

§ 51.065 WATER DISTRIBUTION PLATTING FEE.

~~(a)~~—The purpose of this subchapter is to facilitate and foster affordable and accessible housing within the city and the city’s growth area by imposing—impose a water distribution platting fee to recover a developed real property’s proportional share of the costs to expand and sustain the potable distribution system necessitated by such property’s development. The water distribution platting fee shall be imposed on real property as it is platted or replatted ~~after~~ for the costs to expand and sustain the potable water distribution system.

~~(b)~~ The potable water distribution system is defined as water mains and appurtenances necessary to construct and sustain a system of water mains 16 inches or greater in diameter in accordance with the city’s water distribution system master plan and current design standards.

~~(a)(e)~~ It is the intent of this subchapter to charge platted or replatted real property ~~no more than~~ its proportional~~te~~ share of the cost to expand and sustain the potable water distribution system necessitated by the development of the real property.

~~(b)(d)~~ - The city council finds the amount of the water distribution platting fee based on rational nexus and rough proportionality standards has been appropriately determined according to the analysis described in the *Nexus Study for Arterial Street and Water Distribution Platting Fees*, prepared by Duncan Associates (revised May 2015).

(c) This subchapter incorporates the Development Area Maps as set forth in the city’s comprehensive plan.

~~(d)(e)~~ (1) For platted or replatted real property located in Tier I or Tier II of the city’s comprehensive plan, the ~~The~~ water distribution platting fee shall be paid prior to approval of any plat or replat.

—(2) The city may defer the payments if the plat or replat is a minor plat or replat. For platted or replatted real property located outside of Tier I and Tier II, but within the joint jurisdiction area detailed in the Development Area Maps as described in subsection (c), the city may defer payment of water distribution platting fees. Any deferred payment of water distribution platting fees shall be due and payable for the platted or replatted real property at the earliest of:

(a) Annexation of such platted or replatted real property or such platted or replatted real property’s location within Tier I or Tier II ; or

(b) The owner’s application of request for re-zoning or other required city conditional use permit or license on such platted or replatted real property; or

(c) The City’s provision of the water distribution system to or immediately adjacent or adjoining the platted or replatted real property;

The amount of such platting fee shall be the fee- amount in effect at the time of the event triggering the platting or replatting fee. Unpaid and deferred platting and replatting fees shall constitute an encumbrance and lien running with the land upon the platted or replatted real property and the obligation to pay shall be binding upon the Owner, and the Owner’s successors, successors in title, and assigns.

(3) The city may increase, waive, reduce or defer the payments if: (a) the plat or replat is a minor plat or replat; (b) the plat or replat is a transfer of ownership; (c) as set forth in a the Development Agreement; or (d) based on the city's individualized determination as to the nature and extent of the impact of the development.

(4) The city may condition approval of zoning or other city required conditional use permits and licenses until all platting fees are paid in full or arrangements for payment are made.

~~(e) -e(f)~~ The water distribution platting fee shall apply regardless of zoning classification and is hereby established as follows:

Per acre fee paid on and after January 1, 2017	\$1,970 per acre
Per acre fee paid on and after January 1, 2018	\$2,019 per acre
Per acre fee paid on and after January 1, 2019	\$2,070 per acre
Per acre fee paid on and after January 1, 2020	\$2,121 per acre
Per acre fee paid on and after January 1, 2021	\$2,175 per acre

The amount to be paid shall be determined by multiplying the water distribution platting fee per acre by the total number of acres contained within the plat or replat, less the following:

- (1) Land dedicated or to be dedicated to the city for right-of-way for an arterial street; and
- (2) Areas zoned REC recreation, AG agricultural or CN conservation.

~~(f) -f(g)~~ Replats shall be subject to the water distribution platting fee for areas for which fees were deferred or for which the replatted real property may receive new water system taps and water meter service.

~~(g) -g(h)~~ The value of contributions made by the fee payer toward the cost of expanding and sustaining the potable water distribution system in order to serve the real property to be platted or replatted may shall be subtracted from water distribution platting fees otherwise due for the real property. The value of the contribution shall be determined by the city engineer, based on information submitted by the fee payer and shall be in compliance with applicable law. No credit will be given for contributions to the extent they exceed city requirements. Credit for contributions not claimed prior to payment of the water distribution platting fees shall be waived.

~~(h) -h(i)~~ Water distribution platting fee revenues shall be deposited into an interest-bearing account and segregated from other funds of the city. The revenues collected and interest earned shall be used solely for expanding and sustaining the potable water distribution system. The location and size for this potable water distribution system expansion to be funded with the water distribution platting fee

revenues shall be determined based upon the most current water distribution system master plan as approved by the city engineer.

~~—(j) Water distribution platting fee revenues not spent within seven years of the date it was paid shall be refunded, along with interest earned, to the fee payer. The city shall keep a record of each fee paid, including the date, amount, and name and address of the fee payer. The fee revenue will be deemed to be spent in the order in which it was received. If the city determines a refund is due, it shall make a good-faith effort to contact the fee payer to whom the refund is owed. If the fee payer to whom the refund is owed cannot be located within one year after the refund is determined to be due, the refund shall be governed in accordance with SDCL 43-41B.~~

(k.i) Periodically, the *Nexus Study for Arterial Street and Water Distribution Platting Fees*, prepared by Duncan Associates, will be updated. The updates shall review fees and recommend adjustment based on then current costs of construction. If an amendment is necessary, the information shall be provided to the city council together with a proposed ordinance amendment. Pending any such adjustments, the water distribution platting fee shown in the table above shall increase by 2.5 percent per year for years after 2021.

(l) A person harmed by an administrative decision of the city under this section may appeal the decision through the procedures provided in Administrative Appeals subchapter, §§ [30.040](#) et seq. of the Code of Ordinances, as that subchapter may be amended from time to time, except as modified below.

(1) The appeal shall be heard in a closed hearing by a hearing examiner with substantial experience in land development, ~~and the whose~~-cost shall be ~~divided-split~~ equally between the city and the appellant.

(2) The hearing examiner may amend, remand, or reverse the decision of the city only if clear error is found in:

- A. The determination of the number of acres subject to the water distribution platting fee;
- B. The determination of the applicable zoning classification for determination of the water distribution platting fee;
- C. The value of any credit;
- D. Any mathematical computation; or
- E. Determining or applying any other objective fact on which the decision was based.

(3) If the hearing examiner finds an error and has adequate facts to correct the error (such as correcting the number of acres used in the computation or correcting a mathematical error), the hearing examiner shall amend the decision accordingly and the decision shall ~~be binding as amended. then stand.~~ Otherwise, the hearing examiner shall reverse the decision or remand it with instructions for correcting the error(s) found.

(4) The provision for appeals under this division (l) is not intended to serve as a provision for variances or waivers; issues of hardship or other factors that might be considered in granting a zoning variance shall not be considered by the hearing examiner in reaching a decision.

(5) Unless the hearing examiner finds clear error, the hearing officer shall affirm the original administrative decision.

(6) The decision of the hearing examiner may be subject to judicial review as provided by law.

(1992 Code, § 41-68) (Ord. 114-08, passed 9-15-2008; Ord. 11-13, passed 3-19-2013; Ord. 30-16, passed 4-5-2016)