

# Water Works and Power Plays: Meter Tampering in the City of Johannesburg

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## INTRODUCTION

Meter tampering, the sneaky art of tweaking utility meters to bend the rules, is a serious criminal offence that the City of Johannesburg Metropolitan Municipality (“**the City**”) doesn’t take lightly. But what happens when things go wrong and the customer is wrongly accused of having tampered?

There is an emerging trend of penalties being wrongly imposed on customers for alleged meter tampering, where it turns out that the customer was not guilty of tampering.

In this article, we will dissect what meter tampering is all about, explore the legal labyrinth it entails under the City’s watchful eye, and uncover the penalties that could zap you into compliance faster than a power surge. We will further analyse what is lawful and what is not when it comes to the City imposing penalties for supposed “non-compliance”.

## DEFINITION OF METER TAMPERING

Meter tampering isn’t a nifty trick to save you a few bucks on your utility bill. It’s a criminal offence that could land you in jail, because it is the illegal fiddling of metering devices, whether by physical alteration, or any other means to mess with the system.

City Power has defined meter tampering as “*any action that results in the breaking of a seal; opening, adjustment or removal of a meter; bypassing a meter; opening of a meter box; or interfering with the meter or municipal wiring, piping or any other installation in any manner whatsoever.*”<sup>1</sup>

Tampering is an activity that includes altering, cutting, disturbing, interfering with, interrupting, manipulating, obstructing, removing or uprooting by any means, method or device an essential infrastructure, or component of the essential infrastructure, which provides a basic service.<sup>2</sup>

## LEGAL FRAMEWORK IN JOHANNESBURG

The City’s got rules - lots of them - when it comes to how electricity and water distribution is handled. The City’s Water Services Bylaws and Electricity Bylaws lay down the law on everything from what is considered as “non-compliance”, to what happens when you get caught with your hand in the metaphorical utility cookie jar illegally tampering with meters.

## WHAT IS PROHIBITED?

Section 20 of the Water Services Bylaws<sup>3</sup> provides as follows:

### Interference with water supply system or any sanitation services

20. (1) No person may –
  - (a) operate or maintain any part of the water supply system;
  - (b) operate any sewage disposal system;
  - (c) effect a connection or reconnection to the water supply system or sewage disposal system; or
  - (d) render any other sanitation services, unless in any such case he or she has been authorized to do so by the Council in writing.
- (2) No person may interfere with, or willfully or negligently damage, or permit damage to or interference with any part of the water supply system or sewage disposal system belonging to the Council.

Likewise, section 6 (3) and sections 22 – 23 of the Amendments to the Standardized Electricity Bylaws 2000<sup>4</sup> provide as follows:

- (3) Seals of the municipality
  - a) The meter, load control devices or service protective devices and all apparatus belonging to the municipality shall be sealed or locked by an authorised official of the municipality, and no unauthorised person may in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks or protective structures;
  - b) An authorised official of the municipality, and no unauthorised person may in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks;
  - c) The municipality may charge the fees determined in its Tariff Policy should a seal be broken or removed by a customer.

## SECTION 22

### Sealed Apparatus

Where any seal or lock has been placed by the engineer on any meter, service fuse, service circuit breaker or other similar apparatus or cabinet or room in which such apparatus is accommodated, whether or not belonging to the council, no person other than an authorised employee of the council shall for any reason whatsoever remove, break, deface or otherwise interfere with any such seal or lock.

## SECTION 23 Tampering

No person shall in any manner or for any reason whatsoever paint, deface, tamper or interfere with any service connection and only an authorised employee or duly authorised agent of the council may make any adjustment or repair thereto.

And, if you thought you could tamper your way out of paying your fair share, think again. The City's not pulling any punches when it comes to meter tampering. Below are the consequences you could face if you are found to have tampered with your water or electricity meter.

## REPERCUSSIONS OF METER TAMPERING

Disconnections, fines, lockups, you name it - if you're caught tampering, there's a price to pay.

## THE SYSTEMS ACT

In terms of section 112 of the Local Government: Municipal Systems Act 32 of 2000<sup>5</sup> below, tampering can be criminally prosecuted.

### Prosecution of **offences**

112. A staff member of a municipality authorised in terms of section 22(8)(6) of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998), to conduct prosecutions, may institute criminal proceedings and conduct the prosecution in respect of a contravention of or failure to comply with a provision of—

- (a) a by-law or regulation of the municipality;
- (b) other legislation administered by the municipality; or
- (c) other legislation as the National Director of Public Prosecutions may determine in terms of section 22(8)(b) of the National Prosecuting Authority Act, 1998.

## WATER SERVICES BYLAWS

Section 119(1) outlines additional circumstances which may be viewed as "offences", mostly in relation to unsuitable conduct when dealing with designated officers of the City. What is important to note in respect of meter tampering specifically, is section 119(1)(l) – (n) which stipulates that it is an offence to:

- (l) contravene or fail to comply with any provisions of these By-laws;
- (m) fail to comply with any notice issued in terms of these By-laws;
- (n) fail to comply with any lawful instruction given in terms of these By-laws

It follows that because it is considered an offence to contravene any provision of the Water Services Bylaws, the sanctions as imposed by section 119(3) below, would apply to meter tampering as well.

- (3) Any person convicted of an offence contemplated in subsection (1) notwithstanding any recoveries that may have to be made by Council, is liable on conviction to a fine not exceeding R120 000.00, or in default of payment, to imprisonment for a period not exceeding thirty six months (three years), and in the case of a continuing offence, to a further fine as determined by the presiding officer or in default of payment to imprisonment as determined by the presiding officer, for every day during the continuance of such offence after a written notice has been issued by the Council requiring the discontinuance of such offence, and for a second or subsequent offence he shall be liable on conviction to a fine or in default or payment to imprisonment for a period not exceeding six months.

## ELECTRICITY BYLAWS

The Electricity Bylaws, specifically sections 15, 36 and 38 dictate penalties for contravention with the bylaws such as criminal prosecution and the imposition of fines. These are further outlined below:

### SECTION 15

#### UNAUTHORISED CONNECTION

(1) No person other than an employee of the council authorised thereto shall without written permission from the engineer connect or reconnect or attempt to connect or reconnect any electrical installation to the service connection or the supply main.

(2) If the supply to any electrical installation is disconnected in terms of section 13(1) or (2), the consumer and owner of concerned shall take all reasonable steps within their power to ensure that such supply is not reconnected in contravention of subsection (1).

(3) If such supply is nevertheless so reconnected after it has been disconnected by the council, the consumer and owner concerned shall forthwith take all reasonable steps within their power to ensure that no electricity is consumed on the premises concerned and shall, in addition, forthwith notify the engineer of such reconnection.

(4) If the consumer and owner contemplated in subsections (2) or (3) are not in occupation of the premises concerned, then the occupier of those premises shall comply with the provisions of the above-mentioned subsections.

(5) If any prosecution for a contravention of or failure to comply with subsections (2) or (3), or both, or of any or both of those subsections read with subsection (4), any contravention or failure to comply, whether intentional or negligently, shall be sufficient to constitute an offence and, unless the contrary is proved, it shall be deemed that-

- (a) Reasonable steps as contemplated in subsections (2) and (3) were not taken; and
- (b) such contravention or failure was due to an intentional act or omission of the person charged.

### SECTION 36

#### Owner's and Consumer's Liability

The owner and the consumer shall be jointly and severally liable for compliance with any financial obligation or other requirement imposed upon them by these by-laws.

### SECTION 38

#### Offences and Penalties

(1) Any person contravening or failing to comply with any provision of these by-laws shall be guilty of an offence and shall upon conviction be liable for a fine not exceeding the fine stated in the tariff book of the Council or, in default of payment, to imprisonment for a period not exceeding six months.

(2) The occupier, or if there is no occupier, the owner of any premises supplied with electricity on which a breach of these by-laws is committed, shall be deemed to be guilty of that breach unless he proves that he did not know and could not by the exercise of reasonable diligence have known that it was being or was likely to be committed and that it was committed by some other person over whose acts he had no control.

(3) Any person who contravenes the provisions of section 15 and who is in consequence not charged for electricity which has been consumed or is charged for such electricity at a rate lower than that at which he should properly have been charged shall, notwithstanding any penalty which may be imposed in terms of this section, be liable to pay to the council the sum which would have been paid to it had the said offence not been committed, and such sum shall be calculated in terms of the highest charge which could have been made according to the tariff applicable from the date when the contravention first took place.

4) Council may reward any person(s) reporting vandalism to Council's equipment leading to the arrest of any such person(s). The reward type and from shall be determined by Council

It is clear from the provisions above that tampering with your supply meter is like playing a high-stakes game of City roulette – except instead of a bullet, you might just find yourself facing a fine and a stint behind bars contemplating life's "watt-ifs".

## CAN COJ LEVY A FINE FOR ALLEGED METER TAMPERING ON MY MUNICIPAL ACCOUNT?

First and foremost, it is clear from the above that fines and/or imprisonment for breach of a bylaw can only be imposed **upon conviction by a court** (which is usually a

municipal court but can also be a Magistrate's or High Court). Fines added before a court has convicted you, are simply not lawful.

Due to the significant impact of imposing fines on individuals (and often times, quite hefty fines at that), the law mandates a strict interpretation in favour of the accused person, i.e. that the City is obliged to follow due process in pursuing conviction through our courts first, by proving that such person is indeed guilty of the alleged offence. Municipalities often attempt to disguise fines as other types of charges that they are lawfully allowed to impose, without securing a conviction against an offender beforehand. This is unlawful.

**A ROSE BY ANY OTHER NAME?**

Sometimes the City imposes fines on customers in the sundry section of their invoice, rather than in the "electricity" or "water" portion of their invoices. Again, this is unlawful. The City does not have the relevant power in law to validly impose these "fines" before the customer has been convicted.



**IF I WAS FOUND GUILTY OF METER TAMPERING, WHERE WOULD I HAVE TO PAY A FINE IMPOSED BY THE COURT?**

In terms of section 113 of the Systems Act, fines must be paid into the Revenue Fund of the local municipality if they were recovered in terms of offences created in item 2 of schedule 4 of the Public Finance Management Act 1 of 1999. If they are fines from other bylaw breaches, they are paid to the local prosecuting authority.

**TREND OF WRONGFUL ACCUSATIONS OF TAMPERING**

A trend seems to be emerging from an increasing number of cases reported to HBGSchindlers, in which a customer who has not bypassed or tampered with a meter, is being accused of doing so. Naturally, in the cases that we are aware of, when this is raised with the City the response is "of course the customer would say that, but they are lying" and so the City officials do not offer any assistance at all to these victims.

**COULD THE CUSTOMER BE TELLING THE TRUTH?**

There is a specific modus operandi emerging from the reports received. It seems to happen more commonly in the case of water meters, than electricity meters.

In the majority of cases we have heard about, the City's Joburg Water or City Power contractors deliver a pre-termination notice to the customer warning them that they are going to terminate supply for non-payment of arrears. A few days later (or sometimes, bizarrely, even on the same day) the City's contractors will deliver a letter to the customer saying that they (the contractors) terminated their (the customer's) supply, due to the unpaid arrears.

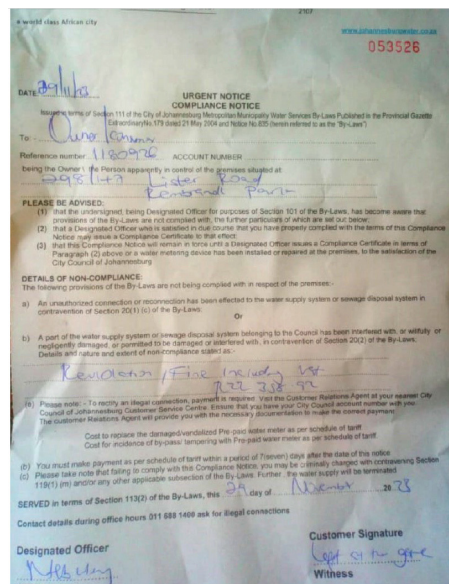
However, there is no actual cut off performed by the contractor – the services remain connected. A few days later, again, the customer receives a notice from the City or its contractors, or sometimes even JMPD, this time claiming that the customer has illegally by-passed the meter by reconnecting him/her/itself illegally after the disconnection of the supply (which, as above, never actually happened).

The customer is then accused of meter tampering and receives a notice saying that a hefty fine (of some twenty thousand or so rand) will be imposed upon them. This charge then appears on the customer's invoice a few months later. If the customer does not pay, the City then cuts the customer off.

The irony of this scheme – the City is cutting the customer off for non-payment of amounts charged for illegal reconnection, when there was no cut off in the first place.

It's the perfect scheme – when a customer disputes that they unlawfully reconnected themselves, the City's response is that "our systems contain no record of a reconnection instruction after the disconnection instruction is given". This response is no response at all – however – if the services to the property were never disconnected in the first place!

Commonly the customer is accused of "re-violation" (whatever that may mean) and they are given a copy of a notice that looks something akin to this:



If you ask the City to search its own records, it will produce “proof” of the illegal connection in the form of a “job card” created by one of its officials, which looks something like this:



**City of Johannesburg**  
Johannesburg Water SOC Ltd.

Turbine Hall  
65 Ntemi Pilliso Street  
Newtown  
Johannesburg

**"C"**

Johannesburg Water  
PO Box 61542  
Marshalltown  
2107

Tel +27(0) 11 688 1400  
Fax +27(0) 11 688 1528  
[www.joburgwater.co.za](http://www.joburgwater.co.za)

Illegal Connections	
Job Card	Functional Location: 1180926
INVESTIGATOR: Ntebaleng Thoka	DATE ISSUED: 2023-11-29 07:16
	DATE COMPLETED: 2023-11-29 11:49
	FINDING/OBSERVATION:
ACCOUNT: 550911254	CUSTOMER:
TOWNSHIP: REMBRANDT PARK	SGID: TOIR0547000000001470000000
ADDRESS:	STAND NO:
298 LISTER ROAD REMBRANDT PARK	
COMPLIANCE NOTICE SERVED: Yes	
METER NO: 2007740	READING: 0407
INVESTIGATOR COMMENTS: Reviolation, compliance notice issued	
IMAGE COMPLETED JOB:	

The biggest flaw in the system is that the City can only allege – but not prove – that its contractors actually cut off the supply to the property at a prior point in time, before the City accused the customer of illegally reconnecting themselves.

The charges imposed on the customer’s invoice, then look something akin to this:

City of Johannesburg Sundry	VAT 4760117194	Sub - Total	Total Amount
Pen Water Bypass/Tamp/Van DR		9,002.63	
Pen Water Bypass/Tamp/Van DR		10,961.65	
VAT: 15.00%		2,994.64	22,958.92

**COULD THIS BE A METER READING BRIBE SCAM?**

It is theorised that this new scam might have been cooked up by meter readers looking for a bribe to prevent disconnection of supply. They visit the property to disconnect the supply and if the customer won't bribe them - they actually don't cut off the supply, and instead return a few days later to document that the water or power is still running. Then, on the basis of this documentation, the customer is accused of illegally reconnecting themselves. The amount that meter readers ask for a bribe vary greatly, but we have heard of cases ranging from R 200 to R 200,000 – whereas the amount charged to a person who has bypassed illegally is around R 26,000.

**CONCLUSION**

The practice of unlawfully adding meter tampering charges to customers’ municipal statements raises significant legal and ethical concerns regarding the City’s approach to these matters. You might feel that it is unfair to see these charges on your monthly bill if you believe there was no tampering involved.

What if you didn't tamper with any meter and suddenly find these charges on your account? This underscores the importance of requiring a competent court to convict alleged offenders before the City imposes any fines. While meter tampering is a serious offense, any penalties or fines imposed by the City must adhere to due process, including a conviction by a competent court.

The City’s practice of disguising fines as miscellaneous charges on municipal accounts not only undermines the rights of Johannesburg residents and property owners, but also risks being perceived as potentially extortionary. It is therefore suggested to take legal advice before paying any “fine” levied by a municipality, as it may not have been lawfully imposed, and therefore not due and payable.



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<sup>1</sup>City Power spokesperson 2017, Mr Virgil James, Times Live, “Amnesty under way for electricity meter tampering in Johannesburg”, TMG Digital, 15 May 2017, Amnesty under way for electricity meter tampering in Johannesburg (timeslive.co.za)

<sup>3</sup>Microsoft Word - FinalWater Services By-laws 190603.doc (joburg.org.za)

<sup>4</sup>ITEM 40 ANNEXURE C.pdf (joburg.org.za)

<sup>5</sup>Local Government: Municipal Systems Act 32 of 2000 | South African Government (www.gov.za)