

**§ 96.220 ARTERIAL STREET 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~~ an arterial street platting fee on real property as it is platted or replatted by the city for the increased costs of expanding and sustaining the arterial street system to serve such platted or replatted real property.

(b) The arterial street system is defined as the system of roadways for the city, classified as arterials on the Sioux Falls Major Street Plan and areas of joint jurisdiction as detailed in Sioux Falls Subdivision Ordinance 157.004 and built to city design standards, as amended from time to time.

(c) It is the intent of this subchapter to charge platted or replatted real property no more than its proportionate share of the increased costs of expanding and sustaining the arterial street system necessitated by the development of such real property.

(d) The city council finds the amount of the arterial street 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).

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

(f) (1) For platted or replatted real property located in the city limits or Tier I or Tier II of the city's comprehensive plan ~~the~~ arterial street platting fee shall be paid prior to approval of any plat or replat.

(2) For platted or replatted real property located outside of Tier I and Tier II, but within the joint jurisdiction area detailed in subsection (e), the city may defer payment of arterial street platting fees. Any deferred payment of arterial street 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 arterial streets to or immediately adjacent or adjoining the platted or replatted real property;

The amount of such platting fee shall be the 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 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 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.

~~(1) The city may defer payment if the plat or replat is a minor plat or replat.~~

~~(2)(5)~~ -A. For any property platted or replatted the plat or replat shall contain a note identifying the zoning classifications in effect at the time of plat or replat submittal. The owner's certificate of compliance for the plat or replat shall indicate the plat or replat is subject to the arterial street platting fee and shall provide that arterial street platting fees shall be paid by an applicant requesting rezoning of the plat or replat in accordance with this section.

B. For rezonings of property platted or replatted, where the zoning classification noted in the plat or replat on which the arterial street platting fee converts to a higher per acre trip generator such as from RS to RA-1, an additional arterial street platting fee shall be paid at the time of the rezoning application, with the money to be refunded if the rezoning is denied. The additional arterial street platting fee shall be the difference between the fee for the previous zoning classification as noted on the plat or replat and the fee for the new zoning classification. Half of the right-of-way of any local or collector street adjacent to the rezoned property shall be included in the calculation of the arterial street platting fee.

~~(g)(f)~~ (1) The arterial street platting fee is hereby established for fees paid in the following years:

Areas Zoned	Arterial Street Platting Fee (effective January 1, 2017)	Arterial Street Platting Fee (effective January 1, 2018)	Arterial Street Platting Fee (effective January 1, 2019)	Arterial Street Platting Fee (effective January 1, 2020)	Arterial Street Platting Fee (effective January 1, 2021)
AG, CN, or REC	\$0 per acre	\$0 per acre	\$0 per acre	\$0 per acre	\$0 per acre
C-2, C-3, or C-4	\$17,330 per acre	\$17,763 per acre	\$18,207 per acre	\$18,663 per acre	\$19,129 per acre
I-1, I-2, and AP	\$4,019 per acre	\$4,119 per acre	\$4,222 per acre	\$4,328 per acre	\$4,436 per acre
O, C-1, LW, S-1, or S-2	\$7,455 per acre	\$7,641 per acre	\$7,832 per acre	\$8,028 per acre	\$8,229 per acre
RA-1, RA-2, or RA-3	\$4,854 per acre	\$6,510 per acre	\$8,730 per acre	\$8,948 per acre	\$9,172 per acre
RS, RT-1, RT-2, RD-1, RD-	\$2,024 per acre	\$2,075 per acre	\$2,126 per acre	\$2,180 per acre	\$2,234 per acre

2, RHP, RR, or MH					
----------------------	--	--	--	--	--

(2) The number of acres in local and collector street right-of-way shall be included in the arterial street platting fee calculation according to the adjacent zoning classifications. Where opposite sides of the road are of different zoning classifications, half of the right-of-way shall be allocated to each zoning classification. For subareas zoned with multiple zoning classifications, such as RCD-PUD, V-PUD, DT-PUD, and PO-PUD, the higher trip generating zoning classification shall govern for the entire subarea for purposes of calculating the arterial street platting fee.

~~(h)~~(g) The amount to be paid shall be determined by multiplying the arterial street platting fee per acre by the relevant number of acres contained within the plat or replat, including local and collector street right-of-way, 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.

~~(i)~~(h) The value of contributions made by the Owner or fee payer toward the cost of expanding the arterial street system shall be subtracted from the amount of arterial street 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 the value of land dedicated or to be dedicated to the city for right-of-way or areas zoned REC or CN. No credit will be given for facilities to the extent they exceed city requirements. Credit for the contributions not claimed prior to payment of the arterial street platting fee shall be waived.

~~(j)~~(i) Arterial street 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 arterial street system.

~~—(j)—Arterial street platting fee revenues not spent within seven years of the date 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) 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 adjustments based on the 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 platting fees 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 subchapter may appeal the decision through the procedures provided in Administrative Appeals subchapter, §§ 30.040 et seq. of this Code, 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, ~~whose~~ ~~and the~~ cost shall be ~~split~~ ~~divided~~ 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 arterial street platting fee;
- B. The determination of the applicable zoning classification for determination of the arterial street 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 ~~then stand~~ ~~be binding as amended~~. 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, § 38-150) (Ord. 115-08, passed 9-15-2008; Ord. 12-13, passed 3-19-2013; Ord. 31-16, passed 4-5-2016)