STATE OF GEORGIA

CITY OF COLLEGE PARK

ORDINANCE 2016-11

AN ORDINANCE AMENDING SECTION 10-42 OF ARTICLE III, WATER, OF CHAPTER 10, MUNICIPAL UTILITIES AND SERVICES, OF THE CODE OF ORDINANCES OF COLLEGE PARK, TO PROVIDE PENALTIES AND FEES FOR TAMPERING WITH, THEFT OF AND/OR DAMAGE TO CITY WATER EQUIPMENT; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of College Park ("City") is the Mayor and Council thereof; and

WHEREAS, the City finds that to deter customers from tampering with municipally-owned water metering devices, it is necessary to amend the current regulations governing, and providing penalties for, the tampering or interfering with such equipment; and

WHEREAS, the health, safety, and welfare of the citizens of College Park, Georgia, will be positively impacted by the adoption of this Ordinance.

BE IT AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK, GEORGIA, and by the authority thereof:

Section 1: The Code of Ordinances, City of College Park, Georgia, is hereby amended by striking the existing text of Section 10-42, Tampering, interfering with meters, apparatus; unlawful use, diversion of service, of Article III, Water, of Chapter 10, Municipal Utilities and Services, and, in lieu thereof, inserting the following:

"Sec. 10-42. - Tampering with Water Metering Devices.

(a) For purposes of this section, "Water Metering Device" includes but is not limited to water meters, valves, pipes and conduits belonging to the city and part of its waterworks system.

(b) "Tampering" with Water Metering Devices provided by the city includes but is not limited to the following situations and is therefore prohibited:

(1) Obtaining or the restoration of water service by any means after such service has been terminated for nonpayment.

(2) Obtaining water service without making the proper deposit with the city, or without receiving proper authorization from the city to receive such services.

(3) Obtaining water service by any means which bypasses the Water Metering Device, either partially or completely.

(4) Obtaining water service by use of a Water Metering Device which is not authorized and installed by the city.

(5) Obtaining, or attempting to obtain, water service by using a false name or identification.

(6) Obtaining, or attempting to obtain, water service by placing the account in another person's name, after the service has been disconnected for nonpayment or theft of service, while the person in default or violation continues to reside at the location of the service.

(7) Cutting, removing, or in any manner, making ineffective any seal, locking band or lock on a Water Metering Device.

(8) Damaging or tampering in any manner with any part of a Water Metering Device belonging to the city.

(9) Changing or altering the normal installed position of a Water Metering Device in any fashion which causes the normal accurate recording of water service received to be altered and inaccurate.

(10) Interfering with the automatic registration, recording and transmission of water consumption when readings are recorded and/or transmitted electronically.

(c) Any person in possession of any premises as owner, occupant, or tenant where such violation has occurred shall be presumed to have knowledge of such violation. The receipt of water services in violation of any provision of this section shall be deemed prima facie evidence of intent to defraud or deprive the city from recovering proper payment for such service.

(d) Any evidence of the violation of any provision of this section shall result in a tampering fee of One Thousand Dollars ($1,000.00) per incident.

(e) A violation of any provision of this section shall be a separate and distinct offense, in addition to any other violation that may be established.

(f) Any person found in violation of any provision in this section shall, upon conviction thereof, be punished by a fine or imprisonment, as prescribed in section 1-8 of this Code. Any person found in violation of any provision in this section shall be required to make full restitution to the city for the cost of the water services illegally obtained, for damage to equipment of the city, and for all costs associated with the investigation. In calculating the amount of restitution to be paid, the court will be asked to consider the following evidence:

(1) The cost of the water service received at the prevailing rate.

(2) The current cost to repair or replace the damaged equipment, if applicable.

(3) The hourly rate of the code enforcement officer and time spent investigating, together with any other costs associated with the investigation.

(g) Disconnected water service shall not be restored until all applicable fees, restitution, and/or fines are paid in full.

(h) This section shall be cumulative to the Official Code of Georgia Annotated § 16-7-25, and is enacted pursuant to Official Code of Georgia Annotated § 16-7-25(c)."

Section 2. The preamble of this Ordinance shall be considered to be and is hereby incorporated by reference as if fully set out herein.

Section 3. This Ordinance shall be codified in a manner consistent with the laws of the State of Georgia and the City.

Section 4. (a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section 6. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2016.

[SIGNATURES CONTINUED ON NEXT PAGE]

CITY OF COLLEGE PARK, GEORGIA

Jack P. Longino, Mayor

ATTEST:

Melissa Brooks, City Clerk

APPROVED BY:

Steven M. Fincher, City Attorney