

## Loomis Municipal Code

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### [Title 14 SUBDIVISION REGULATIONS](#)

## **Chapter 14.60 REGULATION FOR DEDICATION OF LAND, PAYMENT OF FEES, OR BOTH, FOR PARK AND RECREATIONAL PURPOSES**

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### **14.60.010 General requirement.**

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As a condition of approval of a final subdivision map or parcel map, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, at the option of the town, for park or recreational purposes at the time and according to the standards and formula contained in this chapter. (Ord. 185 § 1, 1998)

### **14.60.020 General standards.**

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It is found and determined that the public interest, convenience, health, welfare and safety require that five acres of improved parkland and five acres of passive recreation area or open space for each one thousand persons residing within the town be devoted to local recreation and park purposes. (Ord. 185 § 1, 1998)

### **14.60.030 Standards and formulas for dedication of land.**

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A. Where a recreational or park facility has been designated in the general plan or a specific plan, and is to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall dedicate land for local recreation or park facilities sufficient in size and topography to serve the residents of the subdivision. The amount of land to be provided shall be determined pursuant to the following standards and formula:

Where the town requires the dedication of land, the subdivider or owner shall dedicate land for local recreational or park or open space facilities according to the formula  $D \times F = A$  in which:

- |   |   |  |
|---|---|--|
| D | = | the number of dwelling units                             |
| F | = | a “factor” herein described                              |
| A | = | the buildable acres or open space acres to be dedicated. |

B. A buildable acre is a typical acre of the subdivision and located in other than an area on which a building is excluded because of flooding, public rights-of-way, easements or other restrictions.

C. Open space areas may contain floodways, riparian and stream corridors, wildlife corridors, greenways, open water, woodlands or other sensitive habitat. Buffer areas shall not be considered open space areas for purposes of this chapter if the areas are required setbacks on private property.

D. The factor constants which, when multiplied by the number of dwelling units permitted in the subject area, will produce five acres per thousand population. Unless the subdivider enters into an agreement with the town for a lower density, the number of dwelling units shall be calculated as follows:

1. When a rezoning application accompanies the tentative map, density shall be calculated according to the highest density of the zoning designation applied for; provided, that when rezoning to the R-1A zone is requested for individual lots in a predominately single-family subdivision in order to develop halfplex units on the lots and the development of the halfplex units will not cause the density of the subdivision to exceed the maximum density allowed in the R-1 zone, the number of dwelling units shall be based on single-family density;

2. When the tentative map is not accompanied by a rezoning application, density shall be calculated according to the highest density of the existing zoning designation or existing specific plan density designation, whichever allows the highest density; provided, however, that upon completion of build-out, if the actual number of dwelling units built is less than the highest density permitted in the applicable zone, then the subdivider may, within five years after payment of the fee, apply for a refund, without interest, of the difference between the fee actually paid and a fee calculated on the basis of the actual density.

3. The factors referred to above are as follows:

FS	=	.0298 relating to single-family dwelling units
FT	=	.0224 relating to two-family dwelling units
FM	=	.0176 relating to multiple-family dwelling units
Fmh	=	.0176 relating to mobile-home dwelling units

E. The subdivider shall: (1) provide full street improvements, including but not limited to curbs, gutters, street paving, traffic control devices, street lights and sidewalks, to land which is dedicated pursuant to this section; (2) provide for chain link fencing meeting town standards along the property line of that portion of the subdivision contiguous to the dedicated land; (3) provide improved surface drainage through the site; and (4) provide other improvements which the town council determines to be essential to the acceptance of the land for recreational or open space purposes. (Ord. 185 § 1, 1998)

### **14.60.040 Formula for fees in lieu of land dedication.**

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A. If there is no park or recreational facility designated in the town's recreation and park plan to be located in whole or in part within the proposed subdivision to serve the needs of the residents of the subdivision, and/or where the town council requires the payment of in lieu fees, the subdivider shall, in lieu of dedication of land, pay a fee equal to the value of the land prescribed for dedication in Section 14.60.020 and in an amount determined in accordance with the provisions of Section 14.60.050, such fee to be used for recreational and park and open space facilities which will serve the residents of the area being subdivided.

B. If the proposed subdivision contains fifty parcels or less, the subdivider shall pay a fee equal to the land value of the portion of the local park required to serve the needs of the residents of the proposed subdivision as prescribed in Section 14.60.020, and in an amount determined in accordance with the provisions of Section 14.60.050. (Ord. 185 § 1, 1998)

### **14.60.050 Calculation of in lieu fees—Appraisal.**

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When a fee is to be paid in lieu of land dedication, the amount of such fee shall be based upon the fair market value as described below, plus twenty percent or off-site improvements such as utility line extensions, curb, gutter and street lights.

A. The amount to be paid shall be a sum calculated pursuant to the following formula:

$$A \times V = M$$

where

- A = the amount of land required for dedication as determined in Section 14.60.020.
- V = fair market value (per acre) of the property to be subdivided, as established by an appraisal;
- M = the number of dollars to be paid in lieu of dedication of land, to which shall be added 20% for off-site improvements.

B. For purposes of calculating the in-lieu fee under this section, the subdivider shall cause an appraisal of the property to be subdivided to be made. The appraisal shall be made at the subdivider's expense by an active MM, SREA or SRPA member in good standing of the Appraisal Institute, or an active ASA (Urban Real Property) member in good standing of the American Society of Appraisers, and shall meet the standards observed by a competent member of the professional organization. The appraiser shall appraise the land at its unencumbered (free

and clear) value, as if at the approved tentative map stage of development and as if any assessments or other encumbrances to which the property is subject had been paid off in full prior to the date of appraisal. The fair market value shall be for the gross tentative map area. Factors to be considered during the evaluation shall include the following:

1. Approval of and conditions of the tentative subdivision map;
2. The general plan;
3. Zoning and density;
4. Property location;
5. Off-site improvements facilitating use of the property;
6. Site characteristics of the property;
7. Existing encumbrances (e.g., existing streets, canals) which have the effect of reducing usable gross tentative map area.

C. The appraisal shall value the property as of a date no earlier than ninety days prior to the recording of the final map, or the payment of the fee, whichever occurs later. The appraisal shall clearly state the fair market value (V) of the property in dollars per gross acre. Three copies of the appraisal shall be delivered to the town manager for processing. (Ord. 185 § 1, 1998)

#### **14.60.060 Use of fees.**

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Fees collected pursuant to this chapter shall be used and expended solely for the acquisition, improvement and expansion of the public parks, playgrounds and recreational facilities and open space lands reasonably related to serve the needs of the residents of the proposed subdivision. Such fees may also be used for the development of recreational areas and facilities on public school grounds which provide a desirable recreational site and immediate access to a public street. (Ord. 185 § 1, 1998)

#### **14.60.070 Subdivisions not within the general plan.**

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Where the proposed subdivision lies within an area not then but to be included within the town's general plan, the subdivider shall dedicate land, pay a fee in lieu thereof, or both, in accordance with the adopted park and recreational principles and standards of the town's general plan and in accordance with the provisions of this chapter. (Ord. 185 § 1, 1998)

#### **14.60.080 Determination of land or fee.**

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Whether the town accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

- A. Parks and recreation plan, and element of the town's general plan;
- B. Topography, geology, access and location of land in the subdivision available for dedication;

- C. Size and shape of the subdivision and land available for dedication;
- D. Feasibility of dedication;
- E. Compatibility of dedication with the parks and recreation element of the Loomis general plan; and
- F. Availability of previously acquired park property. The determination of the town council as to whether land shall be dedicated, or whether a fee shall be charged, or a combination thereof, shall be final and conclusive. (Ord. 185 § 1, 1998)

#### **14.60.090 Time schedule for use of land/fees.**

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Any fee collected under the ordinance shall be committed within five years after the payment of such fees or the issuance of building permits on one-half of the lots created by the subdivision, whichever occurs later. If such fees are not committed, they shall be distributed and paid to the then-record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision. (Ord. 185 § 1, 1998)

#### **14.60.100 Credits.**

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A. The town may grant credits for privately owned and maintained open space or local recreation facilities, or both, in planned developments as defined in Section 11003 of the Business and Professions Code, condominiums as defined in Section 783 of the Civil Code, and other common interest developments. Such credit, if granted in acres, or comparable in lieu fees, shall not exceed twenty-five percent of the dedication or fees, or both, otherwise required under this chapter, and shall be subtracted from the dedication or fees, or both, otherwise required under this chapter, provided:

1. Yards, court areas, setbacks and other open space areas required to be maintained by this title and other regulations shall not be included in private open space and local recreation credit;
2. Provision is made by written agreement, recorded covenants running with the land, or other contractual instrument that the areas shall be adequately maintained;
3. The use of private open space or recreation facilities is limited to park and local recreation purposes and shall not be changed to another use without the express written consent of the town council.

B. Land or facilities, or both, which may qualify for credit towards the land dedication or in lieu fee, or both, will generally include the following types of open space or location recreational facilities; provided, however, that credit for each of the following categories shall not exceed five percent of the dedication or fees, or both, otherwise required under this chapter:

1. Open spaces, which are generally defined as passive park lands and can include parks, low land along streams or areas of rough terrain when such areas are extensive and have natural features worthy of scenic preservation;

2. Court areas, which are generally defined as tennis courts, badminton courts, shuffleboard courts or similar hard-surfaced areas especially designed and exclusively used for court games;
3. Recreational swimming areas, which are defined generally as fenced areas devoted primarily to swimming, diving, or both, including decks, lawned area, bathhouse or other facilities developed and used exclusively for swimming and diving;
4. Recreation buildings, designed and primarily used for the recreational needs of the residents of the development;
5. Special areas, which are generally defined as areas of scenic or natural beauty, historic sites, hiking, riding or motorcycle/bicycle trails, including pedestrian walkways separated from public roads, planting strips, lake site or river beaches, improved access or right-of-way in excess of requirements, and similar type open space or recreational facilities which, in the sole judgment of the town, qualifies for a credit.

C. The town council shall grant credit for land dedicated and/or fees paid pursuant to this chapter under a previously approved final subdivision map or parcel map in the event a new map is submitted for approval. Such credit shall be subtracted from the dedication and/or fees required under this chapter for the new map; provided, that in no event shall the town be required to return any fees paid or any land dedicated as a condition of a previously approved final map pursuant to this title. (Ord. 185 § 1, 1998)

#### **14.60.110 Computation of credit.**

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The categories for credit for private open space and facilities described in Section 14.60.100 shall be given equal weight, each category not to exceed twenty percent of the total which may be granted by the town. The town council may, however, upon petition of the subdivider, grant additional credit for each of the above categories if there is substantial evidence that:

- A. The open space or recreational facilities is above average in aesthetic quality, arrangement or design; or
- B. The open space or recreational facility is clearly proportionately greater in amount or size than required by this chapter or usually provided in other similar types of development; or
- C. The open space or recreational facility is situated so as to compliment open space or local recreational facilities in other private or public developments. (Ord. 185 § 1, 1998)

#### **14.60.120 Procedure.**

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A. At the time of the hearing on the tentative subdivision map, the planning commission shall recommend to the town council, after reviewing the report and recommendation from the planning director that land be dedicated or fees be paid, or both, by the subdivider for park or recreational purposes as a condition of approval of the subdivision map. The recommendation by the planning director or designee shall include the following where applicable:

1. The amount of land to be dedicated;

2. That a fee be charged in lieu of dedication;
3. That both dedication and a fee be required;
4. That a credit be given for private recreation facilities, unique natural and special features, or for any other reason provided in Section 14.60.100;
5. The location of the park land to be dedicated;
6. The approximate time when development of the park or recreation facility shall commence.

B. At the time of its hearing on the tentative subdivision map, the planning commission or town council shall determine the amount of land required to be dedicated under this chapter and Section 14.60.030, whether or not a fee is to be charged in lieu of any or all of the required dedication, whether a credit is to be given for private recreation facilities, unique natural and special features, or for any other reason provided in Section 14.60.100, and the location of the park land to be dedicated, if any. In making its determination, the town council shall be guided by the standards contained in this chapter where applicable.

C. At the time of the filing of a final subdivision or parcel map including the same amount of land as included in the applicable tentative map, the subdivider shall dedicate the land and/or pay the fees, as previously determined by the planning commission or the town council. Open space covenants for private park or recreational facilities shall be submitted to the town council prior to approval of the final subdivision map or parcel map and shall be recorded contemporaneously with the final subdivision map or parcel map. (Ord. 185 § 1, 1998)

### **14.60.130 Exemptions.**

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The provisions of this chapter shall not apply to subdivisions:

A. Not used for residential purposes. Provided, however, that a condition shall be placed on the approval of such subdivision that if a building permit is requested for construction of a residential structure or structure on one or more of the parcels within four years of the filing of the map, the owner of each such parcel shall be required to pay an in-lieu fee pursuant to this chapter, calculated as of the date the building permit is issued, as a condition to the issuance of a building permit; a note to this effect shall be placed on the final map;

B. To permit separate ownership of two or more existing residential dwelling units when all such units are more than five years old and no new units are added. (Ord. 185 § 1, 1998)

### **14.60.140 Access requirements.**

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All land offered for dedication to local park or recreational or openspace purposes shall have access to at least one existing or proposed public street. This requirement may be waived by the planning commission or the town council if the planning commission or the town council determines that public street access is unnecessary for the maintenance of the park area or use thereof by the residents. (Ord. 185 § 1, 1998)

### **14.60.150 Sale of dedicated land.**

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If, during the ensuing times between dedication of land for park purposes and the commencement of first-stage development, circumstances arise which indicate that another site would be more suitable for local park or recreational purposes serving the subdivision and the neighborhood (such as gift of park land or change in school location) by mutual agreement of the subdivider or owner and the town council, the land may be sold upon the approval of the town council with the resultant funds being used for the purchase of a more suitable site. (Ord. 185 § 1, 1998)

### **14.60.160 Phased maps.**

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A. At the time of the filing of a final subdivision or parcel map including less land than was included in the tentative map, the planning director or designee shall recalculate the amount of land required to be dedicated in accordance with this chapter, based on the land included in the proposed final subdivision or parcel map.

B. If the town council or planning commission determined at the hearing on the tentative map that the requirements of this chapter would be satisfied by the payment of a fee and/or that land located within the proposed final subdivision or parcel map be dedicated and the amount of such land is equal to or smaller than the amount of land required to be pursuant to subsection A of this section, the subdivider shall dedicate the land and/or pay the fees at the time of filing the final subdivision or parcel map.

C. If the town council or planning commission is determined at the hearing on the tentative map that the requirements of this chapter would be satisfied by the dedication of land located outside the proposed final subdivision or parcel map or the amount of land required to be dedicated at the time of approving the tentative map exceeds the amount required to be dedicate pursuant to of subsection A of this section, the planning director or designee shall recommend that the subdivider:

1. Dedicate full title to part of the parksite; or
2. Dedicate an undivided partial ownership interest in entire parksite; or
3. Dedicate as specified in subsection (C)(1) or (C)(2) of this section and enter into an agreement with the Town to reserve the undedicated portion; or
4. Solely pay in-lieu fees; and/or
5. Be granted credit(s) in accordance with Section 14.60.100 and 14.60.110.

If the subdivider concurs with the recommendation of the planning director, the subdivider shall dedicate the land and/or pay the fees in accordance with the recommendation prior to filing the final subdivision or parcel map. Open space covenants for private park or recreational facilities shall be submitted to the town council prior to the approval of the final subdivision map or parcel map and shall be recorded at the same time as the final map.



If the subdivider objects to the recommendation of the planning director, the town council shall determine at a public hearing the land to be dedicated, whether a fee is to be charged, and whether any credits shall be granted. Prior to filing the final subdivision or parcel map, the subdivider shall dedicate the land and/or pay the fees, as determined by the town council. Open space covenants for private park or recreational facilities shall be submitted to the town council prior to the approval of the final subdivision map or parcel map and shall be recorded at the same time as the final map.

D. Nothing in subsection C of this section shall be construed to:

1. Require the dedication of land located outside the proposed final subdivision or parcel map; or
2. Prohibit a subdivider from dedicating land in excess of the amount required to be dedicated pursuant to subsection A of this section. (Ord. 185 § 1, 1998)

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