
Since the passage of Proposition 2½ in 1980, municipal budgeting in Massachusetts has been revenue driven. This means that a community’s ability to maintain or increase the level or quality of services depends on its revenues and careful planning. Therefore, at the start of the annual budget process, a community should review its four, major revenue sources — tax levy, state aid, local estimated receipts, and available funds — before entertaining departmental spending requests. Given the constraints of Proposition 2½ and fluctuations in state aid, communities must look to local receipts as a source of needed funds.

User fees are one of a range of local receipt categories, which also include excises, charges, and other revenues sources. Some local receipts are dictated by statute (e.g., motor vehicle excise, hunting licenses, and firearms permits), while others may be negotiated (e.g., investment income and in-lieu-of-tax payments). Still others are established through the adoption of ordinances or bylaws. With user fees, a community can set charges to partially or fully fund particular a service and can periodically reassess those charges to assure an adequate revenue stream to support the service.

A fee is an amount charged for a service to the individuals who use or benefit from it. A fee may be imposed when a local government provides a particular service (such as a police detail), issues a permit or license, or offers a benefit, like a recreational program. Municipalities can establish fees as long as they meet the three-prong test set out in [Emerson College v. Boston, 391 Mass. 415 \(1984\)](#):

1. A fee must be charged for a particular service that benefits the party paying the fee in a manner not shared by other members of society. In other words, a fee may not be charged for general services that are mandatory or supplied to the public at large, such as core education and police protection.
2. A fee must be paid by choice. That is, the person paying the fee must have the option of not using the service and thereby avoiding the charge. It follows that a service can be withheld from individuals who refuse to pay.
3. A fee must be collected not to raise revenues, per se, but to compensate the governmental entity for its expenses in providing the service. This has been interpreted to mean that a fee cannot exceed the cost to provide the service.

As a practical matter, local officials are faced with many considerations when deciding whether to implement or increase fees. These include, but are not limited to, the legal authority to charge a fee (according to general laws, special legislation, and home rule powers), the attitudes of citizens and political leaders towards fees, and the cost. Before proposing fee increases, a community should review its current user fees in accordance with formal guidelines.

As a recommended practice, communities should adopt written policies for setting charges and fees. The policy should identify the factors to be taken into account when pricing services or benefits. It should also state whether the community intends to recover the full cost of providing the service or benefit and under what circumstances a charge or fee will be set at less than full recovery (because of debt exclusion or other subsidy, for example). A community should review its fee policy and existing fee structure periodically to ensure it is current and should communicate with the public clearly and openly. For guidance, visit the Government Finance Officers Association (GFOA) recommended practices webpage at www.gfoa.org.

To price a service or benefit, it is highly recommended that a community conduct a costing study. A costing study identifies and measures the direct, indirect, capital, and debt service costs to provide a service or benefit over a given period. If a team of municipal officials is involved, all possible aspects of costing data can be accounted for and different perspectives considered. The city or town should document the process and results, both for public disclosure and for easy replication during annual reviews. With the costing information, a community can analyze the efficiency of a service, make budgetary decisions, set the fees, and consider service provision alternatives (e.g., reducing the scale of service or outsourcing). For more information on costing services, see the Division of Local Services workbook, *Costing Municipal Services: Workbook and Case Study*, at www.mass.gov/dls under Publications and Forms.

Finally, it is a good idea to maintain a log of all municipal fees. In addition to fee name and description, useful information might include the fee amount, date of last review, and collecting department. This data might also be incorporated into a more encompassing revenue manual. For more information on a revenue manual, go to www.gfoa.org.