

ORDINANCE NO. _____

AN ORDINANCE TO AMEND SECTION 12-19 OF APEX TOWN CODE

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

Section 1. Section 12-19 of the Town of Apex Code of Ordinances is hereby amended to read as follows with additions shown as bold underlined text and deletions shown as strikethrough text:

Sec. 12-19. Regulation of load management devices with respect to residential construction.

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 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.

- (1) *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. **All air conditioning units, electric water heaters, and heating strips shall be connected to the load management device. All building wire and connections to the load management device shall be the responsibility of the owner or the owner's contractor.**
 - a. **Installation due to repairs and renovations requiring a building permit. With respect to repairs and renovations requiring a building permit, the owner or the owner's contractor shall verify that all appliances previously connected to the load management device are reconnected, including appliances that were previously connected which were replaced or modified, unless the new appliance does not use electricity to operate, such as replacing heating strips with a gas furnace.**
- (2) *Exemptions from installation.* The following residential construction is exempt from the requirement of subsection (1):
 - a. Building permits for repairs and renovations to residential construction of less than \$10,000.00.
 - b. The common areas of condominiums, cooperatives and homeowners associations.
 - c. Electric water heaters with tanks less than 40 gallons in capacity.
 - d. The electric utilities director may exempt such systems as are technically not feasible for control by load management devices.

- (3) 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 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.
- (4) The town may grant a credit against the electric bill or a reduced rate 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.
- (5) 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. **The owner or the owner's contractor shall be responsible for any replacement or repair of the building's wiring necessitated by the maintenance, repair, or replacement of the load management device by the town.**
- a. **The owner shall request a new load management device when replacing the dwelling's central air conditioning unit. The town will provide the device free of charge, and the device shall be installed by the owner's HVAC contractor. Any repairs to the owner's building wiring to facilitate installation of the new load management device is the responsibility of the owner or the owner's contractor.**
- (6) 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 electric utilities department with any questions about the connection, disconnection, operation or function of the load management device.
- (7) 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 electric utilities department. The device shall be furnished by the town and installed free of charge. **The owner is responsible for providing building wiring to the point of connection.**
- (8) 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 and or reduced rates referenced in subsection (4) of this section. Removal of the load management device shall not be permitted unless approved in writing by the electric utilities director. Approved removals will be at the customer's expense.**

Section 2. It is the intention of the governing body, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, and the sections of this ordinance may be renumbered to accomplish such intention.

Section 3. 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 4. Effective Date. This ordinance shall be effective upon adoption.

Introduced by Council Member: _____

Seconded by Council Member: _____

This the ____ day of _____, 2025.

Jacques K. Gilbert
Mayor

ATTEST:

Allen L. Coleman, CMC, NCCCC
Town Clerk

APPROVED AS TO FORM:

Laurie L. Hohe
Town Attorney