Value of Water and Impact Fees

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What are Impact Fees?

An **Impact Fee** is a charge to new development for public improvements that serve that development or that type of development*

*“Capital Budgeting and Finance: A Guide for Local Governments” A. John Vogt, ICMA
Types of Impact Fees

- Water
- Wastewater
- Reclaimed Water
- Roads
- Schools
- Police
- Fire
- Recreation
- Other
Impact Fees and the Value of Water
Impact fees are a critical link between existing ratepayers and new growth

<table>
<thead>
<tr>
<th>Ratepayers</th>
<th>Development</th>
</tr>
</thead>
<tbody>
<tr>
<td>» Risk of funding infrastructure in advance of growth</td>
<td>» Risk of not having infrastructure available to economically develop</td>
</tr>
<tr>
<td>» Benefit of economies of scale once growth occurs</td>
<td>» Benefit of capacity available and certainty of cost</td>
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</tbody>
</table>
Impact Fees Also Known As

- Access Fees
- Aid-to-New Construction Fees
- Capital Facility Fees
- Capital Recovery Fees
- Connection Fees/Charges
- Development Impact Fees
- System Development Fees
- Tap Fees
- Uniform Connection Fees
- Other names...
Case Law

» Several cases including landmark Florida Supreme Court decision:
  − Contractors and Builders Association of Pinellas County vs. City of Dunedin, Florida
  − Dual Rational Nexus Test
1. The impact fee should be **reasonably equitable** to all parties; that is, the amount of the fee must bear a relationship to the amount of services requested;

2. The system of fees and charges should be set up so that there is **not an intentional windfall to existing users**;

3. The impact fee should, to the extent practical, only cover the **capital cost of construction and related costs** thereto (engineering, legal, financing, administrative, etc.) for increases in or expansions of capacity or capital requirements that are required solely due to growth. Therefore, expenses due to normal renewal and replacement of a facility (e.g., replacement of a capital asset) should be borne by all users of the facility or municipality. Similarly, increased expenses due to operation and maintenance of that facility should be borne by all users of the facility; and

4. The local government must adopt a revenue-producing ordinance that explicitly sets forth restrictions on revenues (uses thereof) that the imposition of the impact fee generates. Therefore, the funds collected from the **impact fees should be retained in a separate account**, and separate accounting must be made for those funds to ensure that they are used only for the lawful purposes described.
Section 163.31801 Florida Statutes

Among other requirements...

(3) An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

a. Require that the calculation of the impact fee be based on the most recent and localized data.

b. Provide for accounting and reporting of impact fee collections and expenditures. If a local governmental entity imposes an impact fee to address its infrastructure needs, the entity shall account for the revenues and expenditures of such impact fee in a separate accounting fund.

c. Limit administrative charges for the collection of impact fees to actual costs.

d. Require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.
Section 163.31801 Florida Statutes

- Cont’d…

» (4) Audits of financial statements of local governmental entities and district school boards which are performed by a certified public accountant pursuant to s. 218.39 and submitted to the Auditor General must include an affidavit signed by the chief financial officer of the local governmental entity or district school board stating that the local governmental entity or district school board has complied with this section.

» (5) In any action challenging an impact fee, the government has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee meets the requirements of state legal precedent or this section. The court may not use a deferential standard.
Impact Fee Discussion Topics

» Why impact fees differ among utilities
» Types of costs included in impact fees
» Taps and laterals v. impact fees
» Impact fees by service area
» Non-residential impact fee methods
» Timing of capital projects and impact fee funding/reimbursements
Why Impact Fees Differ Among Utilities

» Source of supply
» Proximity to source of supply
» Type/complexity of treatment
» Effluent disposal method
» Availability of grant funding
» Administrative policies
» Time since last impact fee review
» Service area density
» Utility life cycle
» Level of service standards
» Local policy decisions

## Costs included in Impact Fees

<table>
<thead>
<tr>
<th>Include</th>
<th>Exclude</th>
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<tbody>
<tr>
<td>» Treatment</td>
<td>» Distribution (typically)</td>
</tr>
<tr>
<td>» Source of Supply</td>
<td>» Collection (typically)</td>
</tr>
<tr>
<td>» Alternative Water Supply</td>
<td>» Taps/laterals</td>
</tr>
<tr>
<td>» Disposal</td>
<td>» Meters</td>
</tr>
<tr>
<td>» Land</td>
<td>» Operating Costs</td>
</tr>
<tr>
<td>» Transmission</td>
<td>» Short-lived assets</td>
</tr>
<tr>
<td>» Debt interest (with user fee credit)</td>
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</tbody>
</table>
## Impact Fees v Taps/Laterals

<table>
<thead>
<tr>
<th>Impact Fees</th>
<th>Taps/Laterals</th>
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</thead>
<tbody>
<tr>
<td>System-wide costs</td>
<td>Physical connection</td>
</tr>
<tr>
<td>Restricted revenue</td>
<td>Miscellaneous revenue</td>
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</tbody>
</table>
Non-Residential Impact Fees

» Fee schedule types:
  – Meter Size
  – Fixture Count
  – Attributes

<table>
<thead>
<tr>
<th>COMMERCIAL</th>
<th></th>
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<tbody>
<tr>
<td>a) Fixture Values on the total number of Fixture Values at a Premises or Water Service location (including irrigation), at a charge of $75.00 for each Fixture Value</td>
<td>$75.00 Per Fixture Value</td>
</tr>
<tr>
<td>b) Where Fixture Values cannot be determined, the meter-based SDC shall be charged as shown</td>
<td>Meter-Based SDC:</td>
</tr>
<tr>
<td></td>
<td>⅜&quot;......$3,750.00</td>
</tr>
<tr>
<td></td>
<td>1&quot;......$9,375.00</td>
</tr>
<tr>
<td></td>
<td>1½&quot;......$18,750.00</td>
</tr>
<tr>
<td></td>
<td>2&quot;......$30,000.00</td>
</tr>
<tr>
<td></td>
<td>3&quot;......$56,250.00</td>
</tr>
<tr>
<td></td>
<td>4&quot;......$93,750.00</td>
</tr>
<tr>
<td></td>
<td>6&quot;......$187,500.00</td>
</tr>
<tr>
<td></td>
<td>8&quot;......$300,000.00</td>
</tr>
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Impact Fees by Service Area

» Single (uniform) fee schedule v. multiple fee districts
Timing of Capital Projects

» Timing of capital projects and impact fee funding/reimbursements

– Funding infrastructure v. critical growth need

  • Risk of building too soon/too late

  • Developer agreements

– Regulatory constraints

– New/alternative water supply
Review of Impact Fee Topics

» Why impact fees differ among utilities
» Types of costs included in impact fees
» Taps and laterals v. impact fees
» Impact fees by service area
» Non-residential impact fee methods
» Timing of capital projects and impact fee funding/reimbursements
Thank You

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