00</u></u>	<u><u>882.00</u></u>	<u><u>7,293.85</u></u>	<u><u>3,407,842.20</u></u>

ITEMIZED RELEASES

<u>Rel. No.</u>	<u>Name/Description</u>	<u>Acct. No.</u>	<u>Real, Personal & Pub. Ser. Co.</u>	<u>Late Listing Penalty</u>	<u>Auto Tax</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
32	Lodestar Investments, LLC Clerical Error	7481	2,045.47	0.00	0.00	0.00	0.00	2,045.47
Total Releases			<u><u>2,045.47</u></u>	<u><u>0.00</u></u>	<u><u>0.00</u></u>	<u><u>0.00</u></u>	<u><u>0.00</u></u>	<u><u>2,045.47</u></u>

*approved by Finance Officer



Town of Tarboro, North Carolina Mayor and Council Communication

Subject: 2019 Tax Levy Memo

Date: 12/9/2019

Memo Number: 19-98

The Schedule of 2019 Tax Levy Adjusted as of December 9, 2019, attached hereto, lists the valuation and tax amount of nineteen (19) afterlists.

It is recommended that Council:

1. Order the Tax Collector be charged with afterlists 38 through 56 in the amount of \$2,464.49, and
2. Approve the Schedule of 2019 Tax Levy Adjusted as of December 9, 2019, in the amount of \$3,434,109.03.

ATTACHMENTS:

Description	Upload Date	Type
2019 Tax Levy Memo	12/3/2019	Cover Memo

TOWN OF TARBORO, NORTH CAROLINA
SCHEDULE OF 2019 TAX LEVY
DECEMBER 9, 2019

VALUATIONS

	<u>Real</u>	<u>Personal</u>	<u>Public Service Companies</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
Balance November 12, 2019	583,896,231	209,614,705	39,077,788	0	6,184,072	838,772,796
After list: 38 - 56	352,913	248,183	0	0	0	601,096
Less Releases:	0	0	0	0	0	0
	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Balance as of December 9, 2019	<u>584,249,144</u>	<u>209,862,888</u>	<u>39,077,788</u>	<u>0</u>	<u>6,184,072</u>	<u>839,373,892</u>

TAX CALCULATIONS

	<u>Real, Personal, & Pub. Ser. Co.</u>	<u>Late Listing Penalty</u>	<u>Auto Tax</u>	<u>Dog Tax</u>	<u>GAP</u>	<u>Total</u>
Balance November 12, 2019	3,413,613.14	8,643.65	0.00	828.00	8,425.86	3,431,510.65
After list: 38 - 56	2,464.49	133.89	0.00	0.00	0.00	2,598.38
Less Releases:	0.00	0.00	0.00	0.00	0.00	0.00
	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Balance as of December 9, 2019	<u>3,416,077.63</u>	<u>8,777.54</u>	<u>0.00</u>	<u>828.00</u>	<u>8,425.86</u>	<u>3,434,109.03</u>

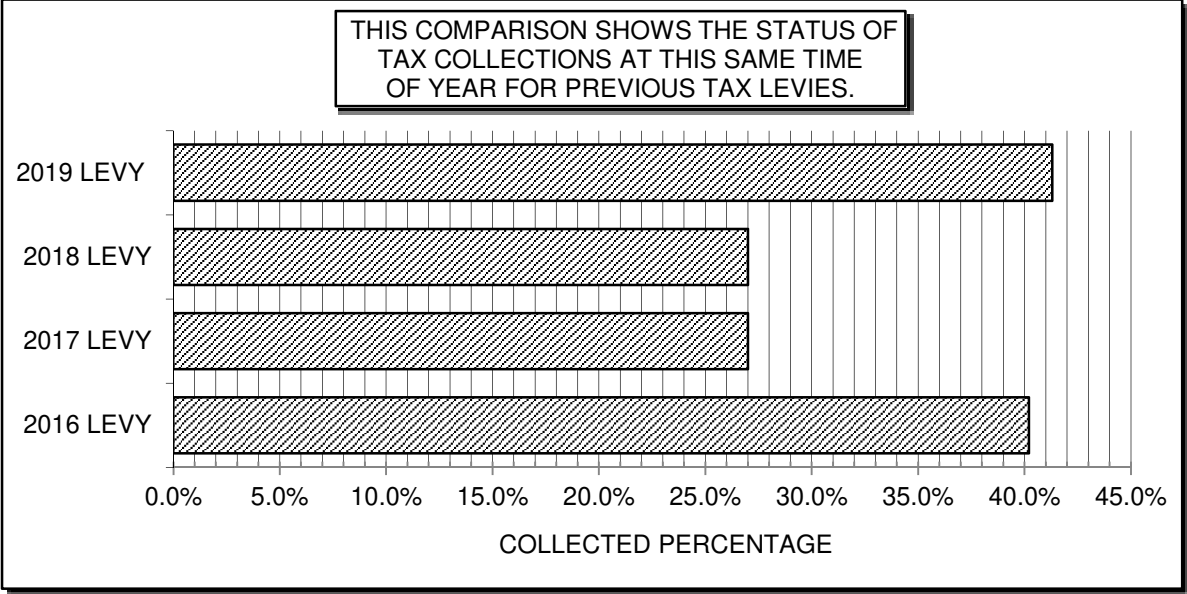
TOWN OF TARBORO, NORTH CAROLINA

TAX COLLECTOR'S REPORT

For the Year Ended November 30, 2019

Levy Year	Current Fiscal Year Charges	COLLECTIONS		Uncollected Balance	Collected Percentage
		This Month	Fiscal Year-To-Date		
2019	3,255,326.38	272,284.29	272,284.29	2,983,042.09	41.30%
2018	119,861.78	4,819.46	67,280.43	51,503.38	98.42%
2017	39,121.34	2,585.06	8,526.19	30,595.15	99.05%
2016	27,200.68	1,131.07	4,307.38	22,893.30	99.30%
2015	22,038.29	1,006.39	3,758.56	18,279.73	99.46%
2014	15,446.54	89.83	1,488.08	13,958.46	99.59%
2013	11,606.09	45.45	1,086.98	10,519.11	99.70%
2012	10,342.53	60.07	1,036.05	9,306.48	99.74%
2011	6,552.14	31.86	599.83	5,952.31	99.83%
2010	4,251.40	27.97	362.46	3,888.94	99.88%
2009	3,105.40	27.97	324.16	2,781.24	99.91%
Prior	<u>8,315.98</u>	<u>539.19</u>	<u>552.21</u>	<u>7,763.77</u>	-
Subtotal	<u>3,523,168.55</u>	282,648.61	361,606.62	<u>3,160,483.96</u>	
		<u>3,711.36</u>	<u>12,405.91</u>	<== Interest on Taxes	
Net Tax Collections ==>		286,359.97	374,012.53		
		0.00	0.00	<== Privilege Licenses	
		0.00	0.00	<== Electronic Gaming	
		<u>0.00</u>	<u>0.00</u>	<== Beer & Wine Licenses	
TOTAL COLLECTED ==>		<u>286,359.97</u>	<u>374,012.53</u>		

prepared by: Leslie M. Lunsford, Collector of Revenue





Town of Tarboro, North Carolina ***Mayor and Council Communication***

Subject: Lease Agreement - Town of Tarboro and Edgecombe Community College

Date: 12/9/2019

Memo Number: 19-99

Edgecombe Community College is interested in having a presence downtown for its Small Business Center. Dr. Greg McLeod has approached the Town about utilizing an office in Town Hall for a few hours each week. The office will serve as a base of operations for the Director of the Small Business Center to use in connecting with businesses away from the College facility. In that the Planning Director and Commercial Development and Main Street Coordinator work closely with the Small Business Center to recruit and support small business development in Tarboro, staff feels that the arrangement will be mutually beneficial to our operations. Sufficient space currently exists in Town Hall that will not negatively impact Town operations.

It is therefore recommended that Council authorize staff to enter into the attached Lease Agreement, subject to final negotiations, with Edgecombe Community College for use of space in the Tarboro Town Hall for the Small Business Center.

ATTACHMENTS:

Description	Upload Date	Type
Edgecombe Community College - Lease Agreement	12/4/2019	Cover Memo

TERM AND POSSESSION

Section 2.1 Condition of Leased Premises. On the Commencement Date, Landlord shall deliver the Premises to Tenant in its as-is condition without any representations and warranties by Landlord except as expressly stated herein. Tenant acknowledges that the condition is in conformity with the provisions of this Lease in all respects as of the Effective Date.

Section 2.2 Common Areas. Subject to any recorded easements, covenants, conditions and/or restrictions; or similar agreements now or hereafter affecting the Building and grounds or any portion thereof, and all the terms and conditions of this Lease, Tenant and Tenant's agents, employees, invitees, customers and clients shall have the non-exclusive right to use the Common Areas during the Term.

Section 2.3 Parking. Tenant shall have the non-exclusive use in common with Landlord, other tenants and their guests and invitees, of the non-reserved portions of the parking areas located in the Common Areas, subject to reasonable rules and regulations for use thereof as prescribed from time to time by Landlord. Landlord shall have the right to enforce its parking rules and regulations and shall not be liable for any vehicle towed from the premises when parked illegally or in violation of Landlord's rules. Landlord will not be liable for damage to vehicles in the parking areas or for theft of vehicles, personal property from vehicles, or equipment of vehicles.

Section 2.4 Surrender.

A. Premises. On or before the termination of Tenant's right to possess the Premises, Tenant shall surrender possession of the Premises to Landlord, broom clean, in good repair and condition except for: 1) reasonable and ordinary wear and tear resulting from the Permitted Use; 2) Casualty Damage otherwise covered by Tenant's or Landlord's insurance policies then in effect, respectively.

B. Personal Property. Tenant shall remove all equipment, furniture, furnishings and other personal property not owned by Landlord from the Premises before Surrender. Tenant shall repair any damage to the Premises or the Building caused by the removal of its Personal Property. Any Personal Property remaining in the Premises shall be deemed to be abandoned by Tenant. Tenant shall be liable for the removal of such Personal Property.

Section 2.5 Relocation. Landlord shall have the right at any time upon no less than thirty (30) days notice ("Relocation Notice") to relocate Tenant to another premises in the Building or in other property owned by Landlord. The Relocation Notice shall describe the new premises and Landlord's anticipated timeline for the Relocation.

Section 2.6 Holdover. If Tenant fails to Surrender the Premises at the expiration of the Term or earlier termination of Tenant's right to the possess the Premises, Tenant shall be deemed to hold the Premises as a tenant from month to month subject to all of the terms, conditions, covenants and provisions of this Lease. Landlord may terminate Tenant's holdover tenancy at any time upon no less than thirty (30) calendar days written notice to Tenant.

Section 2.7 Failure to Timely Surrender. In the event Tenant fails to Surrender the Premises to Landlord by the deadline set forth in the Relocation Notice or holdover termination notice, in addition to all other liabilities and damages to which Tenant shall be subject by reason of such default, Tenant shall indemnify Landlord from any loss which may be imposed upon or incurred by or asserted against Landlord arising, directly or indirectly, out of or in connection with Tenant's failure to timely Surrender the Premises.

ARTICLE 3 RENT

Section 3.1 Payment of Rent. Commencing on the Commencement Date, Tenant shall pay Landlord Base Rent, and any additional rent under extensions hereof, as set forth in this Lease. All rents shall be payable on or before the first day of each calendar month of the Term without prior notice or demand.

Section 3.2 Initial Abatement of Rent. Notwithstanding anything to the contrary herein, as a concession to enter into this Lease and provided that Tenant is not in default, Tenant's obligations to pay Base Rent (the "Abated Rent") shall be abated for Months 1-36 of the Term and any extension thereof so long as Tenant substantially complies with the remaining terms of this Lease.

ARTICLE 4 USE

Section 4.1 Permitted Use. The Premises shall be used and occupied by Tenant solely for general office purposes during Normal Business Hours and for no other use whatsoever. Tenant shall not use the Premises in any manner that interferes with the quiet enjoyment of any other tenant of the Building or Landlord and its employees or the public, which shall be determined at the Landlord's reasonable discretion. After Hours use may be permitted in the Landlord's reasonable discretion.

Section 4.2 Compliance with Laws. Tenant shall, at its own cost and expense, promptly comply with and carry out all orders, requirements and conditions now or hereafter imposed upon it by the ordinances, laws, rules, orders and/or regulations of the State of North Carolina, Town of Tarboro and other governmental entities (the "Law"), relating to the Premises or the conduct of Tenant's business therein. In addition, Tenant shall not use or permit the use of any part of the Premises or the Building for any purpose prohibited by any Law.

Section 4.3 Hazardous Substances. Tenant shall not use, maintain or allow the use or maintenance of the Premises to treat, store, dispose of, transfer, release, convey or recover any Hazardous Substances, as defined in 42 U.S.C. Section 9601 et. seq. and Section 6901 et. seq. and any other applicable federal or state law, nor shall Tenant otherwise, in any manner, possess or allow the possession of Hazardous Substances on or about the Premises or the Building and grounds except in de minimis quantities consistent with normal customary office activities.

Section 4.4 Compliance with Rules. Landlord reserves the right to make reasonable rules and amendments thereto governing the use and occupancy of the Premises and Common Areas for the mutual benefit of Landlord, Tenant and the public, and Tenants shall comply with and conform to these rules.

Section 4.5 Signs. Landlord shall, at its expense, provide Tenant with a Building-standard suite identification sign and shall include Tenant on a directory of tenants and offices in the lobby of the Building, if any. Without Landlord's prior written consent, Tenant shall not inscribe, paint, affix or display any signs, advertisements or notices in the Common Areas or in the Building and grounds, or in the Premises if visible from outside the Premises.

ARTICLE 5 ALTERATIONS AND IMPROVEMENTS

Section 5.1 Consent. Tenant shall not make or permit any improvements, additions, alterations, or replacements, structural or otherwise to the Premises without first obtaining the prior written consent of the Landlord, or prior verbal consent of the Town Manager.

Section 5.2 Construction of Alterations and No Liens. Landlord will make its best effort to accommodate the construction or alteration needs of the Premises of Tenant in recognition of the mutual benefit of sharing the Building. However, at Landlord's sole discretion, certain alterations if permitted shall be made at Tenant's sole expense. In such instance where Tenant is undertaking its own construction or alterations, then if, because of any act or omission of Tenant or anyone claiming by, through or under Tenant, any mechanic's lien or other lien shall be filed against the Premises or Building, Tenant shall, at its own expense, cause the same to be discharged of record within a reasonable time, not to exceed ten (10) days after the date of filing thereof, and shall also defend and indemnify Landlord and hold it harmless from any and all claims, losses, damages and judgments, settlements, costs, and expenses, including attorney's fees, resulting therefrom or by reason thereof. If such lien is not discharged of record within ten (10) days after the date of filing thereof, Landlord, at its sole option, may take all action necessary to release and remove such lien (without any duty to investigate the validity thereof) and Tenant shall promptly, upon notice, reimburse Landlord for all sums, costs and expenses (including reasonable attorneys' fees) incurred by Landlord in connection with such lien.

Section 5.3 Ownership. All Alterations shall immediately become the property of Landlord and shall be surrendered to Landlord with the Premises upon the termination of Tenant's right to possess the Premises; unless Landlord conditioned its approval of the Alterations upon Tenant's removal of such Alterations upon Surrender.

Section 5.4 Fixtures. Fixtures shall become the property of Landlord upon their installation in the Premises.

ARTICLE 6 UTILITIES AND SERVICES

Section 6.1 Utilities and Services Provided. Subject to the events of casualty and Force Majeure, Landlord covenants and agrees that it will furnish Tenant with the following facilities, services, and utilities (the "Services"):

A. Access: Access to the Premises during Normal Business Hours and additional times as requested by Tenant and approved by Landlord from time to time, subject to the Rules and such other reasonable regulations as Landlord may impose from time to time with respect to the Building after Normal Business Hours.

B. Common Area Maintenance: Customary utilities, janitorial services, and maintenance for all Common Areas including the removal of rubbish.

C. Restroom Facilities: Restroom facilities and necessary lavatory supplies, including hot and cold running water provided for general use.

D. Electricity: Electricity appropriate for general office use supplied to the Premises.

E. HVAC: Cooled and heated air appropriate to the seasons and sufficient for normal use and occupancy during Normal Business Hours.

F. Water: If the Premises is improved with a kitchen/kitchenette or restrooms on the Commencement Date, or through permitted Alterations, running water.

G. Janitorial Services: Customary janitorial services in the Premises, Monday through Friday of each week, excluding holidays observed by Landlord.

H. Light Bulbs: Replacement of light bulbs and ballasts for Building-standard lighting fixtures as needed.

I. Elevators: At least one elevator subject to call at all times, except in the case of repair or emergency.

Section 6.2 Interruption of Services. Tenant understands, acknowledges and agrees that any one or more of the Services may be interrupted by reason of accident, emergency or other causes beyond Landlord's control, or may be discontinued or diminished temporarily by Landlord or other persons until certain repairs, alterations or improvements can be made; that Landlord does not warrant the uninterrupted availability of such Services, and that any such interruption shall not be deemed an eviction or disturbance of Tenant's right to possession, occupancy and use of the Premises or any part thereof (except by the doctrine of constructive eviction), or render Landlord liable to Tenant for damages, or relieve Tenant from the obligation to perform its covenants under this Lease. Landlord agrees to act in a commercially reasonable manner to accomplish any repairs in a manner and on schedule that results in minimum interruption of Tenant's business during Normal Business Hours.

Section 6.3 Tenant's Maintenance and Repair Obligation. Tenant agrees to maintain the Premises in good order, repair and condition at its sole cost and expense. Landlord shall have no obligation to Tenant to make any repairs in or to the Premises but may choose to make repairs, improvements or alterations in cooperation with Tenant at Landlord's sole discretion. Tenant shall promptly repair all damage to the Premises with materials equal in quality and class to the original materials, under the supervision and subject to the approval of Landlord, and within any reasonable period of time specified by Landlord.

Section 6.4 Landlord's Maintenance and Repair Obligation. Landlord shall keep and maintain in good order, condition and repair the roof, exterior and interior load-bearing walls (including any plate glass windows comprising a part thereof but excluding the interior faces of walls within the Premises), foundation, the Common Areas, parking lot and facilities of the Building and the electrical, plumbing, heating, ventilation and air conditioning systems serving the Premises and the Common Areas.

ARTICLE 7 LANDLORD'S RIGHTS

Section 7.1 Reserved Rights. Landlord shall have the right, from time to time and in its sole discretion, to review and approve window treatments for the Premises, prescribe uniform blinds, drapes or other window treatments, or prohibit the same; make changes to the Building and parking lot, without limitation, in size, shape, location, number of driveways and entrances, parking spaces, traffic patterns and walkways; close any portion of the Building for maintenance and repairs; do and perform any other acts or make any other changes in, to, or with respect to the Building as Landlord may deem appropriate. Tenant understands these reserved rights and agrees such activities will not be deemed to constitute a breach of this Lease by Landlord, and waives any liabilities it may have arising from such activities.

Section 7.2 Right to Enter the Premises. Upon notice to Tenant reasonable under the circumstances, Landlord may enter the Premises to inspect the Premises to verify that Tenant is complying with all its obligations hereunder, to make repairs or Alterations to the Premises or to other space in the Building, and to install or service building systems contained within the Premises. In the event of an emergency, Landlord shall have access to the Premises at any time without advance notice. No such entry by Landlord shall constitute an eviction or termination of this Lease. While exercising the rights set forth herein, Landlord shall use commercially reasonable efforts to minimize disruption to Tenant's Use.

Section 7.3 Right of Recapture. In the event Tenant ceases business operations in the Premises for a period of thirty (30) calendar days or more for reason other than Force Majeure or Casualty and removes a significant portion of its Personal Property from the Premises, Landlord shall have the right to recapture the Premises and shall give Tenant written notice of the date that this Lease shall terminate.

ARTICLE 8 ASSIGNMENT AND SUBLETTING

Section 8.1 Transfers. Tenant shall not assign this Lease, transfer or encumber this Lease or any interest herein whether directly or by operation of law, sublet any portion of the Premises, grant any license or other right of occupancy of any portion of the Premises, or permit the use of the Premises by parties other than Tenant (acts deemed "Transfers").

ARTICLE 9 CASUALTY DAMAGE

Section 9.1 Notice of Damage. If Tenant discovers that any part of the Premises and/or Building has been damaged or destroyed by fire or other casualty ("Casualty Damage"), Tenant shall immediately notify Landlord. If Landlord discovers that any part of the Premises has suffered Casualty Damage, Landlord shall immediately notify Tenant.

Section 9.2 Substantial or Insubstantial. If Casualty Damage occurs that in Landlord's reasonable judgment is insubstantial, may be repaired within nine months, Landlord shall restore the Premises and permit Tenant's repossession of the same as soon as reasonably possible under the circumstances. In the event Casualty Damage occurs that is substantial, taking more than nine months to repair, Landlord may elect to restore the Premises or relocate Tenant to a new premises in other Town property.

Section 9.3 Rent During Restoration. Rent shall abate until Tenant resumes occupancy of the Premises.

ARTICLE 10 INSURANCE AND INDEMNIFICATION

Section 10.1 Tenant agrees Landlord does not incur any liability to Tenant for permitting the use of the Premises pursuant to this Lease. No liability shall attach to Landlord for any injury suffered by reason of Tenant's use or maintenance of the Premises. Tenant shall indemnify, protect and hold harmless Landlord, its agents and employees from and against claims or damages, including attorneys' fees, caused by the negligence or intentional wrongdoing of Tenant, its agents, contractors, employees or invited guests.

Section 10.2 Landlord agrees Tenant does not incur any liability to Landlord for permitting the use of the Premises pursuant to this Lease. No liability shall attach to Tenant for any injury suffered by reason of Landlord's use or maintenance of the Premises. Landlord shall indemnify, protect and hold harmless Tenant, its agents and employees from and against claims or damages, including attorneys' fees, caused by the negligence or intentional wrongdoing of Landlord, its agents, contractors or employees.

Section 10.3 Insurance. Landlord and Tenant agree to acquire and maintain their own property, contents, and liability insurance policies to cover their individual risks and potential liabilities, respectively, related to the Building, contents, and Premises under the terms of this Lease.

ARTICLE 11 DEFAULT

Section 11.1 Default by Tenant. The occurrence of any one or more of the following events shall be a default and breach of this Lease by Tenant (each an "Event of Default"):

- A. Tenant shall fail to pay Rent when due;
- B. Tenant shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease;
- C. Tenant shall cause or permit a hazardous condition that poses an immediate and material threat to person and/or property to exist in the Premises and shall fail to cure such condition immediately after notice thereof from Landlord.

Section 11.2 Tenant's Rights to Cure. Tenant shall have a period of thirty (30) days to cure default under Section 12.1(A) and (B). Tenant shall be in default immediately if a violation of Section 12.1(C) occurs without the requirement of any notice and cure period.

Section 11.3 Landlord's Remedies. Upon the occurrence of an Event of Default by Tenant that is not cured, Landlord shall have all of the following rights and remedies in addition to all other rights and remedies available to Landlord at law or in equity:

- A. The right to terminate Tenant's possession of the Premises and recover all Rent accrued.
- B. The right to continue the Lease in effect after Tenant's breach and recover Rent as it becomes due. Acts of maintenance or preservation shall not constitute a termination of Tenant's right to possession.
- C. The right and power to enter the Premises and remove therefrom all persons and property, to store such property in a public warehouse or elsewhere at the cost and for the account of Tenant, and to sell such property and apply the proceeds therefrom pursuant to applicable Law.
- D. The right to engage an attorney to enforce all or any part of this Lease, or if Landlord incurs any out-of-pocket costs in any litigation, negotiation or transaction in which the Tenant causes Landlord to be involved, Tenant agrees to reimburse Landlord for the attorneys' fees and costs incurred.
- E. All rights, options and remedies of Landlord contained in this Lease shall be construed as cumulative and no one of them shall be exclusive of the other, and Landlord shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease.

Section 11.4 Default by Landlord and Remedies of Tenant. It shall be a default and breach of this Lease by Landlord if it shall fail to perform or observe any term, condition, covenant or obligation required to be performed or observed by it under this Lease for a period of thirty (30) days after notice from Tenant; provided however, Tenants remedy shall be limited to relocation by Landlord to another premises similar in size and condition to the Premises as of the Commencement Date.

ARTICLE 12 MISCELLANEOUS

Section 12.1 No Assignment. This Lease shall be binding upon and shall inure to the benefit of the Parties to this Agreement & Lease and their respective successors and permitted assigns. Neither this Lease nor any of the rights, interests or obligations hereunder shall be assigned by either Party hereto without the prior written consent of all Parties.

Section 12.2 Attorney Fees. In the event that it shall become necessary for either Party to retain the services of an attorney to enforce any terms of this Lease Agreement by any legal means, the prevailing Party, in addition to all other rights and remedies under this Lease Agreement or as provided by law, shall be entitled to reimbursement of its reasonable attorney's fees and costs of suit by the non-prevailing Party, payable on demand of the prevailing Party.

Section 12.3 Modification. No changes, modifications or amendments of any term shall be valid unless agreed upon by the Parties in writing, unless otherwise stated hereinabove. Any agreement between the Parties purporting to amend a term or condition of this Lease shall, to be effective, specifically identify that term or condition's Paragraph number, and shall include the Parties' specific intent to amend that term or condition, or contain such information that would allow both parties to readily identify that term or condition's Paragraph number herein.

Section 12.4 Choice of Words. The language used in this Lease Agreement shall be deemed to be the language chosen by the Parties to this Lease Agreement to express their mutual intent. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, or neuter, singular or plural as the identity of the person or persons may require.

Section 12.5 No Strict Construction. Neither Party will assert that it did not draft the words used in the Lease Agreement so that any ambiguities are resolved against the Party that drafted the Lease Agreement so that the rule of strict construction will not be applied against either Party to this Lease Agreement.

Section 12.6 Headings. The headings in this Lease Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Lease Agreement.

Section 12.7 Choice of Law and Venue. This Lease Agreement shall be construed in accordance with the laws of North Carolina without giving effect to the North Carolina conflict of law provisions. The Parties further agree that the location and jurisdiction for any dispute arising under this Lease Agreement shall be proper only in any federal or state court located or having jurisdiction in Edgecombe County, North Carolina.

Section 12.8 Reformation and Severability. If any provision of this Lease shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect, impair or invalidate the remainder of this Lease but shall be confined in its operation to the provision of this Lease directly involved in the controversy in which the decision was rendered. The invalid or unenforceable provision shall be reformed so that each Party shall have the obligation to perform reasonably in the alternative to give the other Party the benefit of its bargain. In the event the invalid or unenforceable provision cannot be reformed, the remaining provisions of this Lease shall be given full effect, and the invalid or unenforceable provision shall be deemed stricken.

Section 12.9 Voluntary Signature. The Parties represent that each has carefully read this Lease Agreement, that they know and understand the contents and consequences thereof, and that they have signed this Lease Agreement voluntarily and with informed consent.

IN WITNESS WHEREOF, the Parties have executed this Lease in duplicate originals under seal on the date set forth in the opening paragraph hereof.

TOWN OF TARBORO

Troy R. Lewis, Town Manager

EDGECOMBE COMMUNITY COLLEGE

Dr. Greg McLeod, President



Town of Tarboro, North Carolina Mayor and Council Communication

Subject: Facility Use Agreement - NECP

Date: 12/9/2019

Memo Number: 19-100

In an effort to consistently and formally outline responsibilities for usage of Town facilities, the Town of Tarboro proposes to enter into a facility use agreement with North East Carolina Preparatory School for use of athletic facilities. The agreement seeks to make clear the responsibilities of each party and limit the Town of Tarboro's exposure to liability when Town facilities are used by other parties.

It is recommended that Council authorize staff to execute the attached facility use agreement, upon final negotiation of terms with North East Carolina Preparatory, for use of Town athletic facilities.

ATTACHMENTS:

Description	Upload Date	Type
NECP Facility Use Agreement	12/4/2019	Cover Memo

TOWN OF TARBORO
North Carolina
Edgecombe County

This AGREEMENT, made and entered into by and between The Town of Tarboro, a North Carolina municipal corporation, hereinafter referred to as "the Town," and North East Carolina Preparatory School, a North Carolina corporation with its principal office in Tarboro, North Carolina, hereinafter referred to as "the School."

WITNESSETH:

WHEREAS, the parties hereto have agreed to enter into a facility use agreement as authorized by Section 160A-274 of the General Statutes of North Carolina; and

WHEREAS, the parties hereto agree to follow the procedures of Article 12 of G.S. 160A in the event the Attorney General of North Carolina advises that such a procedure is necessary or advisable as it relates to use of property as required by this agreement; and

WHEREAS, this agreement has been approved by the governing body of each of the parties hereto; and

WHEREAS, use of facilities owned by the Town will enable each of the parties hereto to fulfill its corporate purposes; and

WHEREAS, the use of such properties will reduce the necessity of purchasing additional properties thereby reducing the corporate spending of the parties hereto.

NOW, THEREFORE, the parties hereto agree as follows:

1. The properties owned by the Town which may be used by the School as set out herein are as follows:

- (a) Soccer field located at the Indian Lake Sports Complex for scheduled games and practices.
- (b) Baseball and softball fields at the Indian Lake Sports Complex for games and practices.
Baseball/Softball fields at Braswell Park for games and practices.
- (c) Trails at Indian Lake Park for Cross Country matches and practices.

2. The School may have use of the properties described in paragraph 1. above for its activities, athletic practices, games, matches, and meets provided the facility is not scheduled for use by the Town and then only if approved by the Town. The

parking facilities associated with these facilities may also be used if not being used by the Town, and then only if approved by the Town. In determining priority of use of the facilities, the Town shall always be mindful of the special relationship historically enjoyed between the Town and the School.

4. At least one month prior to using a facility owned by the Town, the School shall furnish to the Town a schedule of events and practices to occur on each facility, and the use to be made of such facility if such use is to occur on a regular basis. In the event the use thereof must be approved by the Town, then the request for use should be made as soon as practicable. Schedules and requests for use by the School shall be presented to the Recreation Director of the Town and he or she shall have authority to approve any request for use which requires approval of the Town before using the same.

5. Unless otherwise provided herein, the Town shall repair and maintain the facilities, and if its facilities are not being properly repaired or maintained thereby preventing or hindering the use thereof by the School, then the Town shall comply with any request for additional repairs or maintenance by the other provided such request is necessary and reasonable. In the event any facility owned by the Town is damaged while being used during a scheduled act by the School, then the School shall be responsible for repairing the same. In the event any facility requires special maintenance or preparation such as mowing, marking, dragging, purchasing/applying drying agent, etc., before being used by the School, maintenance or preparation expenses shall be borne by the School.

6. The Town in its sole discretion will make decisions on when to close its facilities due to inclement weather. The School agrees to comply with the Town's inclement weather determination and will not access Town property on these days.

7. The Town agrees to provide a key to the designated coach only, allowing access as defined in section #1 and the School agrees to not duplicate the key or distribute to other coaches, staff or participants. If the Town does not provide a key to access properties or needed amenities, then the Town agrees to unlock and secure *under the provisions of this agreement*.

8. When any facility owned by Town is being used by the School under the provisions of this agreement, the School shall be responsible for furnishing a competent person to oversee the

activities which are being conducted on such facility.

9. The School shall not be obligated to pay any rent or user's fee to the Town for use of any facility described hereunder for the use thereof.

10. The Town may continue activities now being undertaken by it at Indian Lake Sports Complex such as softball, baseball, midget football, and soccer.

11. If the School wishes to make capital improvements to the Town's property, this will be allowed provided the plans for such improvements are approved by the Town and the School pays the cost of the improvements.

12. The Town shall not be liable for liability or damage claims for injury to persons or property from any cause which occurs while the School is using a Town facility. The School shall indemnify the owner from all liability, loss or other damage claim or obligations resulting from any injuries or damage which occurs while the School is using such facility, and to that extent, hereby waives any immunity relative thereto which it may be entitled to as a subdivision of the State of North Carolina as it relates to the other party hereto.

13. In the event either party breaches any provision of this agreement and the same is not cured within 30 days after notice thereof is received by the party allegedly breaching the agreement, the party aggrieved may either cancel this agreement, in which case the same shall become null and void, or may bring an action against the breaching party for specific performance of this agreement.

14. The term of this agreement shall be for a period of five (5) years from the date hereof and shall be automatically renewed from year to year thereafter unless one of the parties hereto shall terminate this agreement after five (5) years by giving notice of such termination to the other party at least one hundred eighty (180) days prior to the end of any year of this agreement. This agreement may also be replaced by a new agreement approved by both parties.

This agreement shall replace any prior agreement.

15. The terms and the implementation of this agreement shall be subject to review in February of each year during the term

hereof by the Town Manager of the Town and the Executive Director of the School to determine means and methods which can improve the implementation of this agreement. This agreement shall not be amended or modified as a result of any review unless such amendment or modification is approved by both of the parties hereto.

16. Any notice under this agreement shall be in writing and must be sent by registered or certified mail to the last address of the party to whom the notice is to be given, or designated by such party in writing. The Town hereby designates its address as the Town of Tarboro, c/o Town Clerk, P.O. Box 220, Tarboro, North Carolina 27886. The School hereby designates its address as the North East Carolina Preparatory School, c/o Executive Director, 247 Husky Trail, Tarboro, North Carolina 27886.

17. By mutual agreement of the Town Council of Tarboro and the North East Carolina Preparatory School Board of Directors this agreement can be voided.

18. This agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and shall not be modified without the consent of both parties, and no representation or undertaking is made by either party to the other party except as expressly stated herein.

19. Neither party shall assign this agreement nor any right or obligation hereunder without the written consent of the other party.

20. This agreement is executed, delivered and intended to be performed in the State of North Carolina, and shall be constructed and enforced in accordance with and shall be governed by the laws of said State.

IN WITNESS WHEREOF, the Town has caused this agreement to be executed in its corporate name by its Mayor and attested to by its Clerk and its corporate seal to be hereto affixed, all by authority of its Town Council duly given, and the School has caused this agreement to be executed in its corporate name by its Chairman, its corporate seal to be hereto affixed and attested by its Secretary, all by authority of its Board duly given, all as of the day and year first above written.

THE TOWN OF TARBORO

By _____
Mayor

ATTEST:

Clerk

North East Carolina Preparatory

By _____
Chairman, Board of Directors

ATTEST:

Secretary

NORTH CAROLINA

EDGECOMBE COUNTY

This _____ day of _____, 2019, personally came before me, _____, a Notary Public in and for said County and State, _____, who being by me duly sworn, says that he knows the common seal of said Town of Tarboro, and is acquainted with _____ who is Mayor of the Town of Tarboro; that she saw the said name in attestation of the execution of said instrument in the presence of the Mayor of the said Town.

Witness my hand and Notarial Seal, this _____ day of _____, 2019.

Notary Public

My commission expires:

NORTH CAROLINA

EDGECOMBE COUNTY

THIS IS TO CERTIFY that on the _____ day of _____, 2019, before me personally appeared David Anderson, with whom I am personally acquainted, who being by me duly sworn, says that he is Chairman and _____ described in and which executed the foregoing instrument, that she knows the common seal of said corporation, that the seal affixed to the foregoing

instrument is said common seal, and the name of the corporation was subscribed thereto by the said Chairman and Secretary subscribed their names thereto and the said common seal was affixed, all by order of said Board, and that the said instrument is the act and deed of the said corporation.

Witness my hand and Notarial Seal, this _____ day of _____, 2019.

Notary Public

My commission expires: _____



Town of Tarboro, North Carolina Mayor and Council Communication

Subject: Personnel - Residency Policy

Date: 12/9/2019

Memo Number: 19-101

In that there has been disagreement regarding the interpretation of the existing residency policy for Town personnel, the Town Attorney was asked to write alternative language for Council's review. The Town Attorney will present an ordinance with clarified language for Council's action on this matter.

It is recommended that Council adopt an ordinance with appropriate language regarding the residency requirements for Town personnel.

ATTACHMENTS:

Description	Upload Date	Type
Proposed Residency Policy	12/4/2019	Cover Memo

Personnel Policy Changes

Authority for Council action is found in the Town of Tarboro Code of Ordinances:

“Chapter 13, Article I. – In General. Section 13-3 – Approval of personnel policies and plans. The town council shall be responsible for approving the personnel policies, the position classification plan and for making and confirming appointments when so specified by law. ***The council and town manager may change the policies and benefits from time to time.***” [emphasis added]

Specific Policy for Review:

Prior Town Ordinance:

“Chapter 13, Article IV. – Employment Policy. Section 13-80. – Residency policy.

(a) All successful applicants for position openings with the town for police chief, fire chief, director of electric utilities, and director of public works shall be required to live in such proximity to the town that they may, without exceeding a safe speed, be present and available for duty within twenty (20) minutes after notification except that the town manager may temporarily waive this requirement for individuals who are recruited from outside the said radius, provided such waiver shall not exceed a period of more than sixty (60) days from the applicant’s beginning date of employment.

(b) Any person who is employed or promoted into the position of police chief, fire chief, director of electric utilities, and director of public works must reside in such proximity to the town that they may, without exceeding a safe speed, be present and available for duty within twenty (20) minutes after notification, except that the town manager may temporarily waive this requirement for a period not to exceed sixty (60) days from the employee’s beginning date of employment in such position.

(c) All persons employed by the town in positions requiring on-call duty or emergency-call duty must reside in such proximity to the town that they may, without exceeding a safe speed, be present and available for duty within thirty (30) minutes after notification. Such persons shall also be required to have a telephone located within their residences to receive notifications of the town’s needs.

Ord. No. 14-03, §2, 4-14-14

Current Town Ordinance:

“Chapter 13, Article IV. – Employment Policy. Section 13-80. – Residency policy.

(a) Persons **employed** by the Town after March 11, 2019 that are successfully promoted into or hired for the positions of Police Chief, Fire Chief, Electric Utility Director, Public Works Director, Planning Director, Parks & Recreation Director, or Finance Director must reside within the corporate limits of the Town, except that the Town Manager may temporarily waive this requirement for a period not to exceed one hundred eighty (180) days.

(b) All persons employed by the Town in positions requiring on-call duty or emergency-call duty must reside in such proximity to the Town that they may, without exceeding a safe speed, be present and available for duty within thirty (30) minutes after notification. Such persons shall also be required to have a telephone located within their residences to receive notifications of the Town’s needs.

Ord. No. 19-05, §1, 4-8-19

A CONCERN HAS BEEN RAISED ABOUT THE INTERPRETATION OF THE WORD “EMPLOYED” IN (a), i.e. WHETHER IT IS AN ONGOING, PRESENT-TENSE ACT, OR A FUTURE-TENSE INITIAL ACT OF HIRING?

PROPOSED AMENDMENT #1 (Staff interpretation)

(a) Persons first employed by the Town after March 11, 2019 who are successfully promoted into or hired for the positions of Police Chief, Fire Chief, Electric Utility Director, Public Works Director, Planning Director, Parks & Recreation Director, or Finance Director **must reside within** the corporate limits of the Town, except that the Town Manager may temporarily waive this requirement for a period not to exceed one hundred eighty (180) days.

(b) All persons employed by the Town in positions requiring on-call duty or emergency-call duty must reside in such proximity to the Town that they may, without exceeding a safe speed, be present and available for duty within thirty (30) minutes after notification. Such persons shall also be required to have a telephone located within their residences to receive notifications of the Town's needs.

PROPOSED AMENDMENT #2

(a) All persons hired or promoted by the Town after March 11, 2019 for the positions of Police Chief, Fire Chief, Electric Utility Director, Public Works Director, Planning Director, Parks & Recreation Director, or Finance Director **must reside within** the corporate limits of the Town, except that the Town Manager may temporarily waive this requirement for a period not to exceed one hundred eighty (180) days.

(b) All persons employed by the Town in positions requiring on-call duty or emergency-call duty must reside in such proximity to the Town that they may, without exceeding a safe speed, be present and available for duty within thirty (30) minutes after notification. Such persons shall also be required to have a telephone located within their residences to receive notifications of the Town's needs.

PROPOSED AMENDMENT #3

(a) Persons hired or promoted by the Town after December 31, 2019 into or for the positions of Police Chief, Fire Chief, Electric Utility Director, Public Works Director, Planning Director, Parks & Recreation Director, or Finance Director **must reside within** the corporate limits of the Town, except that the Town Manager may temporarily waive this requirement for a period not to exceed one hundred eighty (180) days.

(b) All persons first hired by the town on or before March 10, 2019 who were at that time serving in the positions of Police Chief, Fire Chief, Electric Utility Director, or Public Works Director, or who at that time were employed by the town in any full-time position, are **not required to reside within** the corporate limits of the Town, except the Police Chief, Fire Chief, Electric Utility Director, and Public Works Director shall be included as positions requiring on-call or emergency-call duty.

(c) All persons employed by the Town in positions requiring on-call duty or emergency-call duty must reside in such proximity to the Town that they may, without exceeding a safe speed, be present and available for duty within thirty (30) minutes after notification. Such persons shall also be required to have a telephone located within their residences to receive notifications of the Town's needs.



Town of Tarboro, North Carolina Mayor and Council Communication

Subject: Appointment - Upper Coastal Plain Council of Government Board of Directors Representative

Date: 12/9/2019

Memo Number: 19-102

It is recommended that Council appoint a member to represent the Town of Tarboro on the Upper Coastal Plain Council of Government Board of Directors.



***Town of Tarboro, North Carolina
Mayor and Council Communication***

Subject: Appointment - RPO Transportation Advisory Committee

Date: 12/9/2019

Memo Number: 19-103

It is recommended that Council appoint a member to represent the Town of Tarboro on the RPO Transportation Advisory Committee.