

**ORDINANCE # 347 “ AN ORDINANCE PROVIDING FOR A SURCHARGE FOR IMPROVEMENTS TO THE LAKE NORDEN WATER SYSTEM, FOR PAYMENT OF A BORROWER BOND AND YEARLY REVIEW OF THE SURCHARGE.”**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF LAKE NORDEN:

1. **Surcharge for Bond Issue.** There shall be charged a monthly surcharge for the services provided by the improvement financed by the DW-01 Conservancy District Loan (the Loan Agreement). The Surcharge for the loan shall be segregated from other revenues of the city and shall be used for the payment of the borrower bond DW-01 (the “Borrower Bond”). Provided that such Surcharge shall create net income, remaining from time to time after first paying all reasonable and current expenses of maintenance, repairs, replacements and operation, sufficient to fund interest, reserve and debt service fund annual requirements.
2. **Rates and collection.** The City does hereby establish the special charge or Surcharge payable by each customer of its system who receives or benefits from the services of the project financed with the Borrower Bond. Such charge or Surcharge shall be set at a level which, assuming a 10% delinquency rate, will produce income at the times and in amounts sufficient to pay when due the principal of and interest on the Borrower Bond and the administrative expense surcharges and all other payments as may be required under the loan agreement and Borrower Bond. The collection of the Surcharge will start on a date prior to the Initial Loan Amortization Date, as defined in the Loan Agreement, that will allow the City to collect funds sufficient to pay the accrued interest on the Initial Loan Amortization Date. The City Council shall determine said date in consultation with City personnel.
3. **Borrower Bond Surcharge.** The following initial Surcharge shall be applicable to all customers served until adjusted under paragraph 5:

Borrower Bond DW-01 Surcharge: Agropur, Inc. (User) \$24,700 per quarter.

The Surcharge shall be billed to the Agropur Inc. and due January 1, 2019 and quarterly thereafter.

The Surcharge shall take effect on a date not less than the quarter prior to the Initial Loan Amortization Date.

The Surcharge shall remain in effect until such time as the Borrower Bond is paid in full. The Surcharge shall be collected at the same time as other charges of the system. The Surcharge is found to be equitable for the services provided by the improvements.

4. **Segregation.** The debt service Surcharge shall be segregated from other income of the system in a separate book keeping account and is pledged to the South Dakota Conservancy District for the payment of the loan payments on the Borrower Bond.

5. **Yearly review.** The amount of the Surcharge shall be reviewed from year to year and may be modified in order to provide such funds as are set forth herein. The charges shall be reviewed yearly by the City Council and administratively adjusted, upwards or downwards, to such amounts as may be necessary to pay principal, interest, administrative surcharge and other charges as may become due and owing under the loan agreement or Borrower Bond.
6. **Billing and Accounting.** The Surcharge shall be included in the monthly user bill. Nothing contained herein requires the Surcharge be indicated on the billing, however, the Surcharge segregation shall be indicated on the books of the City.
7. **Automatic Repeal.** The Surcharge for the Borrower Bond shall be automatically repealed when the Borrower Bond is paid in full.
8. **Partial Invalidity.** If any one or more of the provisions of this Ordinance shall be held invalid, illegal, or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof.

CITY OF LAKE NORDEN

Jason Aho, Mayor

ATTEST:

Delores Kangas, Finance Officer

Passed First Reading: August 6, 2018

Passed Second Reading: September 4, 2018

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