

CHAPTER 13.08: PARK LAND DEDICATION FEE

13.08.010 Purpose.

The purpose of this Chapter is to regulate, in the public interest, convenience, health, welfare and safety, the provision of park and recreational facilities upon development for which dedication of land and/or payment of a fee is required in accordance with the open space and conservation element of the adopted General Plan of the City of Cupertino, and any amendments.

(Ord. 14-2125, § 1 (part), 2014)

13.08.020 Definitions.

"Dwelling unit" or "unit" means a room or group of rooms including living, sleeping, eating, cooking and sanitation facilities, constituting a separate and independent housekeeping unit, occupied or intended for occupancy on a non-transient basis and having not more than one kitchen.

(Ord. 14-2125, § 1 (part), 2014)

13.08.030 Applicability.

Upon development of a new dwelling unit, at the option of the City, a park land dedication, or a payment of a fee in lieu thereof, or both, shall be required.

(Ord. 14-2125, § 1 (part), 2014)

13.08.040 Reserved.

13.08.050 Park Land Dedication.

A. Where the City determines that a park or recreational facility is to be located in whole or in part within the proposed development, land sufficient in topography and size shall be dedicated per the formula below.

Park land dedication/DU =

(Average number of persons/DU) x (Park Acreage Standard)/1000 persons

B. The Park Acreage Standard is three acres of property for each one thousand persons.

C. Park land dedication based on development density: Table 13.08.050 indicates the average park land dedication required per dwelling unit based on development density per the formula above (Section 13.08.050.A).

Table 13.08.050: Park Land Dedication Formula Table

Density (DU/acre)	Average number of persons/DU	Average Park Land Dedication/ DU (in acres)
0 - 5	3.5	.0105
5 - 10	2.0	.0060
10 - 20	2.0	.0060
20+	1.8	.0054
10+	1.8	.0054
Senior Citizen Housing Development	1.0	.0030

(Ord. 14-2125, § 1 (part) 2014)

 **13.08.060 Fees in Lieu of Park Land Dedication.**

A. General Standard.

1. If the City determines that a park land dedication is not required, a fee shall be paid in lieu thereof.

2. Fees in Lieu of Land - Fifty units or Less. If a proposed development contains fifty units or less, a fee in lieu of park land dedication shall be paid, unless dedication is deemed appropriate and in the public interest by the City.

B. Amount. The amount of the fee shall be equal to the fair market value of the land prescribed for dedication pursuant to Section [13.08.050](#). The fee shall be calculated as follows:

In lieu fee = ((Average Park land Dedication/DU)*(Net new dwelling units)*(Fair Market Value of land/acre))

C. Fair Market Value of land per acre. The Department of Public Works shall establish the fair market value of land within the City and update the value on an annual basis in the City's Fee Schedule. The fair market value shall be determined by reference to comparable land within the City. As used herein, the term "comparable" means land of similar size and development potential as the land which would otherwise be dedicated.

D. Use of Money. The money collected shall be paid to the Treasurer of the City or his or her authorized agent. Such money shall be placed in a special revenue fund which shall be known as the "park dedication in-lieu fee fund" and shall be used for all purposes allowed by State Law.

(Ord. 14-2125, § 1 (part), 2014)

 **13.08.070 Combination of Park Land Dedication and Fee.**

A. The City shall determine whether it accepts park land dedication, elects to require payment of a fee in lieu, or a combination of both a park land dedication and a fee in lieu, upon consideration of the following:

1. Topography, geology, access and location of land in the development available for dedication;

2. Size and shape of the development and land available for dedication;

3. Feasibility of dedication;

4. Availability of previously acquired park property.

B. The determination of the City as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive.

(Ord. 14-2125, § 1 (part), 2014)

 **13.08.080 Credit for Private Recreation or Open Space.**

A. Where private open space for park and recreational purposes is provided in a proposed development, fifty percent credit shall be given against the requirement of land dedication or payment of fees in lieu thereof, if the approval authority finds that it is in the public interest to do so and that all the standards in Section [13.08.080B](#), below are met and findings in Section [13.08.080C](#) can be made.

B. That the open space for which credit is given complies with the following standards:

1. The total usable open space acreage for the development must be equivalent to the

park land dedication calculated pursuant to Section [13.08.050](#).

2. The open space must contain the mandatory elements and at least four of the six optional elements indicated in Table [13.08.080](#) below and meet the following criteria:

- a. The combined minimum acreage for a facility with a recreation center and children's play apparatus area is 1.3 acres.
- b. The minimum combined acreage for a facility not including a recreation center or children's play area is 1.5 acres.

Table 13.08.080 - Mandatory and Optional Elements for private open space

	Minimum Acreage
Mandatory Element	
Turfed playfield The playfield shall be a single unit of land which is generally level and free of physical barriers which would inhibit group play activities.	.50
Optional Elements	
Children's play apparatus area	.15
Recreational community gardens	.25
Family picnic area	.25
Game court area	.25
Swim pool (42' x 75' with adjacent deck and lawn areas)	.25
Recreation center buildings and grounds	.15

C. The approval authority may grant park credit for a combination of the above elements or a combination of the above elements and other recreation improvements that will meet the specific recreation needs of a specialized housing development, such as a senior housing development, with occupancy controlled via a covenant with the City named as a third party beneficiary.

D. Findings. The approval authority shall adopt the following written findings and shall require the recordation of covenants running with the land to ensure that credited elements are maintained, before credit is given:

- 1. That yards, court areas, setbacks, decorative landscape areas normally associated with residential site design and other areas required to remain free and clear by zoning and building ordinances and regulations shall not be included in the computation of such private open space;
- 2. That such space is to be wholly or partially owned and maintained by the future residents of the development and that the private ownership and maintenance of the open space is adequately provided for by recorded written agreement, conveyance or restrictions;
- 3. That the use of the private open space is restricted for park and recreational purposes by recorded covenant, which runs with the land in favor of the future owners of property and which cannot be eliminated without the consent of the City or its successor;
- 4. That the proposed private open space is reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography,

geology, access and location;

5. That the facilities proposed for private recreation or open space are in substantial conformance with General Plan policies.

(Ord. 14-2125, § 1 (part), 2014)



13.08.090 Credit for Existing Dwelling Units.

When dwelling units exist on the property where development is proposed, a credit shall be given against the requirement of land dedication or payment of fees in lieu thereof for the number of units existing. As used herein, the term "existing" refers to units which exist at the time of approval of the dwelling units or which were demolished within one year prior to the submittal of an application for development of the dwelling units.

(Ord. 14-2125, § 1 (part), 2014)



13.08.100 General Procedures.

A. At the time of approval of the dwelling units, the approval authority shall determine whether a park land dedication or a fee in lieu thereof is required unless a park land dedication or fee has already been provided.

B. At the time of building permit application, land shall be dedicated to the City or the fee in lieu thereof shall be paid.

C. Open space covenants for private park or recreational facilities shall be submitted to the City prior to approval of the building permits and shall be recorded simultaneously with the issuance of final occupancy.

D. If park land dedication is required, the design of the park shall be reviewed and approved and construction shall be completed prior to occupancy of the development.

(Ord. 14-2125, § 1 (part), 2014)

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