Frequently-asked questions regarding impact fees.

Q: What is an impact fee?
A: An impact fee is a charge on new development to pay for the construction or expansion of infrastructure needed by and benefiting the new development.

Q: What does “infrastructure” include?
A: Infrastructure is the basic needs of residents to maintain the quality of life that currently exists in the community. For example, water lines, sewer systems, new roads or widened roads to accommodate increased traffic, schools, parks, libraries, fire stations needed to serve the new neighborhoods and citizens in them.

Q: Who actually pays the impact fee?
A: Only those building structures (homes or businesses) where there has never been one before will pay Bay County impact fees. Developers of large subdivisions usually pay the fees up front and include them in the price of homes when they sell.

Q: Will impact fees decrease the availability of affordable housing?
A: Studies indicate impact fees have little effect on the availability of affordable housing. In Bay County, impact fees are waived for affordable housing.

Q: How are impact fees calculated?
A: Determination of an impact fee begins with calculating demand-to-capacity ratios for different capital facilities and then estimating the number and cost of facilities that will be necessary for meeting a prescribed level of service for a growing population.

Q: What is a level of service?
A: A level of service is a measure used to characterize the operating conditions and performance of a public facility or service. The term is most commonly applied to traffic operations, where designations go from A (best) to F (worst).

Q: Why does Bay County need impact fees?
A: Bay County has grown rapidly in recent years, yet the revenue from property taxes has not kept pace with the cost to build new schools, fire stations, utilities, parks, libraries and – perhaps most importantly – roads. A December 2005 study indicates that 27 road segments in Bay County already are failing to meet current needs (called an existing deficiency) and that in the next 25 years, an estimated $325 million will be needed fund road improvements so Bay County citizens don’t encounter the gridlock experienced elsewhere in the state and nation.

Q: What is an existing deficiency?
A: An existing deficiency is an existing inadequacy in the condition or performance of a public facility or service with respect to the adopted or desired level of service.

Q: When did impact fees first become popular?
A: Impact fees as we know them today first came onto the scene in Florida and California during the late 1970s as a result of citizen anti-tax movements and reductions in federal and state aid for local infrastructure. Their use and popularity quickly spread throughout the Sunbelt and western states.
Q: How prevalent is the use of impact fees today?
A: According to recent national surveys, about 60 percent of all cities with more than 25,000 residents and almost 40 percent of all metropolitan counties use some form of impact fees. In California and Florida, the extent of cities and counties using impact fees is at 90 and 83 percent, respectively.

Q: What is the legal basis for impact fees?
A: Impact fees must meet the "rational nexus" and "rough proportionality" tests. First, there must be a reasonable connection between the "need" for additional facilities and new development. Second, it must be shown that the fee payer will "benefit" in some way from the fee. And third, calculation of the fee must be based on a proportionate "fair share" formula.

Q: How many states have adopted impact fee enabling acts?
A: Since 1987, 26 states have passed impact fee enabling acts. Most of these states are located in the western United States, Great Lakes region, and on the Atlantic coast.

Q: How do impact fees differ from taxes?
A: Impact fees are only paid by new development, and they are only charged one time to each new development. Taxes are paid by everyone, and they are paid every year or every transaction. Impact fees are only paid by new development, and they are only charged one time to each new development. Taxes are paid by everyone, and they are paid every year or every transaction. Impact fees are authorized through the police power; not the taxing power. They are part of the development approval process. Requiring an impact fee to provide adequate public facilities is similar to meeting site planning and zoning requirements.

Q: How much is the average impact fee?
A: Impact fees vary greatly by region and facility. Highest fees are in California and lowest are in the Midwest. In 2004, the national average road fee per single family unit was just under $1,700 and combined water and wastewater fees were about $4,000. Average park fees were about $1,200 per unit and average public safety (police and fire) fees were at about $500.

Q: What facilities can impact fees be used to pay for?
A: The type of facilities that an impact fee may be assessed for depends on local legal authority. Typically, impact fees are often limited to basic services, such as water, wastewater, roads, schools, fire protection, parks, libraries and drainage. They can, in certain cases, also be used for jails/law enforcement, solid waste and other uses.

Q: What basic provisions should be included in an impact fee ordinance?
A: Impact fee ordinances should at least include provisions for a fee schedule, fee methodology, benefit districts, offsets and credits, updating frequency, spending limits and refunding, phasing and indexing, independent fee studies, and definitions.

Q: When is an impact fee paid?
A: In Bay County, impact fees are paid at the time of building permit issuance. In the case of utilities, impact fees are usually paid at the time of actual connection or hookup to a water and wastewater system.
Q: Can impact fee revenues be spent on operating and maintenance costs?
A: No. Impact fees can only be spent on capacity-enhancing capital facilities.

Q: Are changes in use or additions to existing structures charged an impact fee?
A: No.

Q: What uses can be exempted from payment of an impact fee?
A: Low-income housing.

Q: How can the effect of impact fees on affordable housing be mitigated?
A: Since affordable housing creates a demand for public facilities just as does market-rate housing, they also have an impact fee obligation. However, there are several ways to reduce the "impact" of impact fees on affordable housing. First, variable rates based on unit size or number of bedrooms can recognize the lesser impact of smaller units on public facilities. And second, local government can make a policy decision to pay the impact fees for affordable units from other revenue sources.

Q: What are benefit districts?
A: Benefit districts are territorial divisions within which collected fees must be spent.

Q: What are assessment districts?
A: Assessment districts are territorial divisions within which fee schedules may vary.

Q: Do impact fee revenues have to be spent within a certain period of time?
A: Yes, impact fee revenues should be spent within a reasonable period of time (usually six to eight years from collection) or be refunded to the fee payer.

Q: Can impact fee revenues be deposited in a general fund?
A: No, fee revenues must be earmarked and deposited in special dedicated accounts.

Q: What is an impact fee offset?
A: When a developer contributes actual off-site facility improvements or dedications that mitigate the impact of a particular project and the need for impact fee-related public facilities, the project's impact fee should be reduced (offset) by the value of the improvement or dedication. Offsets are given to ensure that new development does not pay twice for the same facilities.

Q: What is an impact fee credit?
A: Credits are based on the amount of property and sales taxes paid or being paid by the new use for the same facilities and are incorporated in the impact fee schedule during preparation of the study. Credits are given to ensure that new development does not pay twice for the same facilities.

Q: How frequently should an impact fee study be updated?
A: Most state enabling acts stipulate an update time limit. If none are required, updates every three to five years are recommended to keep facility costs and data up-to-date.

Q: How do impact fees benefit existing, as well as new residents?
A: Adoption of impact fees reduces pressure on local residents to raise taxes and fees. And with new development paying for its own capacity-enhancing infrastructure needs, any current funds that have been designated to pay for those projects can be shifted to
the more immediate needs of existing residents, such as for facility maintenance and rehabilitation.

Q: Do impact fees negatively impact growth?
A: Studies indicate that impact fees may actually support growth by expediting development approvals, increasing the amount of developable lands, and reducing citizen opposition to new growth.

Q: May a lesser impact fee be charged than is recommended in a study?
A: Yes. Since a city is not required to impose impact fees, it may also choose to set its fees below the level necessary to fully recover necessary facility improvements. However, if a reduction is made the percent should be the same for all uses to maintain “fair share” relationships.

Q: What is the difference between standards-driven and improvements-driven fee methodologies?
A: Standards-driven impact fees are based on the cost of existing or desired levels of service (e.g. 5 acres of parks per 1,000 residents). Improvements-driven impact fees are determined by allocating the cost of specific planned improvements needed to serve a specific amount of new development over a specific period of time. Standards-driven impact fees are alternatively referred to as demand-, consumption- or incremental-driven fees; and improvements-driven impact fees are also called plan-driven fees. The word "based" is also often used interchangeably with the word "driven."

Q: Where can I get more information about impact fees?
A: There are many Web sites available on the internet. You may also call Bay County’s Development Services Office at (850) 784-6402.