

PAHRUMP REGIONAL PLANNING DISTRICT IMPACT FEE ORDINANCE NO. 302

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BILL NO. 2005-12
NYE COUNTY ORDINANCE NO. 302

SUMMARY: A Bill proposing to adopt impact fees within the Pahrump Regional Planning District; providing that all impact fees collected must be deposited in an interest-bearing account which clearly identifies the category of capital improvements or facility expansions within the service area for which the fee was imposed; and other matters properly related thereto

TITLE: A BILL PROPOSING TO ADOPT IMPACT FEES WITHIN THE PAHRUMP REGIONAL PLANNING DISTRICT; PROVIDING PURPOSE, FINDINGS AND DEFINITIONS; PROVIDING FOR TIME OF PAYMENT, EXEMPTIONS, CREDITS, REIMBURSEMENTS, REFUNDS AND RESERVATION OF CAPACITY; THAT ALL IMPACT FEES COLLECTED MUST BE DEPOSITED IN AN INTEREST-BEARING ACCOUNT WHICH CLEARLY IDENTIFIES THE CATEGORY OF CAPITAL IMPROVEMENTS OR FACILITY EXPANSIONS WITHIN THE SERVICE AREA FOR WHICH THE FEE WAS IMPOSED; PROVIDING IMPACT FEE SCHEDULES FOR THE COST OF CAPITAL IMPROVEMENTS RELATED TO PARKS, FIRE AND POLICE STATIONS, AND STREETS; PROVIDING FOR ENFORCEMENT AND PENALTIES, APPEALS, AND SEVERABILITY; AND OTHER MATTERS PROPERLY RELATED THERETO

WHEREAS, pursuant to NRS 278.020, for the purpose of promoting the health, safety and the general welfare of the residents of Nye County, the Nye County Board of County Commissioners (Board) is authorized and empowered to regulate and restrict the improvement of land and to control the location and soundness of structures; and

WHEREAS, pursuant to NRS 278B the Board is authorized and empowered by ordinance to impose impact fees in service areas to pay for the cost of constructing capital improvements or facility expansions necessitated by and attributable to new development; and

WHEREAS, pursuant to NRS 278B a public hearing was conducted by the Board wherein due consideration was given to all arguments offered in support and opposition to enactment of the instant ordinance.

NOW, THEREFORE, the Board of County Commissioners of the County of Nye, State of Nevada, does hereby adopt, promulgate and order compliance therewith within the Pahrump Regional Planning District, the following regulations:

NYE COUNTY CODE TITLE 15 IS AMENDED BY ADDING THERETO CHAPTER 15.32 AS FOLLOWS:

ARTICLE I: GENERAL PROVISIONS

15.32.010 SHORT TITLE

This Chapter shall be known, and may be cited as the "Pahrump Regional Planning District Impact Fee Ordinance."

15.32.020 AUTHORITY

This Chapter is adopted under the authority of NRS Chapter 278B.

15.32.030 JURISDICTION

This Chapter applies to all New Development within the Pahrump Regional Planning District of Nye County, Nevada.

15.32.040 PURPOSE

It is the intent of the Board of County Commissioners to:

- A. impose impact fees in designated service areas to pay the cost of constructing capital improvements or facility expansions necessitated by and attributable to new development; and
- B. establish uniform procedures for calculating, assessing, earmarking and expending impact fees; and
- C. ensure compliance with state and federal law including, but not limited to, NRS Chapter 278B.

15.32.050 FINDINGS.

The Board of County Commissioners hereby finds and determines as follows:

- A. The costs of capital improvements and facility expansions that are attributable to new development are documented in the reports entitled "Capital Improvement Plans and Impact Fees, Pahrump Regional Planning District (TischlerBise, dated July 8, 2005), and "Streets and Highways Capital Improvement Plan FY 2006-2015, Pahrump Regional Planning District (prepared by Tri-Core Engineering, dated March 18, 2005), which reports are hereby incorporated by reference and made a part of this Chapter.
- B. The reports described in subsection A of this section establish the estimated cost of actual construction of capital improvements and facility expansions.

- C. The reports described in subsection A of this section establish the estimated fees for professional services for capital improvements and facility expansions.
- D. The reports described in subsection A of this section establish the estimated cost to acquire the land for capital improvements and facility expansions.
- E. The reports described in subsection A of this section establish the fees paid for professional services required for the preparation or revision of a capital improvements plan in anticipation of the imposition of an impact fee.
- F. The reports described in subsection A of this section establish the impact fee amount to pay the cost of constructing a capital improvement or facility expansion that is necessitated by and attributable to new development.
- G. The capital improvements and facility expansions subject to the impact fees established in this Chapter are necessitated by new development.
- H. The impact fees established in this Chapter do not exceed an amount that is roughly proportionate to the impacts of new development.

15.32.060 DEFINITIONS

For purposes of interpreting this Chapter, certain words used herein are defined as follows. Words and phrases not defined in this Chapter shall be defined as provided in the Zoning Ordinance of the Pahrump Valley Regional Planning District.

Applicant. The person applying for a building permit from the County.

Business Park. A group of flex-type buildings served by a common roadway system. The tenant space includes a variety of uses with an average mix of 20-30% office/commercial and 70-80% industrial/warehousing. Business park corresponds to the "office parks" land use classification as listed or defined in the Zoning Ordinance.

Capital improvement. A:

- 1. (Reserved)
- 2. Fire station project;
- 3. Park project;
- 4. Police station project;
- 5. (Reserved) or
- 6. Street project.

[Source: NRS § 278B.020]

Capital Improvements Plan or CIP. The document entitled *Capital Improvement Plans and Impact Fees* dated July 8, 2005, as adopted by the County and as amended or replaced from time

to time, along with the following document that provides supporting data, programs and information: "Streets and Highways Capital Improvement Plan FY 2006-2015, Pahrump Regional Planning District (prepared by Tri-Core Engineering, dated March 18, 2005). The documents referenced in this definition are incorporated by reference and made a part of this Chapter.

Commercial. Any occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee, other than a Manufacturing, Light Industrial, Warehousing, Business Park, or any other use that is specifically defined in this Chapter. Commercial corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: agricultural products salesroom or shop; antique sales/antique stores; art gallery/studio; arcades; auction houses, indoor; automobile repair facility/automobile repair garage; automobile sales and storage (new or used); automobile service facilities/automobile service station; bakery; barber and beauty shops; bicycle sales/repair/rental; body art; buildings for the sale and display of products grown/raised on the premise; cabinet, carpenter, electrician shop etc; candy store; carwashes; catering service; check cashing, payday loans or similar uses; convenience store; copying, blueprinting; dog grooming; draperies; dressmaking/sales; drive-in restaurant; dry cleaning laundry, clothes pressing; electronic stores; embroidery, fabric and sewing shops; fast food restaurants with drive-thru; fireworks retail or sales; fireworks, wholesale; fitness centers/gyms; flea markets/swap meets; flowers and plants, including outdoor sales; gaming establishment (excluding a non-hotel casino/video lottery, which is separately classified); greenhouses and nurseries; jewelry stores; kennel; laundromats; laundry and dry cleaning pick up and drop off; licensed houses of prostitution and accessory residential uses; liquor sales establishment; livestock sales and shipping; outdoor sales display areas; garden centers, and other commercial displays that are commonly displayed in an outdoor setting on a permanent basis; pawn shops; pharmacy; restaurant; retail sales; sexually oriented business; showroom (building supplies etc.); supermarket, grocery store; travel bureau; veterinary hospitals; and watch/clock sales and repair.

Daycare. A day care center is a free-standing facility where care for pre-school aged children is provided, normally during the daytime hours. Day care facilities generally include classrooms, offices, eating areas, and playgrounds. A daycare includes establishments that provide after-school care for children. Daycare corresponds to the "child care facility" land use classification as listed or defined in the Zoning Ordinance.

Drainage project. Any natural and artificial watercourses, water diversion and water storage facilities, including all appurtenances and incidentals necessary for any such facilities. *[Source: NRS § 278B.030]*

Facility expansion. The expansion of the capacity of an existing facility associated with a capital improvement to serve new development. The term does not include the repair, maintenance or modernization of a capital improvement or facility. *[Source: NRS § 278B.040]*

Fire station project. A facility for a fire station or a fire substation. The term does not include:

1. A facility or portion of a facility that is designed for a use related to the administration of a fire department or any other use not directly related to fire fighting; or

2. Any equipment, including, without limitation, vehicles, used for fire fighting.

[Source: NRS § 278B.045]

Guest Residence. Any building or portion thereof, used exclusively for residential purposes and that is accessory to a dwelling unit on a lot, that includes either a bathroom or kitchen facilities, but not both. Any such building that includes both bathroom and kitchen facilities is classified as a Second Residence.

Hospital. A hospital is any institution where medical or surgical care and overnight accommodations are provided to non-ambulatory and ambulatory patients. However, the term "hospital" does not refer to medical clinics (facilities that provide diagnoses and outpatient care only) or nursing homes (facilities devoted to the care of persons unable to care for themselves), which are covered elsewhere in the *Trip Generation Manual*. A hospital corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: hospital, or hospital sanatorium. While a hospital includes a clinic in the Zoning Ordinance, a clinic is classified separately in this Chapter (see "Medical-Dental Office Building").

Impact Fee Administrator or Administrator. The County Manager or the County Manager's designee.

Impact Fee. A charge imposed by the County on New Development to finance the costs of a capital improvement or facility expansion necessitated by and attributable to the New Development. The term does not include a tax for the improvement of transportation imposed pursuant to NRS 278.710. [Source: NRS § 278B.050]

Land use assumptions. Projections of changes in land uses, densities, intensities and population for a specified service area over a period of at least 10 years and in accordance with the County's master plan. [Source: NRS § 278B.060]

Light Industrial. Light industrial facilities usually employ fewer than 500 persons and have an emphasis on activities other than manufacturing. Typical light industrial activities include, but are not limited to printing plants, material-testing laboratories and assembling of data processing equipment. Light Industrial corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: light manufacturing, processing, assembly, fabricating, and similar uses; research and development facilities; and limited neighborhood-scale complimentary commercial uses to a light industrial use including but not limited to the following: bakeries, coffee shops, convenience stores, cafes and restaurants; copy shops and printing services; daycare center; dry cleaning, pick up and drop off; and other similar uses.

Local government. A city or a county. [Source: NRS § 278B.070]

Lodging. Buildings or land areas that provide sleeping accommodations and supporting facilities such as restaurants, cocktail lounges, meeting and banquet rooms or convention facilities, limited recreational facilities (pool, fitness room) and other retail and service shops. Lodging corresponds

to the following land use classifications as listed or defined in the Zoning Ordinance: campgrounds; bed and breakfast inns; hotel/motel; recreational vehicle park; and resort.

Manufacturing. Operations required in the mechanical, biological, or chemical transformation of materials or substances into new products including the assembling of component parts, the manufacture of products, and the blending of materials such as lubricating oils, plastics, resins, or liquors. The term manufacturing covers all mechanical, biological, or chemical transformations, whether the new product is finished or semi-finished as raw materials is some other process. Manufacturing corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: automobile wrecker/salvage yard; asphalt or concrete batch plants; concrete or asphalt batch plant; bulk fuel station; chemical manufacturing; facilities for use, manufacture, processing, transfer, or storage of explosives or certain other highly hazardous substances; dairies; feed lots; fireworks manufacturing; foundry; freight terminals; fuel dispensing facilities; gravel/sand pit; heavy manufacturing, processing, assembly, fabricating, and similar uses; junkyard; manufacturing of hazardous, noxious, or corrosive products; byproducts of fish, meat or animals including slaughterhouses, fertilizer, glue etc.; landfill; manufacturing, processing, transfer or storage of explosives or certain other highly hazardous substances; matches manufacturing; milling; mining; motor freight terminal; ore dump; outdoor manufacturing; oxygen manufacturing; paint manufacturing; plastic product manufacturing; quarry, stone; rail/motor freight terminal or bus storage; rock crushing and stripping; slaughterhouse; storage of hazardous materials; and storage yards for construction equipment, including incidental vehicle repair.

Medical-Dental Office Building. A medical-dental office building is a facility that provides diagnoses and outpatient care on a routine basis, but is unable to provide prolonged in-house medical and surgical care. This type of facility is generally operated by one or more private physicians or dentists. A medical-dental office building corresponds to the "clinic" land use classification as listed or defined in the Zoning Ordinance.

Mini-Warehousing. Buildings in which a number of storage units or vaults are rented for the storage of goods. They are typically referred to as self-storage facilities. Each unit is physically separated from other units, and access is usually provided through an overhead door or other common access point. Mini-warehousing corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: mini storage facilities with or without a caretaker's residence.

New development. Any:

1. Subdivision of land;
2. Construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure which adds or increases the number of service units; or
3. Use or extension of the use of land which increases the number of service units.

[Source: NRS § 278B.080]

Non-Hotel Casino/Video Lottery. Establishments that provide electronic or manually controlled slot machines. These facilities exist for the primary purpose of deriving revenue from gaming operations. Full food service is generally not provided at these facilities; however, refreshments and alcoholic beverages may be served. These facilities do not include full service casinos or casino/hotel facilities such as those located in Las Vegas. Riverboat casinos are not included in this land use category.

Nursing Home. A facility whose primary function is to care for persons who are unable to care for themselves. Examples of such facilities include rest homes and chronic care and convalescent homes. Skilled nurses and nursing aides are present 24 hours a day at these sites. Nursing homes are occupied by residents who do little or no driving; traffic is primarily generated by employees, visitors, and deliveries. Nursing home corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: adult day care facilities; congregate living facilities; convalescent or nursing home; and intermediate care facilities.

Office / Institutional. A building that houses multiple tenants including, but not limited to, professional services, insurance companies, investment brokers and tenant services such as banking, restaurants and service retail facilities. This definition also includes institutional uses. Office / Institutional corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: airport related uses; amusement parks; bank; banquet hall; call centers; cemeteries, pet; churches, including religious schools; churches, temples, mosques and related facilities and accessory uses; collection agency; commercial parking lot; commercial parking structure; community recreation buildings and facilities accessory to a residential subdivision or a mobile home park, for use by residents only; concert hall and convention center; correctional facilities; dance club (excluding adult entertainment); golf courses, except miniature golf; golf driving range, miniature golf course, baseball batting range; gymnasium or physical fitness establishments; hospital for animals; institution; live/work units; management offices; museum; off road/motor cross track or driving school; office; park and ride temporary facilities; parking lot; parks; printing and desktop publishing shops; private school; professional offices; professional services (doctors, realtors, attorneys, etc.); public and private clubs and all appurtenances thereto including golf courses, equipment rooms, tennis courts, outdoor amphitheaters and other recreational uses; public or private recreational areas and facilities such as country clubs and swimming pools; public or private schools; public school/institute; public, quasi-public and institutional uses; race track, animal; race track, auto and motorcycle; social halls, lodges, fraternal organizations and clubs; swimming pools; tax preparer; tennis courts; and theaters.

Park project. Real property, turf, trees, irrigation, playground apparatus, playing fields, areas to be used for organized amateur sports, play areas, picnic areas, horseshoe pits, trails, jogging and pedestrian paths, tennis courts, areas designated for the use of skateboards and other recreational equipment or appurtenances which are designed to serve natural persons, families and small groups and which are used for a park that is not larger than 50 acres in area. The term does not include auditoriums, arenas, bandstand and orchestra facilities, bathhouses, clubhouses, community centers that are more than 3,000 square feet in floor area, golf course facilities, greenhouses, swimming pools, zoo facilities or similar recreational facilities. *[Source: NRS § 278B.090]*

Police station project. A facility for a police station or a police substation. The term does not include:

1. A facility or portion of a facility that is designed for a use related to the administration of a police department or any other use not directly related to the provision of police services, including, without limitation, the training of police officers; or
2. Any equipment, including, without limitation, vehicles, used to provide police services.

[Source: NRS § 278B.087]

Residential Use. Any attached dwelling, multifamily dwelling, or any of the following uses as listed or defined in the Zoning Ordinance: apartments; caretaker's residence; second residence; mobile home parks; multifamily residence; or single family residence. A residential use does not include a Guest Residence.

Second Residence. Any building or portion thereof, used exclusively for residential purposes and that is accessory to a dwelling unit on a lot, which contains both a bathroom and kitchen facilities.

Service area. The area within the boundaries of the Pahrump Valley Regional Planning District which is served and benefited by the capital improvement or facilities expansion as set forth in the capital improvements plan. *[Source: NRS § 278B.100]*

Service unit. A standardized measure of consumption, use, generation or discharge which is attributable to an individual unit of development calculated for a particular category of capital improvements or facility expansions. *[Source: NRS § 278B.110]* The service units are described in the Capital Improvements Plan.

Shopping Center. A shopping center is an integrated group of commercial establishments that is planned, developed, owned and managed as a unit. A shopping center provides on-site parking facilities sufficient to serve its own parking demands. Shopping centers may contain non-merchandizing facilities, such as office buildings, movie theaters, restaurants, post offices, banks, health clubs and recreational facilities. In addition to the integrated unit of shops in one building or enclosed around a mall, many shopping centers include out-parcels. For smaller centers without an enclosed mall or peripheral buildings, the Gross Leaseable Area (GLA) is the same as the Gross Floor Area (GFA) of the building.

Street project. The arterial or collector streets or roads which have been designated on the streets and highways plan in the master plan adopted by the County pursuant to NRS 278.220, including all appurtenances, traffic signals and incidentals necessary for any such facilities. *[Source: NRS § 278B.130]*

Trip Generation Manual. The document published by the Institute of Transportation Engineers and entitled *Trip Generation* (7th ed. 2003), which document is hereby incorporated by reference.

Warehousing. Buildings or land areas that are primarily devoted to the storage of materials. Warehousing corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: cold storage facilities; manufactured home storage and construction/demolition; outdoor storage (not accessory to a principal use); storage facilities; warehousing or the indoor storage of goods or material; and warehousing, distribution and ancillary office uses

Zoning Ordinance. The Zoning Ordinance of the Pahrump Regional Planning District.

15.32.070 IMPACT FEE ESTABLISHED.

An impact fee is hereby imposed upon new development within the County in accordance with the provisions of this Chapter.

15.32.080 TIME OF PAYMENT.

The impact fee shall be determined and paid at the same time as the fee for issuance of a building permit. The applicant for a building permit shall pay the impact fee.

15.32.090 EXEMPTIONS.

A. The following are exempt from payment of the impact fee imposed by this Chapter:

1. The alteration of an existing dwelling unit where no additional dwelling units are created.
2. The replacement of a destroyed, partially destroyed or moved residential structure with a new structure for the same use, with no increase in the number of dwelling units.
3. The replacement of a destroyed, partially destroyed or moved nonresidential structure with a new structure for the same use, with no increase in gross floor area.
4. Any development for which a completed application for a building permit was submitted prior to the effective date of this Chapter, provided that the construction proceeds according to the provisions of the permit and the permit does not expire prior to the completion of the construction.
5. Any development that is subject to an approved development agreement that provides for developer funding of all improvements within the area subject to the development agreement.
6. Any development that creates no new demand or impact on capital improvements or facility expansions. This corresponds to the following land use classifications as listed or defined in the Zoning Ordinance: accessory buildings not used for residential purposes; accessory uses; antenna; cellular towers and related facilities; farrowing pens; farms for

the raising/growing of tree and bush crops and/or field crops for commercial or household use; home occupations; public utility structure; keeping of livestock or other large animals for commercial or household use, including riding academies and commercial stables, but not including commercial slaughtering; signs; towers, communication; recreational vehicles or mobile homes as temporary residences; temporary living facilities; guest residences; and town squares, plazas, promenades and other public gathering places.

- B. An exemption must be claimed at the time of application for a building permit.
- C. The Impact Fee Administrator shall determine the validity of any claim for exemption that is made pursuant to this Section.
- D. In order to promote the economic development of the County or the public health, safety, and general welfare of its residents, the Board of County Commissioners may agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the County that are available for that purpose. Any such decision to pay impact fees on behalf of an applicant shall be at the discretion of the Board of County Commissioners and shall be made pursuant to goals and objectives articulated by the Board of County Commissioners.

15.32.100 PAYMENT

- A. Except as otherwise provided in Section 15.32.090 of this Chapter, the applicant for a building permit for new development shall pay an impact fee in accordance with the fee schedules established in Articles 2 through 6 of this Chapter. If any credit is due an applicant pursuant to Section 15.32.135 of this Chapter, the amount of the credit shall be deducted from the fee to be paid.
- B. If the type of development for which a building permit is requested is not specified on the fee schedules established in Articles 2 through 6 of this Chapter, the Impact Fee Administrator shall determine the fee on the basis of the fee applicable to the most nearly comparable type of land use that is listed on the fee schedule. The Administrator shall be guided in the selection of a comparable type of land use by trip generation rates contained in the most current edition of the report titled Trip Generation, prepared by the Institute of Transportation Engineers (ITE), or upon data or reports appearing in the ITE Journal.
- C. If the type of development for which a building permit is requested is for a change of land use type or for the expansion, redevelopment, or modification of an existing development, the fee shall be based on the net increase in the fee for the new land use type or development as compared to the previous land use type or development.
- D. In the event that the proposed change of land use type, redevelopment, or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of impact fees previously paid.

- E. After the collection of the impact fee no additional impact fees may be collected for the same service unit. If the number of service units increases, the impact fee must be limited to the amount which is attributable to the additional service units.
- F. Any new development for which an impact fee has been paid is entitled to:
 - 1. The permanent use and benefit of the facilities for which the fee was imposed; and
 - 2. Receive immediate service from any existing facility with actual capacity to serve the new service units.

15.32.110 IMPACT FEE ACCOUNTS

- A. All impact fees collected must be deposited in an interest-bearing account established in subsection B., below) which clearly identifies the category of capital improvements or facility expansions within the service area for which the fee was imposed.
- B. There is created the following interest-bearing impact fee accounts (the "Accounts"):
 - 1. (Reserved)
 - 2. Parks Impact Fee Account
 - 3. Fire Station Impact Fee Account
 - 4. Police Station Impact Fee Account
 - 5. Street Impact Fee Account
- C. The impact fee Accounts are distinct from the general fund of the County.
- D. Impact fees received by the County must be deposited in the appropriate Account.
- E. The Account shall contain only those impact fees that have been collected pursuant to this Chapter, plus any interest which may accrue from time to time. The interest and income earned on money in the account must be credited to the account.
- F. The records of any Account into which impact fees are deposited must be available for public inspection during ordinary business hours.
- G. Monies in the impact fee Accounts shall be considered to be spent in the order collected, on a first-in/first-out basis.
- H. Monies in the impact fee Accounts shall be used only for the following:
 - 1. To pay for capital improvements or facility expansions which have been identified in the capital improvements plan;
 - 2. To pay debt service on any portion of any current or future general obligation bond or revenue bond issued after the effective date of this Chapter and used to finance system improvements;

3. To pay refunds, as described in Sections 15.32.120 through 15.32.125 of this Chapter;
4. To be used as credits against impact fees, as described in Section 15.32.135 of this Chapter; or
5. To pay reimbursements, as described in Section 15.32.140 of this Chapter.

I. Impact fees must not be used for:

1. The construction, acquisition or expansion of public facilities or assets other than capital improvements or facility expansions which are included in the capital improvements plan.
2. The repair, operation or maintenance of existing or new capital improvements or facility expansions.
3. The upgrading, expansion or replacement of existing capital improvements or facilities to serve existing development to meet more stringent safety, environmental or regulatory standards.
4. The upgrading, expansion or replacement of existing capital improvements or facilities to provide better service to existing development.
5. The administrative and operating costs of the County.
6. Except as otherwise provided in NRS 278B.220, the payments of principal and interest or other finance charges on bonds or other indebtedness.

15.32.115 SERVICE AREA

For the purpose of administering the impact fee ordinance and ensuring that impact fees are only spent on facilities that benefit the fee payor, the following service area is established:

- A. The Pahrump Service Area. The Pahrump Service Area consists of all land within the boundaries of the Pahrump Valley Regional Planning District, as established in § 16.24.010 of the Nye County Code (see Figure 1).

15.32.120 REFUND FOR FAILURE TO COMMIT IMPACT FEE FUNDS

- A. Any impact fee that has been collected from an applicant is subject to a refund if:
 - 1. After collecting the fee the County did not begin construction of the capital improvement or facility expansion for which the fee was collected within 5 years after collecting the fee; or
 - 2. The fee, or any portion thereof, was not spent for the purpose for which it was collected within 10 years after the date on which it was collected.
- B. The County shall not refund impact fees unless the owner of real property for which an impact fee has been collected submits a request for a refund. The request for a refund shall include the following information:
 - 1. The original building permit application; and
 - 2. Evidence that the applicant for the refund is the original applicant or the current property owner of the land that was subject to the original application.
 - 3. Evidence that the impact fee was deposited by the County; and
 - 4. Evidence that the County has failed to commence construction of capital improvements or facility expansions, or to spend the impact fees, within the time period required by this Section.
- C. The request for a refund shall be submitted within sixty (60) days after event that triggers the availability of a refund, as provided in subsection A of this Section.
- D. Any refund shall include any interest and income earned on the impact fee by the County.
- E. In determining whether or not impact fees have been spent for purposes of this Subsection A., the provisions of Subsection G of Section 15.32.110 shall apply.
- F. The County shall, upon the completion of the capital improvement or facility expansion identified in the capital improvements plan or upon expenditure of fees collected from a development, recalculate the impact fee for that development by using the actual costs of the capital improvement or facility expansion or the actual costs of those capital improvements or facility expansions completed and engineering estimates of those capital improvements or facility expansions to be completed within the service area.
- G. If the impact fee based on the cost or recalculated cost is less than the impact fee paid, the County shall refund:
 - 1. The difference if the actual costs are known; or

2. The difference if it exceeds the impact fee paid by more than 10 percent, if estimates are used, and any interest and income earned by the County on the amount of money refunded.
- H. Each refund must be paid to the owner of the property on record at the time the refund is paid. If a local government paid the impact fee, the refund must be paid to that local government.
- I. Any limitation of time established by this section is suspended for any period, not to exceed 1 year, during which the State of Nevada or the Federal Government takes any action to protect the environment or an endangered species which prohibits, stops or delays the construction of the capital improvement or facility expansion for which an impact fee was collected.

15.32.125 REFUND ON EXPIRATION OF BUILDING PERMIT

If an applicant has paid an impact fee required by this Chapter and the building permit later expires without the possibility of further extension, and the development activity for which the impact fee was imposed did not occur and no impact has resulted, the applicant who paid the fee is entitled to a refund of the fee paid, without interest. In order to be eligible to receive such refund, the applicant who paid the fee shall submit an application for refund within thirty days after the expiration of the permit or extension for which the fee was paid.

15.32.130 RESERVATION OF CAPACITY

- A. The County may agree to reserve capacity to serve a development that has paid impact fees. If capacity is reserved, the owner and the County shall enter into a Development Agreement to do so.
- B. In lieu of a reservation of capacity pursuant to § 15.32.130.A, above, the County may agree that the owner of a new development may construct or finance capital improvements or facility expansions included in the CIP, and:
 1. The costs incurred or money advanced will be credited against the impact fees otherwise due from the new development as provided in § 15.32.135; or
 2. The County will reimburse the owner for those costs from the impact fees paid from other developments which will use those capital improvements or facility expansions as provided in § 15.32.140.

15.32.135 CREDITS

- A. If an owner is required by the County, as a condition of the approval of the development, to construct or dedicate, or both, a portion of the off-site facilities for which impact fees other than for a park project are imposed, the off-site facilities must be credited against those impact fees.

- B. If a school district is required by the County to construct or dedicate, or both, a portion of the off-site facilities for which impact fees are imposed, the County shall, upon the request of the school district, reimburse or enter into an agreement to reimburse the school district for the cost of the off-site facilities constructed or dedicated, or both, minus the cost of the off-site facilities immediately adjacent to or providing connection to the school development which would be required by County ordinance in the absence of an ordinance authorizing impact fees.
- C. No credits are available for capital improvements that primarily serve the applicant's project. Approved credits for system improvements shall generally become effective when the improvements have been completed and have been accepted by the County.
- D. In order for a particular development or property to qualify for an impact fee credit, the developer must:
 - 1. Submit complete engineering drawings, specifications, and construction cost estimates to the Impact Fee Administrator. The Administrator shall base the amount of credit on the costs of typical capital improvement costs, as those costs may be set forth by a resolution duly adopted by the Board of County Commissioners. In the event these component costs are not applicable, the Administrator shall within thirty (30) days determine the amount of credit due based upon the information submitted, or where such information is inaccurate or unreliable, upon alternative engineering or construction costs acceptable that the Impact Fee Administrator finds are accurate and reliable; and
 - 2. Enter into an agreement with the County that specifies:
 - a. The amount of the credit;
 - b. How the credit will be allocated within the development; and
 - c. Whether and how the developer will be reimbursed for any excess credit beyond the impact fees that would otherwise be due from the development.
- E. The right to claim impact fees regarding particular property runs with the land and may be claimed only by owners of property within the development for which land was dedicated or improvements made.
- F. Credits issued for a particular development shall not be transferable to another development.
- G. If the development for which credits have been issued is sold to different owners, the credits usable by each new owner shall be calculated in terms of a percentage of the impact fees that would otherwise be due from the entire development. If the total amount of development is not known, the maximum potential development under existing development regulations shall be assumed. This percentage reduction will be applied to all impact fees assessed within the development until the total amount of the credits is exhausted or the development is completed, whichever occurs first. In the event that the impact fee schedule is amended to increase the fees prior to completion of the development, the percentage reduction shall be

applied only to the impact fees that were in place at the time the credits were issued, and the adjusted impact fee to be charged shall be the sum of the reduced original impact fee plus the amount by which the fees were increased.

- H. Credits provided pursuant to this Chapter are valid from the effective date of the credits until five years after that date or until the last date of construction within the development or project for which the credits were issued, whichever occurs first.
- I. Applicants may obtain credits for system improvements that were completed prior to the effective date of this Chapter, and may use such credits to reduce the impact fees due after that date for system improvements within the same development for which the credits were issued. Application for such credits must be made, on forms provided by the County, within two years after the effective date of this Chapter. In the event that the development for which the credits are claimed is partially completed, the amount of the credits shall be reduced by the amount of the impact fees for system improvements that would have been charged for the completed portion of the development had this chapter been in effect. In the event that the development project has been fully completed, no credits shall be issued.
- J. An appeal to the Board of County Commissioners from a determination by the Impact Fee Administrator shall be filed in writing with the Nye County Clerk within thirty (30) days after the date the applicant receives the notice of the determination. If the appeal is not filed during this time, it shall be considered waived and the determination shall be presumed correct.

15.32.140 REIMBURSEMENTS

- A. If the applicant provides a capital improvement or facility expansion that has been identified in the capital improvements plan, the County may reimburse the owner for those costs from the impact fees paid from other developments which will use those capital improvements or facility expansions.
- B. No reimbursement may be made except pursuant to an executed Development Agreement. The Development Agreement must be approved as provided in Nye County Code Chapter 16.32 and NRS 278.0201 through 278.0207 and/or NRS 278.02598. The Development Agreement must include, but is not necessarily limited to, the following:
 - 1. the estimated cost of the capital improvement or facility expansion to be constructed or dedicated, based on the provisions of the this Chapter;
 - 2. a schedule for the initiation and completion of the construction of the Capital Improvement;
 - 3. the amount of the impact fees, by type, to be reimbursed by the County to the applicant;
 - 4. the schedule for making reimbursement payments to the applicant, based on the provisions of this Section;

5. provision for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the County pursuant to this Section;
 6. the applicant's agreement to construct all Capital Improvements in accordance with County specifications and all regulations set forth in the Nye County Code; and
 7. such other terms and conditions as deemed necessary by the County.
- C. The County may reimburse impact fees already paid only for the type of facility dedicated or constructed by the applicant.
- D. Reimbursements must be made from the impact fee account earmarked for the same type of capital improvement being dedicated or constructed.
- E. No impact fees may be reimbursed for a capital improvement that is proffered pursuant to this section unless it is included in the capital improvements plan.
- F. The County may not reimburse the applicant in an amount exceeding the amount of the impact fee due pursuant to this Chapter.
- G. The County may not reimburse the applicant until a proffered land dedication is finalized or the construction project is at least fifty percent (50%) complete. Reimbursement may then occur based on the percent completion of the project.
- H. If an applicant proposes to dedicate or construct capital improvements or facility expansions valued at an amount greater than the amount of the impact fee due, then the development agreement may provide for reimbursements to the applicant by future developers of costs incurred over and above those reimbursed by the County.
- I. The amount of the reimbursement to be paid by the County is to be calculated as follows:
1. The reimbursement must be equal to the actual cost of construction or equipment as evidenced by receipts and other sufficient documentation or the amount of impact fees due pursuant to this Chapter, whichever is less.
 2. At the option of the applicant, the reimbursement is to be based on either the assessed value of the proffered land, based on the most recent County property appraisal, or the fair market value of the land as determined by a certified property appraiser hired and paid for by the applicant. If the latter option is chosen and the County rejects the applicant's appraisal, the County may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the County and the applicant. The third appraisal is binding on both parties. All appraisals must be consistent with generally-accepted appraisal techniques and the date of valuation must be the date of transfer to the County.

- J. The reimbursement may be paid only to the original applicant or the applicant's legal successor in interest with a contractual right to the reimbursement. Any transfer or assignment is valid only if the applicant gives the Board of County Commissioners written notice in advance of the transfer.

15.32.150 LAND USE ASSUMPTIONS

- A. The Board of County Commissioners shall review and may revise the land use assumptions and CIP at least once every three years. The three-year period begins upon the date the Board of County Commissioners adopts the CIP.
- B. Upon the completion of any revision of the land use assumptions and CIP, the Board of County Commissioners shall conduct a public hearing and give public notice in accordance with NRS 278B.290.
- C. The Board of County Commissioners shall approve or disapprove the adoption of any revised land use assumptions and CIP within thirty days after the public hearing.

15.32.160 IMPACT FEE ADMINISTRATOR

- A. The Impact Fee Administrator shall maintain accurate records of the impact fees paid, including the name of the person paying fees, the project for which the fees were paid, the date of payment of each fee, the amounts received in payment for each fee, and any other matters that the County deems appropriate or necessary to the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and upon reasonable advance notice.
- B. If an impact fee has been calculated and paid based on a mistake or misrepresentation, it shall be recalculated and an adjustment made as follows:
1. Any amounts overpaid by an applicant shall be refunded to the applicant, together with interest accruing from the date of overpayment, within thirty days after the recalculated amount has been established.
 2. Any amounts underpaid by an applicant shall be paid to the Impact Fee Administrator, together with interest accruing from the date of underpayment, within thirty days after the recalculated amount has been established. In the case of an underpayment, the County may withhold additional permits or approvals for the project for which the impact fee was previously underpaid until the underpayment is corrected. If amounts owed to the County are not paid within the thirty-day period, the County may also rescind any permits issued in reliance on the previous payment of the impact fee.

15.32.170 FORMS AND DOCUMENTS

All forms and documents referred to in this Chapter shall be made available by, and may be obtained from, the Nye County Planning Department.

15.32.180 ENFORCEMENT AND PENALTIES

- A. It is unlawful to knowingly provide to the County false information on any matter relating to the administration of this Chapter, including without limitation false information regarding the expected size, use, or impacts of a proposed development.
- B. Any person, firm or corporation who, after 14 days of receiving written notification of violation of any of the provision(s) of this Chapter, knowingly continues to violate said provision(s) of this Chapter is guilty of a misdemeanor.
- C. Each such person is guilty of a separate offense for each and every day or portion thereof during which violation of any of the provisions of this Chapter is committed, continued or permitted.
- D. Upon conviction of any violation of this Chapter, such person(s) shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment for not more than six (6) months in the Nye County jail, or by both such fine and imprisonment.
- E. Any building or structure hereafter set up, erected, built, moved or maintained or any use of property hereafter contrary to the provisions of this Chapter shall be, and the same is declared to be, unlawful and a public nuisance, and the County may immediately commence action or actions, proceeding or proceedings, for the abatement thereof in a manner provided by law and shall take such other steps and shall apply to such court or courts as may have jurisdiction to grant such relief as will abate or remove such building, structure or use and restrain and enjoin any person from setting up, erecting, building, moving and maintaining any such building or structure, or using any property contrary to the provisions of this Chapter.

15.32.190 APPEALS

Any determination made by the Impact Fee Administrator pursuant to this Chapter may be appealed to the Board of County Commissioners by filing a written appeal with the County Clerk within thirty days after the date of the determination. If the appeal is not filed during this time, it shall be considered waived and the determination shall be presumed correct.

15.32.195 SEVERABILITY

If any provision of this Chapter or amendments thereto, or the application thereof to any person, thing or circumstance is held to be invalid, such invalidity shall not affect the validity of provisions or applications of this Chapter or amendments thereto which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter and amendments thereto are declared to be severable.

ARTICLE 2. (RESERVED)

15.32.200 (RESERVED)

15.32.210 (RESERVED)

15.32.220 (RESERVED)

ARTICLE 3. FIRE STATION IMPACT FEES

15.32.300 FIRE STATION IMPACT FEE SCHEDULE

The schedule of fire station impact fees is as follows:

| ITE* | Land Use Category | Residential | Non-residential | Per |
|------|---|---------------------|---------------------------------|--------------------------|
| | | (Per Dwelling Unit) | (Per Square Foot of Floor Area) | Demand Unit As Indicated |
| | Dwelling, Detached | \$167 | | |
| | Attached Dwelling, Multifamily Dwelling, or Other Residential Use | \$127 | | |
| 820 | Commercial / Shopping Center 25,000 square feet or less | | \$0.15 | |
| 820 | Commercial / Shopping Center 25,001-50,000 square feet | | \$0.14 | |
| 820 | Commercial / Shopping Center 50,001-100,000 square feet | | \$0.12 | |
| 820 | Commercial / Shopping Center 100,001-200,000 square feet | | \$0.11 | |
| 820 | Commercial / Shopping Center 200,001-400,000 square feet | | \$0.09 | |
| 820 | Commercial / Shopping Center 400,001 or more square feet | | \$0.08 | |
| 710 | Office / Institutional 10,000 square feet or less | | \$0.07 | |
| 710 | Office / Institutional 10,001-25,000 square feet | | \$0.06 | |
| 710 | Office / Institutional 25,001-50,000 square feet | | \$0.05 | |
| 710 | Office / Institutional 50,001-100,000 square feet | | \$0.04 | |
| 710 | Office / Institutional 100,001 or more square feet | | \$0.04 | |
| 770 | Business Park | | \$0.04 | |
| 110 | Light Industrial | | \$0.02 | |
| 140 | Manufacturing | | \$0.01 | |
| 150 | Warehousing | | \$0.02 | |
| 151 | Mini-Warehousing | | \$0.01 | |
| 473 | Non-Hotel Casino/Video Lottery | | \$0.41 | |
| 720 | Medical-Dental Office Building | | \$0.11 | |
| 610 | Hospital | | \$0.05 | |

| ITE* | Land Use Category | Non-residential | |
|------|--|------------------------------------|---|
| | | Residential (Per Dwelling Unit) | (Per Square Foot of Floor Area) Per Demand Unit As Indicated |
| 565 | Daycare (per student) | | \$13 |
| 620 | Nursing Home (per bed) | | \$7 |
| 310 | Lodging (per room, RV pad, or boat slip) | | \$17 |

* refers to the land use classification in the *ITE Manual*

15.32.310 APPLICATION OF FIRE STATION IMPACT FEES

Fire station impact fees shall be spent on fire station projects. Fire station impact fees shall not be spent on capital improvements or facility expansions that are not fire station projects.

15.32.320 SERVICE AREA

Fire station impact fees shall be collected from New Development in the Pahrump Service Area. Fire station impact fees shall not be spent on capital improvements or facility expansions outside of the Pahrump Service Area.

15.32.330 COOPERATIVE AGREEMENT

Nye County shall enter into a cooperative agreement pursuant to NRS Chapter 277 with the unincorporated Township of Pahrump in order to provide for the administration of fire station impact fees.

ARTICLE 4. PARK IMPACT FEES

15.32.400 PARK IMPACT FEE SCHEDULE

The schedule of park impact fees is as follows:

| Land Use Category* | Per Dwelling Unit |
|---|-------------------|
| Dwelling, Detached | \$359 |
| Attached Dwelling, Multifamily Dwelling, or Other Residential Use | \$273 |

* refers to the land use classification in the *ITE Manual*

15.32.410 APPLICATION OF PARK IMPACT FEES

Park impact fees shall be spent on park projects. Park impact fees shall not be spent on capital improvements or facility expansions that are not park projects.

15.32.420 SERVICE AREA

Park impact fees shall be collected from New Development in the Pahrump Service Area. Park impact fees shall not be spent on capital improvements or facility expansions outside of the Pahrump Service Area.

15.32.430 CREDIT OF PARK IMPACT FEES

If an owner is required by the County to:

1. Pay a residential construction tax pursuant to NRS 278.4983;
2. Dedicate land pursuant to NRS 278.4979 or otherwise dedicate or improve land, or both, for use as a park; or
3. Construct or dedicate a portion of the off-site facilities for which impact fees for a park project are imposed,

the owner is entitled to a credit against the impact fee imposed for the park project for the amount of the residential construction tax paid, the fair market value of the land dedicated, the cost of any improvements to the dedicated land or the cost of the off-site facilities dedicated or constructed, as applicable. The procedures for filing, processing and appealing a credit shall be as set forth in § 15.32.135.

15.32.440 COOPERATIVE AGREEMENT

Nye County shall enter into a cooperative agreement pursuant to NRS Chapter 277 with the unincorporated Township of Pahrump in order to provide for the administration of park impact fees.

ARTICLE 5. POLICE STATION IMPACT FEES

15.32.500 POLICE STATION IMPACT FEE SCHEDULE

The schedule of police station impact fees is as follows:

| ITE* | Land Use Category | Residential (Per Dwelling Unit) | Non- residential (Per Square Foot of Floor Area) | Per Demand Unit As Indicated |
|------|--|--|--|------------------------------------|
| | Dwelling, Detached | \$137 | | |
| | Attached Dwelling, Multifamily Dwelling, or Other Residential Use | \$104 | | |
| 820 | Commercial / Shopping Center 25,000 square feet or less | | \$0.10 | |
| 820 | Commercial / Shopping Center 25,001-50,000 square feet | | \$0.10 | |
| 820 | Commercial / Shopping Center 50,001-100,000 square feet | | \$0.08 | |
| 820 | Commercial / Shopping Center 100,001-200,000 square feet | | \$0.07 | |
| 820 | Commercial / Shopping Center 200,001-400,000 square feet | | \$0.06 | |
| 820 | Commercial / Shopping Center 400,001 or more square feet | | \$0.06 | |
| 710 | Office / Institutional 10,000 square feet or less | | \$0.05 | |
| 710 | Office / Institutional 10,001-25,000 square feet | | \$0.04 | |
| 710 | Office / Institutional 25,001-50,000 square feet | | \$0.03 | |
| 710 | Office / Institutional 50,001-100,000 square feet | | \$0.03 | |
| 710 | Office / Institutional 100,001 or more square feet | | \$0.02 | |
| 770 | Business Park | | \$0.03 | |
| 110 | Light Industrial | | \$0.01 | |
| 140 | Manufacturing | | \$0.01 | |
| 150 | Warehousing | | \$0.01 | |
| 151 | Mini-Warehousing | | \$0.01 | |
| 473 | Non-Hotel Casino/Video Lottery | | \$0.28 | |
| 720 | Medical-Dental Office Building | | \$0.08 | |
| 610 | Hospital | | \$0.04 | |
| 565 | Daycare (per student) | | | \$9 |
| 620 | Nursing Home (per bed) | | | \$5 |
| 310 | Lodging (per room, RV pad, or boat slip) | | | \$11 |

* refers to the land use classification in the *ITE Manual*

15.32.510 APPLICATION OF POLICE STATION IMPACT FEES

Police station impact fees shall be spent on Police station projects. Police station impact fees shall not be spent on capital improvements or facility expansions that are not police station projects.

15.32.520 SERVICE AREA

Police station impact fees shall be collected for New Development in the Pahrump Service Area. Police station impact fees shall not be spent on capital improvements or facility expansions outside of the Pahrump Service Area.

ARTICLE 6. STREET IMPACT FEES

15.32.600 STREET IMPACT FEE SCHEDULE

A. The schedule of street impact fees is as follows:

| ITE* | Land Use Category | Residential | Non- | Per Demand |
|------|---|---------------------|---|------------|
| | | (Per Dwelling Unit) | residential (Per Square Foot of Floor Area) | |
| | Dwelling, Detached | \$1,298 | | |
| | Attached Dwelling, Multifamily Dwelling, or Other Residential Use | \$893 | | |
| 820 | Commercial / Shopping Center 25,000 square feet or less | | \$2.87 | |
| 820 | Commercial / Shopping Center 25,001-50,000 square feet | | \$2.66 | |
| 820 | Commercial / Shopping Center 50,001-100,000 square feet | | \$2.33 | |
| 820 | Commercial / Shopping Center 100,001-200,000 square feet | | \$2.02 | |
| 820 | Commercial / Shopping Center 200,001-400,000 square feet | | \$1.73 | |
| 820 | Commercial / Shopping Center 400,001 or more square feet | | \$1.54 | |
| 710 | Office / Institutional 10,000 square feet or less | | \$1.64 | |
| 710 | Office / Institutional 10,001-25,000 square feet | | \$1.33 | |
| 710 | Office / Institutional 25,001-50,000 square feet | | \$1.13 | |
| 710 | Office / Institutional 50,001-100,000 square feet | | \$0.97 | |
| 710 | Office / Institutional 100,001 or more square feet | | \$0.82 | |
| 770 | Business Park | | \$0.92 | |
| 110 | Light Industrial | | \$0.51 | |
| 140 | Manufacturing | | \$0.28 | |
| 150 | Warehousing | | \$0.36 | |
| 151 | Mini-Warehousing | | \$0.18 | |
| 473 | Non-Hotel Casino/Video Lottery | | \$9.73 | |
| 720 | Medical-Dental Office Building | | \$2.62 | |
| 610 | Hospital | | \$1.27 | |
| 565 | Daycare (per student) | | | \$324 |
| 620 | Nursing Home (per bed) | | | \$171 |
| 310 | Lodging (per room, RV pad, or boat slip) | | | \$408 |

* refers to the land use classification in the *ITE Manual*

- B. Pursuant to NRS § 278B.225.1, each year in which the Board of County Commissioners does not adopt any revisions to the land use assumptions or capital improvements plan or otherwise increase the impact fee, the current amount of the street impact fee is cumulatively increased:
1. By a percentage equal to the average percentage of increase in the Consumer Price Index for West Urban Consumers for the preceding 5 years; or
 2. By 4.5 percent, whichever is less.
- C. Each increase authorized pursuant to this subsection B. becomes effective 1 year after:
1. The date upon which the impact fee initially becomes effective;
 2. The date the Board of County Commissioners adopts a revised capital improvements plan; or
 3. The effective date of any previous increase in the impact fee pursuant to this section, whichever occurs last.

15.32.610 APPLICATION OF STREET IMPACT FEES

Street impact fees shall be spent on street projects. Street impact fees shall not be spent on capital improvements or facility expansions that are not street projects.

15.32.620 SERVICE AREA

Street fees shall be collected from New Development in the Pahrump Service Area. Street fees shall not be spent on capital improvements or facility expansions outside of the Pahrump Service Area.

Effective Date. This Ordinance shall be in full force and effect from and after passage, approval, and publication as required by law, to wit, from and after the 1st day of September, 2005.

Proposed on the 20th day of July, 2005.

Proposed by Commissioner Cox.

Adopted on the 17th day of August, 2005.

Vote: Ayes: Commissioners: Eastley, Trummell, Cox, Carver

Nays: Commissioners: Hollis

Absent: Commissioners: None

BY:

Candice Trummell 09/06/05

Candice Trummell, Chairperson
Nye County Board of
County Commissioners

ATTEST:

Sandra E. Wharff Deputy
Sandra "Sam" Merlino
Clerk and Ex-Officio
Clerk of the Board