

AN ORDINANCE TO AMEND TOWN CODE CHAPTER 12, ARTICLE II, "*ELECTRICITY*."

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF APEX AS FOLLOWS:

Section 1. That Sections 12-7 through 12-17 of the Town of Apex Code of Ordinances are hereby amended as shown immediately below with deletions being shown by struck-through text and additions being shown by underlined text:

Sec. 12-7. - Separate classes of services.

~~Consumer~~Customers applying for more than one class of service on the same premises shall so arrange their wiring that each class of service can be metered separately (unless the town has a schedule on file covering service to such combination of classes on one meter), and ~~consumer~~customers purchasing any particular class of service shall confine the use of current supplied thereunder to the purpose set forth in the rate schedule for such class. Separate meters shall be required for each building on the same premises except for outhouses and for each separate class of service in the same building; except, that when a commercial lighting ~~consumer~~customer occupies the same building in part for residential purposes, the town may supply both the commercial and residential lighting through one meter at the commercial lighting rate or on a rural line at the rural rate.

(Code 1973, § 21-4)

State Law reference— Authority of town to establish classes of service, G.S. 160A-314.

Sec. 12-8. - Meters—Used for measuring service; testing.

The electric service rendered ~~will~~ shall be measured by an integrating watt-hour meter or such other meter as may be necessary or desirable, the registration of which shall be prima facie evidence of the electric energy received, subject in all cases to verification by testing in case of dispute. Testing, when necessary, will be done by the town at such costs as may be established by the town council from time to time. If the ~~consumer~~customer requests a test within six months after date of the installation or of the last previous test, the cost of the test shall be borne by the ~~consumer~~customer unless the meter shall be shown to be more than four percent fast, in which case the cost shall be borne by the town.

(Code 1973, § 21-5)

Sec. 12-9. - Same—Stoppage; adjustments.

In the event of partial or complete stoppage of the meter, thereby preventing proper registration, the adjustment in ~~consumer~~customers' accounts shall be made and determined in the absence of a more accurate basis on the nearest corresponding equal period of service when there was no such stoppage. In no event, however, shall the period of adjustments cover more than 60 days prior to the discovery of the stoppage.

(Code 1973, § 21-6)

Sec. 12-10. - Deposit.

The town may require satisfactory security for the payment of ~~consumer~~customer's account, in such amounts as are fixed by the town council from time to time.

(Code 1973, § 21-7)

Sec. 12-11. - Bills—Disputing.

A dispute as to the amount of a bill or the credits to be allowed against the same will not justify the ~~consumer~~customer in refusing to pay the bill when due, but if, on payment of bill by ~~consumer~~customer before it becomes delinquent, a written notice is delivered to the town office that the bill is disputed stating the amount and reason for dispute, the town will forthwith investigate the complaint. If the investigation shall disclose that the ~~consumer~~customer has a just claim, the town will make proper refund or credit any amount due on the next monthly bill of the ~~consumer~~customer.

(Code 1973, § 21-9)

Sec. 12-12. - Same—Power factor.

~~Where the power factor of the consumer's installation is less than 80 percent, the town may correct the billing by multiplying the kilowatt-hours used by 80 and dividing by the power factor.~~

The power factor of the customer's installation is the amount of electrical energy consumed by a given device that actually does work divided by the total amount of electrical energy actually consumed by the same given device either as a proportion or a percentage. If the minimum power factor of the customer's installation for the billing period is less than eighty-five percent (85%), the town shall correct the billing by multiplying the kilowatt-hours used by eighty-five percent (85%) and dividing the subsequent product by the customer's minimum power factor for the billing period expressed as a percentage.

(Code 1973, § 21-10)

Sec. 12-13. - Indemnification of town for loss originating on ~~consumer~~customer's side.

The ~~consumer~~customer and/or the title holder of the property shall indemnify, save harmless and defend the town against all liability, claims, judgments, costs and expenses for injury, loss or damage to persons or property on account of defective construction, wiring or appliances on ~~consumer~~customer's side of point of delivery.

(Code 1973, § 21-12)

Sec. 12-14. - Furnishing of required permits by ~~consumer~~customer.

The ~~consumer~~customer shall provide for the permits, if any, as may be required by law before the town shall make connection to the ~~consumer~~customer's premises.

(Code 1973, § 21-13)

Sec. 12-15. - Town's right-of-way and property rights.

The ~~consumer~~customer shall make or procure satisfactory conveyance to the town's right-of-way for the town's lines and apparatus between the town's existing main line and the ~~consumer~~customer's premises, necessary or incidental to the furnishing of service, and shall also furnish shelter satisfactory to

the town for meters or other apparatus of the town installed on the ~~consumer~~customer's side of the point of delivery. The ~~consumer~~customer shall permit access thereto by the town's employees at all reasonable hours. The location of the right-of-way or terminal point shall be changed by the town at the expense of the ~~consumer~~customer on receipt of written request of the ~~consumer~~customer stating a reasonable cause therefor and all privileges incident to the original location shall apply to the new location.

(Code 1973, § 21-14)

Sec. 12-16. - Nonliability of town for interrupted service.

The town does not guarantee continuous service, but shall use reasonable diligence to provide uninterrupted service, and having used reasonable diligence shall not be liable to the ~~consumer~~customer for damage for failure in, interruptions or suspension of same. The town reserves the right to suspend service without liability on its part at such times, for such periods and in such manner as may in its judgment be required for the purpose of making necessary repairs on the lines or other parts of its system.

(Code 1973, § 21-15)

Sec. 12-17. - Unlawful attachments.

~~It shall be unlawful to attach any wires above an electric light meter owned and in use by the town or to place or use any other substance or material in connection with any such meter that may cause the meter to fail to register the amount of current used.~~

It shall be unlawful to tamper with, alter, or in any way attempt to cause an electric service meter owned by the town to fail to register the correct values or to use any configuration or construction determined by the town to be detrimental to the operation of an electrical service meter. Supply side connections, including but not limited to, solar installations, that are made in accordance with the National Electrical Code are not unlawful attachments.

Section 2. That Section 12-19 of the Town of Apex Code of Ordinances is hereby amended as shown immediately below with deletions being struck-through text and additions being shown by underlined text:

Sec. 12-19. ~~— Regulation of~~ Load management devices ~~required~~ with respect to ~~new~~ residential construction.

~~(a) — A load management device is an enclosed controller typically mounted on the outside wall of a home near the outdoor HVAC equipment. It uses internal circuitry and remote electrical relays to control the operation of central air conditioning and electric water heaters which allows the town to temporarily disconnect such systems in anticipation of peak electrical demand periods. As a condition of receiving electric service the owner of every residential property for which a building permit is issued after September 1, 1993 shall, prior to receiving a certificate of occupancy, install a load management device for said building. The load management device shall be furnished free of charge by the town. After initial installation the town is responsible for repair or replacement of the device, and reasonable access shall be granted for said repair. The owner or the owner's contractor shall install the same in accordance with the town's specifications.~~

~~A load management device is equipment, and remote relays provided by the town for controlling the operation of central air conditioning and electric water heaters and allows the town to temporarily disconnect such systems in anticipation of peak demand periods.~~

(a) Initial Installation. With respect to new residential construction, upon obtaining a building permit as

required by state law, the owner or the owner's contractor shall install the original load management device in accordance with the town's specifications.

- (b) Exemptions from installation. The following residential construction is exempt from the requirement of subsection (a):
- (1) Building permits for repairs and renovations to residential construction of less than \$10,000.00.
 - (2) The common areas of condominiums, cooperatives and homeowners associations.
 - (3) ~~The director of public works~~Electric Utilities Director may exempt such systems as are technically not feasible for control by load management devices.
- (c) No person shall prevent, alter or impede the operation of a load management device. Such action is a violation of the electric service agreement between the ~~customer~~consumer and the town and subjects the offender in the case of an intentional violation to a penalty of \$100.00, and in the case of an unintentional violation, a penalty of \$25.00. Payment is due within ten days after written notice thereof. Payment of such a penalty shall be a condition of the continued provision of electric service. Any questions or requests regarding the function, operation or maintenance of the load management device shall be directed to the town.
- (d) The town shall grant a credit against the electric bill for the use of load management devices, whether installed voluntarily or involuntarily, in such amount as the town council shall determine in its schedule of electric rates.
- (e) After initial load management device installation, the town shall be responsible for maintenance and/or replacement of the load management device. Replacement of the device shall be at the town's discretion. When maintenance or replacement of the load management device is required, the property owner or tenant shall contact the town to request repair of the load management device unless the repair or maintenance is initiated by the town. Reasonable access shall be granted for said maintenance or replacement.
- (f) In the event a private contractor or any other entity performing services at a location with a load management device disconnects the device, or in the event the device has already been disconnected, that private contractor or entity shall reconnect the load management device after the work is completed. The entity reconnecting the device shall contact the Town of Apex Electric Department with any questions about the connection, disconnection, operation or function of the load management device.
- (g) Customers that began receiving electric service prior to or on September 1, 1993 that do not have a load management device may request one from the Town of Apex Utilities Department. The device shall be furnished by the town and installed free of charge.
- (h) Customers may opt out of the load management program at any time by notifying the town. Any customer opting out of the program will no longer receive the monthly credits referenced in subsection (d) of this ordinance. Removal of the load management device switch will be at the town's expense for the initial request only. Any future installations or removals following the initial request will be at the customer's expense.

(Ord. of 8-3-93, § 1)

Section 3. The Town Clerk and/or Town Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish, and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the terms of this Ordinance.

Section 4. Severability, Conflict of Laws. If this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or

applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 5. Effective Date. This ordinance shall be effective _____

Introduced by Council Member: _____

Seconded by Council Member: _____

This the ____ day of _____, 2017

Lance Olive
Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney