



■ AFFORDABILITY ROADBLOCKS

Street Impact Fees

Housing Affordability Institute's Affordability Roadblocks series highlights housing policy issues adversely impacting housing affordability and access.



STREET IMPACT FEES

Street Impact Fees are funds paid to municipalities to fund unspecified future road improvements. These fees, included in a new home's price, are used on collector roads outside of the development footprint and are in addition to the in-development infrastructure paid for by new residents. Given the unspecified nature of the projects, it is difficult to evaluate an essential nexus and proportionality to the fee exacted.

As an off-site infrastructure project, the fees are used on projects that benefit all area residents and businesses. This separates street impact fees from authorized infrastructure impact fees, such as sewer and water trunk charges, that are extensions of a closed system.

In Minnesota, street impact fees are not authorized and have been struck down twice by the Minnesota Supreme Court. In *Country Joe v. City of Eagan*, the court took a dim view of the city collecting street impact fees with building permits. Similarly, in *Harstad v. City of Woodbury*, the Minnesota Supreme Court found that conditioning subdivision approval on payment of an unauthorized impact fee violated state law.

ON STREET IMPACT FEES

From a housing affordability and access standpoint, street impact fees have drawn criticism from housing experts and the courts.

Specific to homeownership equity, all forms of impact fees have been identified as barriers to housing access:

*"Impact fees raise some equity concerns because impact fees are effectively attacks on new homes. They are likely to reduce the amount of new development, relative to what would been."*¹

¹Schuetz, Jenny. "Fixer Upper." P. 114.

Opponents of impact fees have often pointed out that this housing tax is a tool of political convenience as much as it is as an infrastructure.

*"Shifting costs away from current residents is politically popular making impact fees attractive to local elected officials."*²

²Schuetz, Jenny. "Fixer Upper." P. 114.

When used as a condition for approval of planned unit developments, the Minnesota Supreme Court has called into question the voluntary aspect of street impact fees.

*"Put another way, the pearl of great price here is approval of the subdivision agreement. A developer who fails to make a 'voluntary' payment in an amount Woodbury finds acceptable faces the prospect of denial of the subdivision application. The infrastructure charge is thus a requirement and Harstad is correct that there is nothing voluntary about it."*³

³Justice G. Barry Anderson. *Harstad v. Woodbury*. A16-1937



■ AFFORDABILITY ROADBLOCKS

Street Impact Fees

STREET IMPACT FEES AND HOUSING AFFORDABILITY

Impact fees raise the cost of housing. Unlike special assessments, property tax dollars and other financing options, the buyer-borne finances of an impact fee are more complex, and buyers pay far more than the listed fee. The inclusion of any impact fee in a new home's price means this fee is subject to mortgage financing. Homebuyers are left paying far more than the established amount.

STREET IMPACT FEES

\$ 5,000 + \$4,350 In Mortgage Interest

\$9,350 Lifetime Costs

SPECIAL ASSESSMENTS

\$ 5,000 + \$0 In Mortgage Interest

\$5,000 Lifetime Costs

Calculated at 6.75%, the current 30-year fixed rate on Feb. 15, 2023. Assumes 20% down. This does not include additional costs such as realtor commission, additional taxes, and builder overhead which will also increase at a varying rate based on factors unique to each builder, realtor, and municipality.

Given the added costs to homebuyers due to mortgage financing, the affordability aspect of street impact fees presents a far less fair deal to those who pay this fee than when the alternatives could be used.

ADDRESSING STREET IMPACT FEES

Street impact fees are a tool of both funding and political convenience as they give local governments the ability to tax new residents before they move into their new homes.

Addressing street impact fees requires accepting the realization that these are a costly tool of political convenience and looking at the past tools already at the disposal of local governments. This includes several options that do not need to be included in mortgage financing:

- Special Assessment
- General Fund Dollars / Property Tax Revenue
- Tax Increment Financing
- Local Option Sales Tax
- Property Tax Abatement
- Special Service Districts
- State Transportation Aid

FURTHER READING

Country Joe v. City of Eagan, C8-95-2289 (MN-1997)

Harstad V Woodbury, A16-1937 (MN-2018)