

**TITLE 19****ELECTRICITY AND GAS****CHAPTER**

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2. NATURAL GAS REGULATIONS.

**CHAPTER 1****ELECTRICITY<sup>1</sup>****SECTION**

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<sup>1</sup>Municipal code reference  
Electrical code: title 12.

**19-101. Board of public utilities established; purpose, powers, and duties; membership.** (1) A board of public utilities is hereby constituted and established for the purpose of taking and having supervision and control of the improvement, operation, and supervision and control of the improvement, operation, and maintenance of the electric plant for the City of Covington. The board shall be the supervisory body of the plant and shall have all the powers and duties which are, or shall be, conferred upon such board by the laws of Tennessee, including, but not limited to, the provisions of the Municipal Electric Plant Act, the same being chapter 32 of the Public Acts of the General Assembly of 1935 as set forth in Tennessee Code Annotated (orig. ed.), § 6-1502. The term "electric plant" shall be understood as defined in subsection B (of section 2 of said Act). The initial board hereby constituted shall consist of two (2) members with fixed terms. One (1) member of the board of mayor and aldermen shall serve as a third member of the board of public utilities.

(2) The first board shall be as follows: F.W. McBride, whose term begins July 1, 1958, and expires July 1, 1960. Hays E. Owen, Jr., whose term begins July 1, 1958, and expires July 1, 1962. P.A. Turner, is appointed from the board of aldermen, and his term begins July 1, 1958, and expires at the expiration of his term of office.

(3) The first meeting of the board of public utilities shall be held at the City Hall, in Covington, Tennessee, within ten (10) days after the appointment and qualification of members, with the purpose of the members taking the oath of office, electing a chairman who will serve as chairman until the expiration of his term of office, designating a secretary/treasurer and fixing his compensation, adopting by-laws, and any other business which may come before the board. (Ord. #1345, Feb. 1994)

**19-102. Qualifications of board members.** No one shall be eligible for membership on the board of public utilities unless he owns property in the corporate limits of the City of Covington, Tennessee, has been a resident of this city for not less than one (1) year preceding the date of his appointment and has not been a regular compensated officer or employee of the city for at least one (1) year preceding the date of his appointment. (Ord. #1345, Feb. 1994)

**19-103. Appointment of board members.** The members of the board shall be appointed by the Mayor of the City of Covington and approved by the board of mayor and aldermen. (Ord. #1345, Feb. 1994)

**19-104. Members to serve staggered terms.** Unless otherwise provided in this chapter, the successor to each retiring member of the board of public utilities shall be appointed at the last regular meeting at the board of mayor and aldermen in June of each year preceding the expiration of the term of such member. Each member, exclusive of the member elected from the board

of mayor and aldermen shall serve for a term of four (4) years. (Ord. #1345, Feb. 1994)

**19-105. Members terms to begin on July 1.** The term of office shall be from July 1 after the appointment at the last regular meeting of the board of mayor and aldermen in June. (Ord. #1345, Feb. 1994)

**19-106. Aldermen members' term.** The term of office of the member elected from the board of mayor and aldermen shall be for such time as the appointing officer may fix, but in no event to extend beyond his term of office in such governing body. (Ord. #1345, Feb. 1994)

**19-107. Member to serve until election of successors.** Members of the board of public utilities shall continue in office until their successors are elected. (Ord. #1345, Feb. 1994)

**19-108. Appointments to fill unexpired terms.** Appointments to complete unexpired terms of office shall be made in the same manner as are original appointments. (Ord. #1345, Feb. 1994)

**19-109. Board members to take oath; bond.** Each member of the board of public utilities shall qualify by taking the oath of office as required to be taken by members of the Board of Mayor and Aldermen of the City of Covington, and unless otherwise set forth in this chapter shall serve without bond. (Ord. #1345, Feb. 1994)

**19-110. Compensation of members and officers.** All members of the board shall serve as such without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of the board, including an allowance of not to exceed two hundred dollars (\$200.00) per month for attendance at meetings. Such expenses, as well as the salaries of the secretary/treasurer, shall constitute a cost of operation and maintenance of the electric plant. (Ord. #1345, Feb. 1994, modified)

**19-111. Removal of board members.** Any member of the board may be removed from office for cause upon a vote of three-fourths (3/4) of the members of the board of mayor and aldermen, but only after preferment of formal charges by resolution of a majority of the members of such governing body at a public hearing before such governing body. (Ord. #1345, Feb. 1994, modified)

**19-112. Time of regular monthly meetings.** The board of public utilities shall meet each month on the fourth Monday of each month at the office of the board of public utilities in Covington, Tennessee, or at such other time

and place as all members of the board may agree upon. (Ord. #1345, Feb. 1994, modified)

**19-113. Chairman to be elected from members.** The chairman's term shall be for four (4) years or until his term expires. (Ord. #1345, Feb. 1994, modified)

**19-114. Quorum and votes required for action.** A majority of the board shall constitute a quorum and the board shall act by vote of a majority present at any meeting attended by a quorum. Vacancies in the board shall not affect its power and authority so long as a quorum remains. (Ord. #1345, Feb. 1994)

**19-115. Duties of secretary/treasurer; signatures required for checks; bonds of officers.** The secretary/treasurer of the board of public utilities shall be the accountant of the board of public utilities and the Covington Electric System. The secretary/treasurer will sign and the superintendent will counter sign all checks. In the absence of either of these people, the chairman of the board will sign or counter sign. The secretary/treasurer, the superintendent, and the chairman of the board shall be bonded in such amounts as the board deems necessary. (Ord. #1345, Feb. 1994)

**19-116. Records and reports of board.** (1) The board shall keep a complete and accurate record of meetings and actions taken, and of all receipts and disbursements, and shall make reports of the same to the Board of Mayor and Aldermen of the City of Covington.

(2) Such reports shall be in writing, and shall be filed in an open meeting of the board of mayor and aldermen at stated intervals, not to exceed one (1) year. A copy shall also be filed with the recorder/treasurer of the City of Covington. (Ord. #1345, Feb. 1994)

**19-117. Minutes, by-laws, rules and regulations.** Minutes, by-laws, rules and regulations shall be kept in the minute book which shall remain in the custody of the secretary/treasurer or in the offices of the board of public utilities or the Covington Electric System, or such other place as the board may direct. It shall, at all times, be subject to inspection by any member of the board of public utilities or by any member of the board of mayor and aldermen. (Ord. #1345, Feb. 1994)

**19-118. Adoption and/or revision of by-laws, rules and regulations.** The board of public utilities may from time to time adopt and/or revise such by-laws, rules and regulations as it may consider advisable. (Ord. #1345, Feb. 1994)

**19-119. Annual audit.** At least once each year, the board of public utilities shall have a certified public accountant or accountants make a thorough audit of the financial affairs and records of the Covington Electric System. (Ord. #1345, Feb. 1994)

**19-120. Board's general rights; powers and duties.** The board of public utilities shall have all rights, powers, and duties conferred by the Municipal Electric Plant Law of 1935 as set out in Tennessee Code Annotated, §§ 7-52-101, et seq., and all acts amendatory thereof and supplementary thereto. (Ord. #1345, Feb. 1994)

**19-121. Superintendent to be appointed; compensation; term.** The board of public utilities shall appoint a superintendent for the electric system who shall be qualified by training and experience for the general supervision of the improvement and operation of the electric plant. The superintendent need not be a resident of the State of Tennessee at the time his appointment. His salary shall be fixed by the board of public utilities. The superintendent shall serve at the pleasure of the board of public utilities and may be removed by said board at any time. (Ord. #1345, Feb. 1994)

**19-122. Powers of superintendent.** (1) The superintendent shall have charge of all actual construction, the immediate management and operation of the electric plant and the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by the board of public utilities.

(2) The superintendent shall appoint all employees and fix their duties and compensation, excepting that the appointment of all technical consultants and advisors and legal assistance shall be subject to the approval of the board of public utilities.

(3) Subject to the provisions of Tennessee Code Annotated, § 7-52-132, the superintendent, with the approval of the board of public utilities, may acquire and dispose of all property, real and personal, necessary to effectuate the purposes of the part. The title of such property shall be taken in the name of the municipality.

(4) The superintendent shall let all contracts, subject to the approval of the board of public utilities, but may, without such approval, obligate the electric plant on purchase orders up to an amount to be fixed by the board of public utilities, but not to exceed fifty thousand dollars (\$50,000.00). Any work or construction exceeding in cost the amount specified in the preceding sentence shall, before any contract is let or work done, be advertised by the superintendent for bids, but the board of public utilities shall have power to reject any all bids.

(5) The superintendent shall make and keep full and proper books and records, subject to the supervision and discretion of the board of public utilities. (Ord. #1345, Feb. 1994)

**19-123. Superintendent's general rights, powers and duties.** The superintendent shall have all rights, powers, and duties conferred by Tennessee Code Annotated, §§ 7-52-101, et seq., and all acts amendatory thereof and supplementary thereto. (Ord. #1345, Feb. 1994)

**19-124. Appointment of additional members.** The board of mayor and aldermen may, by resolution, increase the number of members of the board of public utilities from three (3) to five (5) members and establish the initial terms of office of such new members. Such additional members shall not be members of the board of mayor and aldermen and shall be subject to all of the duties, responsibilities, and provisions of this chapter. The appointment to the board shall be made by the mayor subject to approval by the board of mayor and aldermen. (Ord. #1345, Feb. 1994)

## CHAPTER 2

### NATURAL GAS REGULATIONS

#### SECTION

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**19-201. Regulations.** The following regulations shall be applicable to natural gas distribution by the City of Covington, except as amended by, or to the extent exceptions to these rules in particular instances due to special circumstances are granted by the city council.

**19-202. Definitions.** The following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings, unless the context or use indicates another or different meaning or intent:

- (1) "City." City mean the City of Covington, Tennessee.
- (2) "Commercial customers." Customers engaged primarily in the sale of goods or services, including institutions and local, state, and federal government agencies, for uses other than those involving manufacturing or electrical power generation.

(3) "Commodity charge." A commodity charge is assessed under a particular rate schedule to recover the city's costs of selling gas to the customer.

(4) "Customer." A customer is a person or entity contracting with or otherwise receiving service from the Covington Gas System.

(5) "Customer charge." A customer charger is assessed under a particular rate schedule to recover the city's costs of serving the customer.

(6) "Day." A day means a period of twenty-four (24) consecutive hours, beginning and ending at 8:00 A.M. prevailing Covington, Tennessee time.

(7) "Feedstock gas." Natural gas used as a raw material for its chemical properties in creating an end product.

(8) "Firm." Firm service means that city may interrupt its performance without liability to the extent that such performance is prevented for reasons of force majeure, including performance of maintenance.

(9) "Gas." Gas means natural gas, including associated liquefiable hydrocarbons produced from gas wells, oil well gas produced in association with crude oil and synthetic or substitute natural gas.

(10) "Ignition fuel and flame stabilization." Natural gas used directly in an industrial use for ignition start-up, testing, flame stabilization, and shutdown.

(11) "Industrial customers." Customers engaged primarily in a process which creates or changes raw or unfinished materials into another form or product, including the generation of electric power.

(12) "Interruptible." Interruptible service means that city may interrupt its performance at any time for any reason.

(13) "Interruptible customer." Any customer (commercial or industrial) using the city's natural gas service hereunder for any purpose where such service interruption is established by the applicable service agreement or rate schedule or by council authorization.

(14) "Large residential customer." Customers who utilize gas service in apartment houses, mobile home parks, hotels, motels, clubs, and other establishments providing dwelling accommodations where more than one (1) dwelling unit is serviced through the same meter.

(15) "Mef." Mef is the abbreviation employed to denote one thousand (1,000) standard cubic feet of gas.

(16) "Purchase gas adjustment." The city shall maintain an accounting procedure to determine its cost of gas each month.

(17) "Plant protection gas." Minimum quantities required to prevent physical harm to the plant facilities or danger to plant personnel when such protection cannot be afforded through the use of alternate fuel. This includes the protection of such material in process as would otherwise be destroyed but shall not include deliveries required to maintain plant production. For the purpose of this definition, propane and other gaseous fuels shall not be considered alternate fuels. The quantification of such load shall be a responsibility of the



customer to provide to the satisfaction of the city to qualify for such classification treatment.

(18) "Process gas." Gas use for which alternate fuel use is not technically feasible, such as in applications requiring precise temperature controls and precise flame characteristics. For the purpose of this definition, propane and other gaseous fuels shall not be considered alternate fuels.

(19) "Rate schedules." The city provides service to various classes of customers only under the terms of published rate schedules.

(20) "Reconnect fee." A reconnect fee is charged to a customer whose service was disconnected in the past.

(21) "Residential customers." Customers who utilize gas service in individually metered dwelling units for space heating, air conditioning, cooking, water heating, and other residential uses.

(22) "Service call fee." A service call fee applies if routine service is requested to be performed after regular hours, on weekends or holidays.

(23) "Service line." A service line is the pipeline connecting the city's distribution system and the customer.

(24) "Unauthorized use of gas." Unauthorized use of gas shall mean:

(a) For any customer subject to curtailment during a curtailment period, the taking of gas in excess of the daily entitlement specified by the city.

(b) For an interruptible customer, the taking of gas on any day in excess of the maximum daily contract quantity specified in the gas service contract between the city and customer.

(c) For any customer with a maximum monthly quantity specified in the gas service contract between the city and the customer. The taking of gas in any billing period in excess of the maximum monthly quantity.

(d) For any customer, the taking of unmetered gas by bypassing the meter or willfully modifying the gas meter so as to cause loss or reduction of registration.

**19-203. Gas services.** The city shall render natural gas services as defined by rate schedules approved and amended from time to time.

**19-204. Continuity of service.** Under the city's rate schedules for firm service, the city will use reasonable diligence to supply steady and continuous service but does not guarantee that there will be no service fluctuations or interruptions. The city shall not be liable for any damages arising from any such interruption of service arising from circumstances beyond the city's control, including interruption when necessary to maintain and repair its facilities. The city shall have no liability or obligation arising out of any refusal or curtailment or interruption of service effected in accordance with these regulations.

**19-205. Connections.** The city may refuse gas service to any premises where the piping does not conform to the city's specifications and requirements, including those set forth herein and in other pertinent safety regulations. The city will not be liable for any imperfect material or defective or faulty workmanship in the installation of the customer's piping, appliances, appliance connections, or for any loss or damage arising from such condition.

**19-206. Service line ownership.** The service line is the property of the property owner on which the service line rests.

**19-207. Service line construction.** Only the city or its representative may construct a service line. A customer shall pay for the construction of a service line in accordance with a schedule measured from the property line to the riser.

**19-208. Meters.** Metering and regulating equipment shall be owned by city, and city shall have the right of ingress and egress to the metering and regulating equipment at all times. City shall use its best efforts to avoid interfering with customer if on is premises. City shall have the right to alter its metering and regulating equipment, as well as to install remote meter reading devices or other equipment city deems necessary for monitoring customer's delivery of gas. Metering equipment found to be inaccurate at operating conditions will be restored to an accurate operating condition or be replaced with other accurate metering equipment at city's expense. Should an operating condition exist whereby gas is consumed but no consumption is registered, an estimated bill will be calculated using prior metered consumption, as previously billed by city to customer, prorated for the period of non-registered consumption.

**19-209. Service calls.** The public works department shall respond to all complaints and inquiries relative to water, gas, sewer, or sanitation service. Responses to gas leaks and other emergencies shall be on a twenty-four (24) hour basis provided that customer shall pay an after hours fee where appropriate. Turn-ons, turn-offs, lighting of pilots and other requests for routine service will be undertaken on a scheduled basis during normal work hours and the customer shall pay a service call fee if routine service is requested to be performed after regular hours, on weekends or holidays.

**19-210. Unauthorized use of gas or interference with gas supply.** No person shall tamper with or willfully modify the city's gas meter. No person shall bypass a meter or turn-on or turn-off any of the city's stop cocks or valves without permission or authority from the city. Any person who does so may be prosecuted under any applicable state or federal statute, as well as the general penalty clause of this code. Additional penalties under this code also may apply for unauthorized use of gas.

**19-211. Protection from damage.** No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, meter, valve, or other equipment which is part of the gas works. Any person violating this provision shall be subject to criminal prosecution under charge for disorderly conduct and/or defacing public property, the general penalty clause of this code, and any applicable state or federal statute.

**19-212. Gas rates.** All rates and charges for natural gas services rendered by the city, and all conditions relative thereto, shall be determined from time to time by the city and shown in rate schedules, until changed subsequently by ordinance of the city.

**19-213. Deposit for gas service.** Before the gas department will commence gas service, the customer shall make a deposit according to the city's published schedule for such fees. An existing customer will be required to increase its existing deposit to the amount in the current schedule only if it has been cut off three (3) times in a twelve (12) month period for failure to pay.

**19-214. Cost of purchased gas.** The city shall maintain a gas purchase adjustment for the purpose of calculating the cost of gas to its sales customers.

**19-215. Billing and payment.** Pursuant to the applicable rate schedule, the city shall render an invoice monthly for gas service to the property owner, unless the city approves the establishment of an account by another party.

**19-216. Level billing plan.** A customer may elect a level billing plan under which the customer will be billed a fixed amount each month based on an annual estimation of the cost of service for the prior twelve (12) months, plus any projected increase in cost. The invoice for the twelfth month bill will include a reconciliation of the estimated and actual bill.

**19-217. Late payment surcharge.** There shall be added to the gas bill of each and every customer a surcharge of five percent (5%). If the bill of a customer is paid on or before the fifteenth (15th) day from the date on which due and payable, this five percent (5%) surcharge will be waived.

**19-218. Termination of service for nonpayment.** If a customer fails to pay its invoice when due, the city may give notice to the customer of termination for nonpayment. Such notice shall contain the address of the premises, the account information including the amount due, and the date on which service will be terminated, which date shall not be sooner than seven (7) days after the date of the notice (including weekends and holidays). If payment

is not received by the end of the seven (7) day period, the city may terminate service. Upon termination, the deposit shall be applied against the amount due. The city may exercise any remedy available at law or equity to enforce the customer's payment obligations. If a delinquent account is paid in full, and customer desires to obtain gas service, the customer shall pay a reconnect fee and make the applicable deposit under § 19-213.

**19-219. Service and curtailment priorities.** (1) During periods of gas shortages when reductions in the deliveries of gas to the city have the effect of impairing the city's ability to render service in satisfaction of all its customer requirements, including also any partial failure of the city's facilities, the city shall allocate its available gas supplies to provide service in order of the following priorities (with Priority 1A the last customer designation to be curtailed):

- (a) Priority 1A: Residential customers;
- (b) Priority 1B: Large residential customers;
- (c) Priority 2: Commercial customers;
- (d) Priority 3: Industrial customers with uses for feedstock gas, ignition and flame stabilization, plant protection, and process gas;
- (e) Priority 4: All other industrial customers;
- (f) Priority 5: Interruptible customers.

(2) The city shall notify customers affected by such curtailment, and those customers shall adjust their usage as directed. A customer during a curtailment period may utilize its allotted gas in the manner it desires as long as the requested load curtailment is met. Any gas taken in excess of two percent (2%) of its allotment shall be considered an unauthorized use of gas.

(3) In establishing a procedure to effect curtailments in accordance with the terms of this chapter, reductions within a customer class shall be on a pro rata basis, provided that the city may allocate gas within a customer class on other than a strict pro rata basis if required by the public interest and the burden of such curtailments on an aggregate basis is as equitable as possible among such class of customers.

(4) In the event of system maintenance the city shall have the right to shut off, discontinue, re-establish, or continue service to any customer or class of customers irrespective of the priority of preference provisions specified hereinabove.

**19-220. Notice to customers and safety rules.** To the extent practicable, the city shall give notice of curtailments or interruptions of gas service, as well as the re-establishment or recommencement of gas service following curtailments or interruptions, provided further that the city shall comply with all applicable safety rules, regulations, standards and proceedings.

**19-221. Emergency situation; priorities.** In emergencies threaten to impair the ability of the city to maintain the safety and integrity of its gas distribution system, including decrease or interruption of gas supply to or in the city's system or any part thereof due to line breaks, line freezes, equipment malfunctions or other similar events, the city shall take whatever steps it deems necessary to protect the public health and safety. To the extent feasible, the city shall follow the respective priorities hereinabove specified.

**19-222. Penalty for unauthorized use.** In the event of unauthorized use of gas, the customer shall be billed at a rate of ten (10) times the applicable residential customer rate.

**19-223. Franchise rights.** (1) Without a franchise granted by the City of Covington no person, partnership, corporation or other legal entity ("person") shall have the right or privilege:

(a) To erect, construct, operate or maintain or use any natural gas pipeline, plant or system or gasworks, or works within the city in order to sell or distribute or provide non-municipal natural gas to itself or any other user or consumer within the city; or

(b) To use the streets, alleys, or public grounds of the city for such purpose; or

(c) To interconnect any building, structure or facility of any kind to any natural gas pipeline or system other than to the natural gas system of the City of Covington.

(2) No ordinance for the grant of a franchise for a natural gas distribution system as set forth herein shall be granted except under such terms and conditions as shall preserve the financial integrity of the City of Covington and the amount of in lieu of tax payments received by the City of Covington from the Covington Gas Fund. Such franchise ordinances shall require that any franchise holder shall pay to the City of Covington a franchise fee of ten percent (10%) of gross receipts of the franchise holder's gas distribution system. Such gross receipts shall include the costs of operation and the costs of delivered natural gas. If the franchise holder is distributing itself, the gross receipts shall include the cost of operation of the distribution system plus the delivered cost of the gas to be distributed. The franchise holder shall be required to make all of its records available to the city for the purpose of determining the franchise fee. If the franchise holder also is the owner of any facilities of the distribution or sale of natural gas, and delivered costs of the natural gas shall not be less than average annual cost for the preceding calendar year of such delivered natural gas to be resold by the City of Covington (including all operating costs) for the purpose of computing the franchise fee.

(3) Unless a franchise has been given or granted it shall be unlawful for any person, partnership, corporation, or other legal entity:

(a) To erect, construct, operate or maintain or use any natural gas pipeline, plant or system or gas works within the city in order to sell or distribute or provide non-municipal natural gas to itself or any other consumer within the city; or

(b) To use the street, alleys, or public grounds of the city for such purpose; or

(c) To interconnect any building, structure or facility of any kind to any natural gas pipeline or system, other than to the natural gas system of the City of Covington.

(4) Any person seeking such franchise shall:

(a) Make application to the City of Covington on a form to be provided by the city;

(b) Demonstrate at a public hearing that a substantial need exists for the construction and/or operation of gas distribution facilities and that the proposed construction and/or operation is not contrary to the public interest; and

(c) Meet all requirements of Tennessee Code Annotated, § 7-39-101.

(5) If any person constructs, operates or maintains any natural gas pipeline, plant or system or gas works or sells or distributes any natural gas within the city, or makes any connections with gas contrary to the provisions of the foregoing; then, in addition to any other remedies and measures provided by law, the city attorney or the director of public works may commence an action in the name of and on behalf of the city for suitable and appropriate legal and equitable relief.