

RESOLUTION NO. 67, 2019-20

**A RESOLUTION OF THE GOVERNING BOARD OF THE
ELK GROVE UNIFIED SCHOOL DISTRICT APPROVING
THE INCREASE OF STATUTORY SCHOOL FEES
IMPOSED ON RESIDENTIAL, COMMERCIAL AND
INDUSTRIAL DEVELOPMENT PURSUANT TO
EDUCATION CODE SECTION 17620 AND GOVERNMENT
CODE SECTION 65995**

WHEREAS, the Governing Board (“Board”) of the Elk Grove Unified School District (“District”) provides for the educational needs for students in grades K-12 within the City of Elk Grove ("City"), the City of Sacramento, the City of Rancho Cordova, as well as the unincorporated areas of Sacramento County (“County”); and

WHEREAS, Education Code Section 17620 et seq. and Government Code Section 65995 authorize the governing board of any school district within the State of California (“State”) to levy a fee against new residential, commercial and industrial development projects within the school district for the purpose of funding the construction and reconstruction of school facilities; and

WHEREAS, the Board has previously adopted and imposed statutory school fees in the amount of \$0.61 per square foot of new commercial and industrial development in accordance with the fee justification study previously adopted by the District (“Statutory School Fees”); and

WHEREAS, pursuant to Government Code Section 65995(b)(3), the State Allocation Board, at its January 22, 2020 meeting, increased the maximum amount of the Statutory School Fees to \$0.66 per square foot of new commercial and industrial development as provided in Government Code Section 65995(b)(2); and

WHEREAS, the Board has determined that the school facilities of the District continue to operate at overcapacity and that the educational programs are seriously impacted by the increasing student population caused by new commercial and industrial development within the boundaries of District; and

WHEREAS, new development continues to generate additional students for the District’s schools and the District is required to accommodate such students; and

WHEREAS, the District does not have sufficient funds available for the construction or reconstruction of school facilities, including acquisition of school sites, construction of permanent

school facilities, and interim school facilities to accommodate students generated from new development; and

WHEREAS, the Board has reviewed, considered, and based its findings on the reports prepared by ODELL Planning & Research, Inc. entitled "Development Fee Justification Study/School Facilities Needs Analysis" ("Fee Justification Study") and dated February 2020, which analyzes the District's current school facilities, the estimated number of students which will be generated by new residential, commercial and industrial development within the District, and the estimated costs which will be required to construct permanent school facilities to accommodate the students generated by such new development; and

WHEREAS, the findings in the Fee Justification Study demonstrate that the estimated costs of providing school facilities for students generated by new development will exceed the maximum amount of revenue which will be collected from Statutory School Fees levied pursuant to Education Code Sections 17620 et seq., and Government Code Section 65995; and

WHEREAS, the Fee Justification Study justifies the District's imposition of Statutory School Fees on new commercial and industrial construction as set forth in this Resolution by analyzing specific categories of commercial and industrial development which were determined to impact the District's school facilities based upon the square footage of the construction, the anticipated number of employees and the number of new students generated by such employees; and

WHEREAS, this Board deems it to be necessary, desirable and in the best interest of the students, teachers, parents and electorate of the District that the Statutory School Fees levied by the District under Education Code Sections 17620, 17623 and Government Code Section 65995 increase to \$0.66 per square foot of new commercial and industrial development; and

WHEREAS, the Statutory School Fees levied against new commercial and industrial development will be used to finance school facilities necessary to accommodate students generated from such new development, including but not limited to, acquisition of new school sites, remodeling of existing school facilities, acquiring and installing additional portable classrooms and related facilities in accordance with Education Code Section 17620; and

WHEREAS, the Fee Justification Study has been reviewed by the Board and District staff in accordance with the California Environmental Quality Act ("CEQA"); and

WHEREAS, no city or county may issue a building permit for any new residential, commercial or industrial development within the District absent a certification by the District of compliance by the owner/developer with the requirements regarding school facilities fees as set forth in Education Code Section 17620 et seq., and Government Code Section 65995; and

WHEREAS, the appropriate land use jurisdictions will be notified of the adoption of the Fee Justification Study and the increased Statutory School Fees levied by the District; and

WHEREAS, the District (1) has published notice of and made available to the public, at least ten (10) days prior to its public meeting, the Fee Justification Study and data indicating the estimated cost required to provide the service for which the increased Statutory School Fees are levied and the revenue sources anticipated to provide the service as demonstrated in the Studies; (2) has mailed notice at least fourteen (14) days prior to this meeting to all interested parties who have requested, in writing, notice of adoption of a fee justification study for the levy of Statutory School Fees pursuant to Government Code Section 65995; and (3) has held a duly noticed, regularly scheduled public meeting at which oral and written testimony was received regarding the Fee Justification Study and the proposed increase in Statutory School Fees.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE ELK GROVE UNIFIED SCHOOL DISTRICT AS FOLLOWS:

Section 1. The Board has reviewed the Fee Justification Study and hereby adopts the findings contained therein.

Section 2. The Board establishes the Statutory School Fees levied against all new commercial and industrial development as provided in Government Code Section 65995(b)(2), as follows:

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|----------------------------|--------|
| Retail/Service | \$0.66 |
| Office | \$0.66 |
| Hospitals | \$0.66 |
| Light and Heavy Industrial | \$0.66 |
| Warehouse | \$0.66 |
| Lodging | \$0.66 |

Section 3. The Board has reviewed the Fee Justification Study and finds, based upon the Fee Justification Study, information and testimony presented in conjunction therein, as follows:

Section 3.1. New commercial and industrial development will result in a substantial increase in student enrollment which will require the District to provide additional school facilities to accommodate new growth, and therefore a reasonable relationship exists between the District's Statutory School Fees, which are necessary to fund the construction and reconstruction of school facilities to accommodate such new growth, and the types of development on which the Statutory School Fees will be imposed.

Section 3.2. New commercial and industrial development will result in a substantial increase in student enrollment which will require the District to provide additional school facilities and therefore a reasonable relationship exists between the District's need for new and reconstructed school facilities and the types of development on which the Statutory School Fees will be imposed.

Section 3.3. Statutory School Fees levied on new commercial and industrial development will be used to finance school facilities necessary to serve students generated from such development.

Section 4. The Board finds that a separate account has been established for the deposit of Statutory School Fee revenue collected from commercial/industrial development and that said account has at all times since been separately maintained, except for temporary investments, from other funds of the District.

Section 5. The Board finds that the funds of the account, described in Section 5, consisting of the proceeds of Statutory School Fees have been imposed for the purposes of constructing and reconstructing those school facilities necessitated by new commercial/industrial development, and that, these funds may be expended for those purposes. The Statutory School Fee revenue may also be expended by the District for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code. In addition, the District may also retain, as appropriate, an amount not to exceed in any fiscal year, three percent (3%) of the Statutory School Fee revenue collected in that fiscal year pursuant to Education Code Section 17620 for reimbursement of the administrative costs incurred by the District in collecting the Statutory School Fees.

Section 6. The Board hereby establishes a process that provides the party against whom the commercial/industrial Statutory School Fees are imposed an opportunity for a hearing to appeal the imposition of Statutory School Fees on a commercial/industrial development project as required by Education Code Section 17621(e)(2). The appeal process is as follows:

Section 6.1. Within ten (10) calendar days of being notified, in writing, by personal delivery or deposit in the U.S. Mail, of the commercial and industrial Statutory School Fees to be imposed on a particular commercial and industrial project, or within ten (10) calendar days of paying the commercial and industrial Statutory School Fees pursuant to Education Code Section 17620(a)(1)(A), a party shall file a written appeal with the District's Associate Superintendent of Facilities and Planning or his/her designee regarding the imposition of commercial and industrial Statutory School Fees. The party shall state in the written appeal the grounds for opposing the imposition of commercial and industrial Statutory School Fees and the written appeal shall be served by personal delivery or certified or registered mail to the Associate Superintendent of Facilities and Planning or his/her designee.

Section 6.2. The possible grounds for an appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial and industrial Statutory School Fees are to be imposed or that the employee generation or student generation factors utilized under the applicable category are inaccurate as applied to the project.

Section 6.3. The Associate Superintendent of Facilities and Planning or his/her designee shall render a written decision within thirty (30) calendar days following the receipt of the written appeal, unless an extension is agreed to by both parties. The Associate Superintendent of Facilities and Planning or his/her designee shall deliver the written decision by certified or registered mail to the last known address of the party.

Section 6.4. The party against whom the commercial and industrial Statutory School Fees are imposed may appeal to the Board the decision of the Associate Superintendent of Facilities and Planning or his/her designee. Any appeal to the Board must be filed within ten (10) calendar days of receipt of the Associate Superintendent of Facilities and Planning's written decision.

Section 6.5. The party appealing to the Board the decision of the Associate Superintendent of Facilities and Planning or his/her designee shall state in the written

appeal to the Board the grounds for opposing the decision of the Associate Superintendent of Facilities and Planning or his/her designee. The written appeal shall be served by personal delivery or certified or registered mail to the President of the Board.

Section 6.6. The possible grounds for an appeal to the Board of the decision of the Associate Superintendent of Facilities and Planning or his/her designee include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the commercial and industrial Statutory School Fees are to be imposed or that the employee generation or student generation factors utilized under the applicable category are inaccurate as applied to the project.

Section 6.7. Within ten (10) calendar days of receipt of the written appeal to the Board of the decision of the Associate Superintendent of Facilities and Planning or his/her designee regarding the imposition of commercial and industrial Statutory School Fees, the Board Secretary or his designee shall give notice in writing of the date, place and time of the hearing before the Board, to the party appealing the decision of the Associate Superintendent of Facilities and Planning or his/her designee. The Board shall notice and conduct said hearing at the next available regular or special meeting of the Board, provided that the appealing party is given notice at least five (5) calendar days prior to the meeting of the Board. The Board shall render a written decision on the appeal within thirty (30) calendar days following the Board's hearing on the party's appeal, and serve the Board's decision by certified or registered mail to the last known address of the appealing party.

Section 6.8. The party appealing the imposition of the commercial and industrial Statutory School Fees shall bear the burden of establishing that the commercial and industrial Statutory School Fees are improper.

Section 7. No statement or provision set forth in this Resolution, or referred to herein shall be construed to repeal any preexisting fee previously imposed by the District on any residential or nonresidential development.

Section 8. The Board finds and determines that the adoption or imposition of Statutory School Fees in accordance with Government Code Section 65995 is statutorily exempt from CEQA pursuant to Code Section 17621(a).

Section 9. District staff is directed to file a Notice of Exemption with the Sacramento County Clerk's Office.

Section 10. District staff is hereby instructed to work with the appropriate land use jurisdictions to ensure compliance with Education Code Section 17620(b), which provides that no city or county may issue a building permit for any development project within the District without certification by the District of compliance by that development project with the school facilities fee requirements of this Resolution. The Board determines that Statutory School Fees are not subject to Government Code Section 66007, and that a Certificate of Compliance is required, prior to the issuance of any building permit.

Section 11. District staff is hereby instructed to transmit certified copies of this Resolution, accompanied by all relevant supporting documentation including the Fee Justification Study and a map of the boundary area of the District subject to the Statutory School Fees, to all appropriate land use jurisdictions issuing building permits within the District, informing each of them of the District's current school facilities fee for development projects.

Section 12. The Statutory School Fees designated herein shall take effect sixty (60) days from the date of this Resolution.

PASSED AND ADOPTED this 21ST day of April 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Beth Albani
President, Governing Board
Elk Grove Unified School District

ATTEST:

Christopher R. Hoffman
Secretary, Governing Board
Elk Grove Unified School District