

EDINBURGH TOWN COUNCIL**ORDINANCE NO. 2017-5****AN ORDINANCE FOR THE PROTECTION
OF THE DELIVERY OF ELECTRICITY**

WHEREAS, the Town of Edinburgh (“Town”) owns and maintains all of the utilities that provides services to the residence of the Town;

WHEREAS, Edinburgh Power & Light Department (“Department”) provides electricity to all properties located within the Town;

WHEREAS, the Town owns certain poles; power lines; meters; and other personal property that convey; maintain; and monitor the delivery of electricity to the customers of the Department; (collectively referred to as “Equipment”)

WHEREAS, Indiana Code 35-43-5-3 provides that a person who knowingly and intentionally with intent to defraud another person furnishing electricity, gas, water, telecommunication, or any other utility service, avoids a lawful charge for that service by scheme or device or by tampering with facilities or equipment of the person furnishing the service commits the criminal offense of deception;

WHEREAS, Indiana Code 35-43-1-2 provides that a person who recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent commits criminal mischief;

WHEREAS, the Edinburgh Town Council finds it in the best interest to pass an ordinance that protects the Equipment; provides recourse for the Town to react to any interference with the Equipment and/or the delivery of electricity by the Department; and makes it unlawful to divert electricity delivered by the Department;

**NOW, THEREFORE, BE IT ORDAINED BY THE EDINBURGH TOWN
COUNCIL, AS FOLLOWS:**

I. SECTION 1. DEFINITIONS

- a. For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - i. **EQUIPMENT**. Any and all personal and real property, including but not limited to power lines, poles, cables, meters, vehicles, and/or buildings involved in the Edinburgh Power and Light Department conveying, monitoring, delivering, housing, and/or implementing electricity to the customers of the Department;

- ii. **ELECTRICITY**. Any electricity produced; delivered; and/or monitored by the Department;
- iii. **DEPARTMENT**. Edinburgh Power and Light Department;
- iv. **CUSTOMER**. Any customer of the Department;

II. **SECTION 2. ILLEGAL DIVERSION OF ELECTRICITY**

- a. It shall constitute an act of deception, per Indiana Code 35-43-5-3, and criminal mischief, per Indiana Code 35-43-1-2, if an person does the following:
 - i. Alters; tampers; modifies; gains access to; or manipulates in any way the Equipment without express written authorization from the Department. This shall include but not limited to any contact or manipulation or attempt to manipulate any meters of the Department;
 - ii. Recklessly, knowingly, or intentionally diverts the delivery of electricity from the Department from another Customer to themselves to avoid a charge from the Department.

III. **SECTION 3. ACTIONS BY THE DEPARTMENT**

- a. If the Department detects fraudulent or unauthorized use of electricity, or that the Department's Equipment or other service facilities have been tampered with or altered, the Department may discontinue service to affected premises and/or Customer without notice.
- b. Any one of the following conditions, observations, or reasons found by the Department are sufficient grounds for disconnecting the service without notice:
 - i. Connection of electricity consuming devices ahead of Department's meter and/or metering equipment or connections or devices which would prevent the normal functioning of the meter are found installed on Customer's premises.
 - ii. If upon inspection by the Department it is found that the meter, wires, seals, conduit or metering equipment have been broken, tampered with or made inoperative or unable to operate normally.
- c. After service has been disconnected, for one or all of the foregoing reasons without notice, the following procedure shall be followed:

- i. The Department shall estimate, calculate and determine, by whatever reasonable means are available, the amount of electricity that has been illegally diverted. In the process of estimating and calculating the amount of illegally diverted energy the Department shall have the right to inspect the Customer's premises to make an accurate count of the Customer's connected load, including all lights, heaters and any other appliances or devices.
- ii. Prior to reconnection of service, the Department may require an electrical inspection to be conducted by the authority having jurisdiction.
- iii. The Department shall file an invoice with the Customer which shall be paid in full before service is reconnected. The Customer's deposit may be used as an offset towards this invoice. The invoice shall include the following charges:
 1. The amount of kilowatt hour and normal billing price of all illegally diverted energy;
 2. The amount and normal billing price of all regularly metered energy not previously paid for up to the time service was discontinued;
 3. The cost to repair or replace meter or other equipment if meter or other equipment has been damaged or destroyed;
 4. The estimated cost of any changes to be provided in the meter installation including moving same to a new location to prevent future illegal diversions;
 5. Any fees incurred for meter accuracy testing;
 6. Any fees and/or penalties provided in Section 5;
- d. The foregoing procedure and charges are not intended to in any way waive or modify any rights the Department shall have against the offending Customer under any and all applicable laws.

IV. SECTION 4. METER

- a. The Department shall not supply any person with electricity unless and until the electric meter located on his or her premises is properly sealed with a seal furnished by the Department to its consumers for the purpose of sealing electric meters. Only employees of the Department or other qualified persons duly authorized by the Department and, in that event, only in the presence of a Department employee, shall be allowed to break any electric seal or remove same from any electric meter.
- b. There shall be a fifty dollar (\$50.00) fee charge to any Customer requiring a new electric meter seal for the reason that his seal is broken or has been removed from the electric meter for any reasons except those authorized by the Department.

V. SECTION 5. PENALTY

- a. Whoever violates any provision of this chapter shall be subject to the following penalties:
 - i. Penalties and punishment provided by Indiana Code 35-43-5-3 and Indiana Code 35-43-1-2;
 - ii. Fined not less than \$300.00 for each act or offense in addition to any other monies due to the Department provided under this ordinance;
 - iii. Any and all cost and expenses the Department incurs in rectifying any and all damage caused by the person upon the Equipment.

VI. SECTION 6. PUBLIC NOTICE

- a. In accordance with Indiana Code 36-5-2-10(b) and Indiana Code 5-3-1-2(h), this ordinance shall be published in newspapers of general circulation in Johnson, Shelby, and Bartholomew Counties one (1) time within thirty (30) days after it is adopted by Edinburgh Town Council.

VII. SECTION 7. PUBLIC BENEFIT

- a. That the Edinburgh Town Council finds that this ordinance will be in the best interest of the Town and for the benefit of the public and residents of the Town.

VIII. SECTION 8. REPEALER

- a. All ordinances or parts of ordinances in conflict with provisions of this ordinance are hereby repealed.

IX. SECTION 9. SEVERABILITY

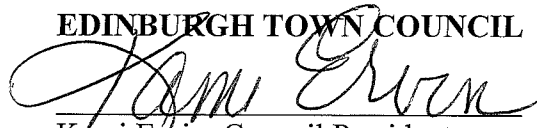
- a. Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be unconstitutional or invalid.

X. SECTION 10. EFFECTIVE DATE


- a. This ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

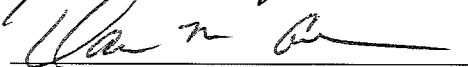
ADOPTED this 25th day of September, 2017.

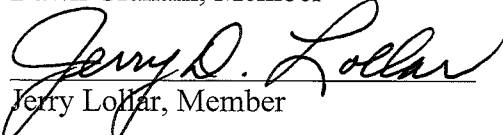
EDINBURGH TOWN COUNCIL


Kami Ervin, Council President

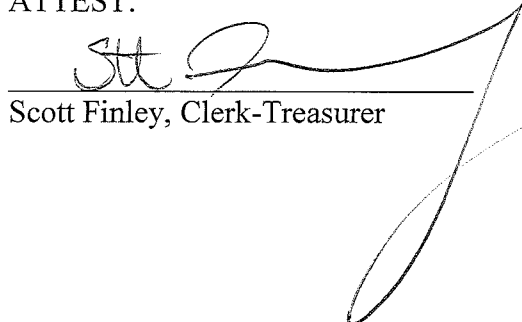
Jeffrey A. Simpson, Vice President


Jack Shepherd, Member


Dawn Graham, Member


Jerry Lollar, Member

ATTEST:


Scott Finley, Clerk-Treasurer