STAFF REPORT

TOWN COUNCIL MEETING OF June 10, 2014

TO: Town Council

FROM: Town Manager

SUBJECT: Second Reading, Revised Tree Ordinance

DATE: May 29, 2014

STAFF RECOMMENDATION:

Second Reading and adopt ordinance

ISSUE AND DISCUSSION:

On May 13, 2014 the Town Council waived the first reading of the subject ordinance and referred to a second reading at the June 10, 2014 Town Council meeting.

Ordinances require two readings and are adopted after the second reading. The Ordinance will be effective thirty (30) days from the date of adoption. Please note that should the Council wish to modify the Ordinance, this will become a "first reading" of the ordinance and it would have to come back at the next Council meeting in July for a second reading and adoption.

CEQA:

The proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15308 (Action by Regulatory Agencies for Protection of the Environment) which applies to actions taken be regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

FINANCIAL IMPLICATIONS:
There are no financial implications at this time. Currently, the Town, by policy, does not charge for tree application permits.

Attachments:

AN ORDINANCE OF THE TOWN OF LOOMIS REPEALING AND REENACTING CHAPTER 13.54 OF THE MUNICIPAL CODE RELATING TO TREE CONSERVATION

TOWN OF LOOMIS
ORDINANCE NO._____

AN ORDINANCE OF THE TOWN OF LOOMIS REPEALING AND REENACTING CHAPTER 13.54 OF THE MUNICIPAL CODE RELATING TO TREE CONSERVATION

Section 1. Chapter 13.54 of the Town of Loomis ("the Town") Municipal Code is hereby repealed and reenacted as follows:

TREE CONSERVATION

Sections:

13.54.010	Purpose and Intent
13.54.020	Goal
13.54.030	Definitions
13.54.040	Property Owner Responsibilities
13.54.050	Town Manager Duties
13.54.060	Exempt Activities
13.54.070	Protected Trees, Permit Required
13.54.080	Permit, Application, Process, Decision
13.54.090	Removal of Trees-Mitigation and Replacement
13.54.100	Use of In-lieu Fees
13.54.110	Agricultural Exemptions
13.54.120	Development Projects, Tree Plan Required
13.54.130	Mitigation of Other Trees
13.54.140	Implementing Regulations
13.54.150	Liability-Responsibility
13.54.160	Emergency Response and Abatement
13.54.170	Stop-work Order
13.54.180	Appeals
13.54.190	Violation-Penalty

13.54.010 Purpose and Intent.

The Town of Loomis is unique in the region in preserving the rural character of its Town core and outlying areas. The tree canopy of both native and introduced species contributes significantly to this character and offers residents environmental, social, financial (property values), and aesthetic benefits. Trees are, in effect, green infrastructure. The highest priority of our tree ordinance is to maximize the preservation of existing protected trees. Public safety is a primary benefit, as healthy trees are safe trees. The goal of a tree ordinance is to promote a healthy tree canopy needed for community enjoyment and vibrant, functioning ecosystems. This Chapter covers tree management in both new development and established residential areas.

This Chapter acknowledges the delicate balance between the rights of private citizens to develop their properties, and the public interest in preserving its tree canopy. Trees are a community asset needing protection, maintenance, and continued rejuvenation. A clearly defined, fair, and effective ordinance helps provide for the long-term benefits of the citizens as well as the Town's tree canopy.

13.54.020 Goal.
The Town's goal is to achieve an overall healthy tree canopy, and to the extent feasible, using the Sacramento Tree Foundation's Greenprint Program as a guideline.

13.54.030 Definitions.
As used in this Chapter the following words and terms shall have the following meanings:

"Caliper" means a tree measurement for trees less than 6" DBH, by measuring the tree 6" above grade.

"Construction Activity" means the incorporation of labor and materials to build any structure requiring permanent or temporary location.

"Critical Root Zone (CRZ)" is the area to be protected around a tree where the radius of the circle around the Protected Tree is the longest horizontal branch plus one (1) foot.

"Development Project" means any construction project undertaken for the purpose of development which requires discretionary approval from the Town, including, but not limited to a conditional use permit, major use permit, or minor use permit. A project which only requires a ministerial permit, such as a building permit, is excluded from this definition.

"Diameter at Breast Height (DBH)" is the diameter of a tree trunk as measured at 54" (4'6") above the ground at the base of the tree.

"Exempt Trees" are trees not identified in this Chapter as protected.

"Heritage Tree" means any tree identified by council resolution.

"Multi-Trunk/Multi Stem:" means a same species of tree that appears to originate from one general base location. The extrapolated diameter of a multi-trunk tree shall equal the combined aggregate cross section area measurements at 54" above grade.

"Native Tree" (for the purpose of this Chapter) means a living tree, or hybrids thereof, of the interior live oak (*Quercus wislizenii*), valley oak, blue oak (*Quercus douglasii*), and Oracle oak (*Quercus x morehus*),
"Owner" means the legal owner of real property fronting upon any street as shown on the last equalized assessment roll.

"Protected Tree" means any native oak tree with a trunk that is a minimum of 6 inches in diameter as measure at breast height (DBH) for Interior Live Oak, Valley Oak, and Oracle Oak -and 4 inches DBH for Blue Oak.; any oak tree with multiple trunks that have an aggregate DBH of at least 10 inches, or any Heritage Tree. This also includes any trees preserved or replanted pursuant to Chapter 13.54.090, except for Exempt Trees and those classified as invasive species by the Califomia Invasive Pest Council, Cal-IPC (cal.ipc.org) and non-native trees listed as not to be planted on Town-owned property in the Master Tree List.

"T4, T6, T8 Tree Pot" means a tree container with a square top. A T4 Tree Pot is 4"x4"x14", a T6 tree pot is 6"x6"x16" and a T8 Tree Pot is 8"x8"x18".

"Town Manager" means the Town Manager or his or her designated representative.

"Tree Permit" means written authorization by the Town Manager, on an official Tree Permit application, to perform an activity identified in this Chapter on a Protected Tree requiring a Tree Permit.

13.54.040 Property Owner Responsibility.

A. It is the responsibility of the property owner to maintain all trees on his or her property. The property owner must ensure that the trees on his or her property do not pose a danger to his or her own property or the property of others. Property owners have the burden of demonstrating compliance with this Chapter.
B. Property owners that do not maintain trees on their property and, as a result, create an emergency, will be subject to the provisions of Section 13.54.170.

13.54.050 Town Manager Duties.
The Town Manager shall perform the following duties:

A. Determine and take inventory of suitable and desirable species of specified trees and the areas in which and the conditions under which such trees shall be planted, in consultation with a certified arborist. The Town Manager shall report the findings in writing to the Town Council. When approved by the Town Council, the report shall be known as the "master tree list," and shall be placed on file with the Town clerk and shall thereafter be the official determination of the Town Manager. Revisions or changes in the master tree list may be made from time to time by the Town Manager, in consultation with a certified arborist, with the approval of the Town Council.

B. Perform other duties as set forth in this Chapter.

13.54.060 Exempt Activities.
The following activities are considered exempt from the mitigation provisions of this Chapter:

A. Removal of Protected Trees from a residential parcel that is zoned with a minimum allowed lot size of 4.6 acres or less, provided the parcel can no longer be subdivided. Although exempt from the mitigation, the owner of any such parcel must still obtain a Tree Permit prior to the removal of a Protected Tree.

B. Pruning. Pruning of trees covered under this Chapter is exempt provided the pruning activity does not interfere with the condition of any Protected Tree.

C. Emergency response and abatement as set forth in **13.54.170** of this Chapter.

D. Traffic Visibility Obstructions. Removal or relocation of trees necessary to maintain adequate line-of-sight distances as required or determined by the Town Manager or Town Engineer are exempt from the mitigation provisions of this Chapter..

E. The removal of dead, dying, or hazardous trees, as determined by the Town Manager, the Town Arborist, or an arborist approved by the Town Manager (rated a 0 "dead," or 1 "dying or hazardous," or 2 "major corrective care needed") shall not require mitigation. Photographic evidence may be required.

F. Nurseries, Christmas Tree farms and orchards are exempt from the provisions of this Chapter.

G. Protected Trees removed for construction of public infrastructure improvements (streets and sidewalks) required as a condition of development approval, shall be exempt from tree mitigation requirements provided all feasible alternatives to reduce the number of trees proposed for removal have been exhausted.

H. Tree removal required by state law.

13.54.070 Protected Trees, Permit Required

It shall be unlawful to perform any of the following acts with respect to a Protected Tree within the Town limits without a Tree Permit issued by the Town Manager:

A. Move, remove, cut down, poison, set fire to or permit fire to burn in proximity to, or perform or fail to perform any act which results in the unnatural death or destruction of a Protected Tree.

B. Perform any activity that will interfere with the condition of any Protected Tree.

C. Perform any work or permit any work to be performed within the critical root zone (CRZ) of a Protected Tree which would endanger the tree.

During construction activity on any property upon which a Protected Tree is located, it is unlawful for any person to perform any of the following acts without a Tree Permit issued by the Town Manager, which permit shall not be denied if the activities are deemed necessary for the project and proper care is taken to protect any Protected Tree:

D. Trench, grade, pave or otherwise damage or disturb any exposed roots within the critical root zone (CRZ) of a Protected Tree.

E. Park or operate any motor vehicle within the critical root zone (CRZ) of any Protected Tree.

F. Place or store any equipment or construction materials within the critical root zone (CRZ) of any Protected Tree.

G. Place, apply or attach any signs, ropes, cables or any other items to any Protected Tree.

H. Place or allow to flow any oil, fuel, concrete mix or other deleterious substance into or over within the critical root zone (CRZ) of any Protected Tree.

I. All work shall conform to the most current American National Standards Institute (ANSI) tree care standards.

J. Trenching – Pathway Standards: The owner/developer will be required to submit a utility and/or irrigation Trenching-Pathway plan on the site plan:

1. The Trenching Pathway Plan shall depict all of the following: easements, storm drains, sewers, water mains, area drains, and irrigation and underground utilities. Except in lot sale subdivisions, the Trenching Pathway Plan must show all lateral lines serving buildings. The plan must also include an accurate plotting of the critical root zone (CRZ) of each Protected Tree within 50' of the soil disturbance activity.
2. The trenching-pathway plan must be developed to avoid going into the CRZ of any Protected Tree on its path from the street to the building.
3. If the encroachment into the CRZ is avoidable, a certified arborist must assess the impact to determine the type of preservation device required. Boring under the root system of a Protected Tree may be required. Encroachments and mitigation measures must be addressed in a supplement arborist report. If no preservation device is implemented, mitigation shall be required for that Protected Tree.
4. In order to minimize or avoid injury to the root system, trenching within the CRZ of a Protected Tree, when permitted, may only be conducted with hand tools, air spades, or other acceptable measures. Acceptable measures and said work shall be determined by and conducted under the supervision of a certified arborist. Boring machinery, boring pits, and spoils shall be set outside of the CRZ fencing.

5. Utility corridors shall be under or adjacent to driveways where feasible, if needed for tree protection.

13.54.080 Permit, Application, Process, Decision.

A. Any person seeking to perform any activity for which a Tree Permit is required by this Chapter shall fill out an application containing the following information:

1. Location, size and species of the tree(s) affected;
2. The type of activity for which the permit is sought;
3. A statement of the reasons for the activity;
4. A written evaluation of the health and status of the tree(s) affected prepared by a registered forester or an International Society of Arborists (I.S.A.) certified arborist and evaluating the following: Overall rating of tree condition, by tree number, according to the following categories:

Rating #0: This indicates a tree that has no significant sign of life.

Rating #1: The problems are extreme. This rating is assigned to a tree that has a structural and/or health problems that no amount of work or effort can change. The issues may or may not be considered a dangerous situation.

Rating #2: The tree has major problems. If the option is taken to preserve the tree, its condition could be improved with corrective work including, but not limited to: Pruning, cabling, bracing, bolting, guying, spraying, mistletoe removal, vertical mulching, fertilization, etc. If the recommended actions are completed correctly, hazard can be reduced and the rating can be elevated to a 3. If no action is taken the tree is considered a liability and should be removed.

Rating #3: The tree is in fair condition. There are some minor structural or health problems that pose no immediate danger. When the recommended actions in an Arborist report are completed correctly the defect(s) can be minimized or eliminated.

Rating #4: The tree is in good condition and there are no apparent problems that an Arborist can see from a visual ground inspection. If potential structural or health problems are tended to at this stage future hazard can be reduced and more serious health problems can be averted.

Rating #5: No problems found from a visual ground inspection. Structurally, these trees have properly spaced branches and near perfect characteristics for the species. Highly rated trees are not common in natural or developed landscapes. No tree is ever perfect, especially with the unpredictability of nature, but with this highest rating, the condition should be considered excellent

Note: Ratings are dependent upon the condition of the tree. There is a very important line drawn between a tree rated a 3 and a 2. A tree rated 3, 4, 5 is a tree to be preserved, and a tree rated 0, 1, or 2 is recommended for removal. Trees rated a 2 may be retained and rated a 3, but only if the recommendations are followed; otherwise the tree should be removed.

5. The certified arborist or registered forester preparing the report shall not be from the tree company retained to remove the trees;
6. For a development project, the tree plan as provided by Section 13.54.120; and
7. Such other information as the Town Manager may require to effectuate the intent of this Chapter.
8. If the site is subject to CC&R's that address tree removal and are administered by an active Homeowner's Association (HOA), the application shall include written approval from the association.

B. In reaching a decision to grant or deny a Tree Permit, the Town Manager shall take into account the following:

1. The condition of the tree with respect to disease, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures, and interference with utility services;
2. The number of existing trees in the area and the effect of any proposed removal upon the public health and safety, or the prosperity, beauty and general welfare of the area;
3. Mitigation measures as proposed or replacement measures; and
4. Steps to avoid or minimize removal and destruction of trees.

C. The Town Manager shall render a decision granting or denying an application for a Tree Permit within (30) thirty days from the date the completed application is received. As a condition of granting a Tree Permit, the Town Manager may require that the work be performed by a person who is qualified by education or experience to perform the work and who holds a valid business license issued by the Town for such purpose.

D. Each application and each appeal shall be accompanied by fees as prescribed by a resolution of the Town Council. Such fees shall in no event exceed the actual cost to the Town to conduct the services required to satisfy the requirements of this Chapter. No fee shall be required for a Tree Permit issued for the removal of a Protected Tree if removal of the tree is exempt from compliance with the mitigation provisions of this Chapter pursuant to Section 13.54.060.A,

E. The Town Manager shall periodically present a summation of his actions to the Town Council for its review.

F. The property owner removing a Protected Tree will make every effort to replace the tree on the property, in accordance with Section 13.54.090.

G. All hired work shall conform to the most current ANSI tree care standards.

13.54.090 Removal of Trees, Mitigation and Replacement.

When the Town Manager has granted a Tree Permit to remove a Protected Tree, said permit shall require the applicant to replace the tree with a living tree (or trees) of the same species on the property or within the Town of Loomis, in a location approved by the Town Manager. Said location will be specified in the Tree Permit. The replacement requirement shall be calculated as provided by Table 5-3. The property owner will replace the tree(s) and continue to replace the replacement tree(s) if the tree(s) die(s) any time within five (5) years of the initial planting. Annual Arborist monitoring with a written report is required to ensure survival of the trees. The removal of dead, dying, or hazardous trees, as determined by the Town Manager, the Town Arborist, or an arborist approved by the Town Manager (rated a 0 "dead," or 1 "dying or hazardous," or 2 "major corrective care needed") shall not require mitigation. Photographic evidence may be required.

Table 5-3: Tree Removal Mitigation Table

Species of Trees to be Removed	Size of Trees DBH in Inches	T4, T6 or T8 Tree Pots or #5/5 Gal.	Or	#15 (15 Gal.) Mitigation Trees to be Planted	Or	In-lieu Fee Amount $ Per Inch of Tree Removed
Blue Oak (*Q. douglasii*)	4 – 9.9	x 4		x 2		x $100
	10 - 24.9	x 6		x 3		x $110
	25 – 29.9	x 8		x 4		x $120
	30 – 34.9	x 10		x 5		x $130
	> 35	x 12		x 6		x $140
Valley Oak (*Q. Jobata*)	6 – 9.9-	x 3		x 1		x $ 90
	10 – 24.9	x 4		x 2		x $100
	25 – 29.9	x 5		x 3		x $110
	30 – 34.9	x 6		x 4		x $120
	> 35	x 8		x 5		x $130
Interior Live Oak (*Q. wislizenii*)	6 – 9.9-	x 3		x 1		x $ 80
Oracle Oak (*Quercus x morehus*)	10 – 24.9	x 4		x 2		x $ 90
	25 - 29.9	x 5		x 3		x $100
	30 –34.9	x 6		x 4		x $110
	> 35	x 8		x 5		x $120

For each species and size class, 1 or a combination of columns may be used to determine total mitigation. Up to 50% of the required replacement trees may have T4, T6, T8 Tree Pots (oaks) container size, where the Town Manager determines that long term tree health and survival will be improved by starting with a smaller container size, and that each tree with a container size less than #15 will not be in a location where it will be more subject to damage while it is becoming established than a larger tree. If the property owner is unable to replace the tree on his or her property or within an area approved by the Town Manager, the Town Manager shall require the property owner to pay an In-lieu Fee to the Town.

A. **Small Tree and Native Tree Preservation Credits (TPC).** The Town may consider the preservation of seedling and sapling native oak trees that are smaller than 6" DBH (4" DBH for Blue Oaks) as a credit toward the total removed inches. For example, a 1" sapling (Caliper) would equal 1" of mitigation. These smaller trees are valuable because they are already established. Trees with Calipers of less than 1" shall not be eligible for credit under this provision. Retention of small blue oaks is especially encouraged. Any tree that is to be considered for preservation credit shall be evaluated, included in the arborist report, rated a 3, 4, or 5 and located in a suitable site with adequate spacing.

They must be marked as protected mitigation trees (e.g. tagged or staked), and fenced during construction just as protected trees are required to be fenced. TPC shall not count if they are in a poor growing space due to position within the CRZ of another Protected Tree to be preserved, or are likely to be adversely impacted by the proposed development or they are located in a non-development zone. They shall be included as Protected Trees in all required monitoring as stated in 13.54.090 of this Chapter.

B. **Large Parcel 10% Allowance.** On residentially zoned parcels zoned larger than RS-10 and having at least ten (10) Protected Trees, ten percent (10%) of Protected Trees may be removed over a ten (10) year period without mitigation being required. Trees within conservation easements may be counted but not removed under this provision. A dated site map, subject to staff verification, to be kept on file at Town Hall, showing size, number, and species of all Protected Trees is required to verify the ten (10) percent. The Large Parcel 10% Allowance is subject to Town approval.

C. **Woodland Enhancement.** Removal of Protected Trees to thin canopy density, improve overall health and spacing of remaining trees, improve species diversity, and improve habitat value shall not require mitigation. This requires a registered forester or certified arborist to provide a written recommendation and justification and is subject to review by the Town Arborist and subject to Town Manager approval.

13.54.-100 Use of In-lieu Fees.

In-lieu Fees shall not be used for any other purposes other than for tree planting or propagation, purchasing, maintenance, preservation programs (including, but not limited to, land purchase and/or conservation easements), public education programs regarding trees which support the purposes of this Chapter (e.g. workshops on proper pruning), and activities in support of the administration of this Chapter. Fees collected pursuant to this Chapter may be directed by the Town Council to non-profit organizations for the implementation of programs consistent with the purposes of this Chapter within the Town of Loomis.

13.54.-110 Agricultural Exemptions.

A Tree Permit may be granted to allow tree removal within the RA zoning district for an active agricultural use without mitigation and subject to the following conditions:

A. the agricultural use, as proposed and ultimately established, shall be limited to crop production, horticulture, orchards or vineyards, but shall not include grazing or other animal uses;

B. Only that area that will be utilized for active agriculture shall be exempt;

C. The Tree Permit shall be exercised within one (1) year;

D. Once tree removal is commenced, the proposed replacement agricultural use shall be in place within twenty-four (24) months of the removal of the first tree, or mitigation shall be required in compliance with Sections 13.54.090, an extension of one (1) year may be granted;

E. Once the replacement agricultural use is established, it shall be maintained for a minimurn of ten (10) years. If the agricultural use is terminated before ten (10) years, and/or if a subdivision application for non-agricultural development (other than an application for a minor land division) is approved with the Town within that period, mitigation shall be required in compliance with Sections 13.54.090;

F. The approved tree removal and subsequent agricultural use shall retain existing trees:

1. Surrounding existing buildings;
2. Within 100' from a perennial stream;
3. Within 10' of any property line or neighboring dwelling; and
4. In significant groves, as determined by the Town Manager.

13.54.120 Development Projects, Tree Plan Required.

An application for a development project shall be accompanied by a tree plan, prepared by a certified arborist, containing the following information:

A. Contour map showing the extent of grading within any part of the CRZ, plus existing and proposed grades and the location, size, species and condition of all existing trees which are located upon the property proposed for development.

B. Identification of those trees which the applicant proposes to preserve and those trees which are proposed to be removed and the reason for such removal, including identification of all onsite Protected Trees.

C. A description of measures to be followed to insure survival of Protected Trees during construction.

D. A program for the preservation of Protected Trees and other trees not proposed for removal during and after completion of the project, which shall include the following:

1. Each tree or group of trees to be preserved shall be enclosed with a fence prior to any grading, movement of heavy equipment, approval of improvement plans or the issuance of any permits and such fence shall be removed following construction, but prior to installation of landscaping material;
2. Fencing shall be located at the CRZ of the tree or trees and shall be a minimum of four (4) feet in height;
3. Signs shall be posted on all sides of fences surrounding each tree stating that each tree is to be preserved;
4. Any and all exposed roots shall be covered with a protective material during construction.

E. A program for the replacement of any Protected Trees proposed to be removed.

F. All of the tree preservation measures required by the conditions of a discretionary project approval (the arborist's report and the Tree Permit, as applicable) shall be completed and certified by staff or the developer's arborist prior to issuance of a Certificate of Occupancy.

G. The property owner will be required to submit a utility and/or irrigation trenching-pathway plan on the site plan:

1. The Trenching Pathway Plan shall depict all of the following: easements, storm drains, sewers, water mains, area drains, and irrigation and underground utilities. Except in lot sale subdivisions, the trenching-pathway plan must show all lateral lines serving buildings. The plan must also include an accurate plotting of the CRZ of each Protected Tree within 50' of the soil disturbance activity.
2. The Trenching Pathway Plan must be developed to avoid going into the CRZ of any Protected Tree on its path from the street to the building.
3. If the encroachment into the CRZ is unavoidable, a certified arborist must assess the impact to determine the type of preservation device required. Boring under the root system of a Protected Tree may be required. Encroachments and mitigation measures must be addressed in a Supplemental Arborist Report. If no preservation device is implemented, mitigation shall be required for that Protected Tree.
4. In order to minimize or avoid injury to the root system, trenching within the CRZ of a Protected Tree, when permitted, may only be conducted with hand tools, air spades, or other acceptable measures. Acceptable measures and said work shall be determined by and conducted under the supervision of a certified arborist. Boring machinery, boring pits, and spoils shall be set outside of the CRZ fencing.
5. Utility corridors shall be under or adjacent to driveways where feasible, if needed for tree protection.

H. Tree Permits for development projects will be granted for trees impacted by the construction of streets, utility installation, grading and other infrastructure improvements. A Tree Permit shall only be issued in conjunction with a grading or building permit.

13.54.140 Mitigation of Other Trees.
When mitigation is required by the California Environmental Quality Act or any other regulation for the removal of any tree, such mitigation shall be provided consistent with Chapter.

13.54.150 Implementing Regulations.
The Town Council may adopt implementing regulations to effectuate the intent of this Chapter.

13.54.160 Liability-Responsibility.
This Chapter shall not be construed to impose any liability upon the Town, its officers or employees for the performance of any act or the failure to perform any act under this Chapter, and shall not relieve the owner from the duty to keep any tree upon his or her property in such condition as to prevent it from causing damage or constituting a nuisance. By enactment of this Chapter, the Town is not assuming responsibility for the maintenance of Protected Trees, nor relieving the property owner of the duty to maintain such trees at his own expense. Furthermore, it shall be the obligation and duty of each owner to demonstrate compliance with this Chapter.

13.54.170 Emergency Response and Abatement.

A. An owner is not precluded by this Chapter from taking action, in the event of an emergency, which would otherwise violate the terms of this Chapter, if such action is necessary to minimize danger. In the event such emergency action is taken, the owner shall notify the Town Manager or his representative by the next working day. The burden is on the owner to demonstrate that nay action taken complies with this Section. For purposes of this section, "emergency" means imminent threat to life or property.

B. In the event that an owner has not maintained trees for which the owner is responsible and the trees pose an imminent danger to persons and/or property, constituting an emergency, the Town Manager may commence abatement proceeding pursuant to Section 7.04.020 of the Municipal Code. At the owner's expense, the tree shall be removed or have the dangerous condition otherwise rectified.

C. In the event that an owner has not maintained trees for which the owner is responsible and the trees and the condition does not pose an imminent threat to persons and/or property, but has the potential to pose such a threat, the Town Manager shall give the owner thirty (30) days to eliminate the potentially dangerous condition. If the condition has not changed in thirty (30) days the Town Manager may commence abatement proceedings pursuant to Section 7.04.020 of the Municipal Code.

13.54.180 Stop-work Order.
Whenever the Town Manager determines that an action being taken is in conflict with this Chapter, he shall cause to be issued a Stop Work Order which shall prohibit such action. Such Stop Work Order shall set forth the alleged violations and may list remedies to be taken to correct the violations. The person receiving the Stop Work Order shall report in writing to the Town Manager within forty-eight (48) hours regarding the steps to be taken to correct the violations or to appeal the posting of the Stop Work Order. The Stop Work Order shall remain in effect until a finding is made that the circumstances giving rise to its order no longer exist. Any party receiving a Stop Work Order may appeal through the process outlined in Section 13.54.190.

13.54.190 Appeals.
Any person dissatisfied with the decision of the Town Manager made under this Chapter may appeal such decision to the Town Council. Such appeal shall be in writing, stating the reasons therefore, and, except as otherwise provided herein, shall be filed with the Town Clerk not later than fifteen (15) days after the date of the Town Manager's

decision. All appeals shall be conducted in accordance with Chapter 13.54 of the Municipal Code. The decision of the Town Council shall be final.

13.54.200 Violation-Penalty.

In addition to compliance with the appropriate mitigation as required by this Chapter, any person, corporation or other legal entity who violates or fails to comply with any Chapter of this provision shall be subject to a fine of one hundred dollars ($100) for the first offense, two hundred dollars ($200) for the second offense, and five hundred dollars ($500) for the third offense and each subsequent offense thereafter. Each person, corporation or other legal entity is guilty of a separate offense for each and every tree each and/or every day the violation exists, during any portion of which violation of this Chapter is committed, continued or permitted by any such person, corporation or legal entity, and such person, corporation or legal entity shall be punished accordingly.

In addition to the general penalty set forth above, any condition caused or permitted to exist in violation of this Chapter shall be deemed a public nuisance and may be summarily abated by the Town in accordance with Section 7.04.020, Nuisance Abatement, and other applicable provisions of law.

Section 2. Severability: If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance for any reason shall be held to be invalid or unconstitutional, the decision shall not affect the remaining portions of the Ordinance. The Council of the Town of Loomis hereby declare that they would have passed this Ordinance and each article, section, subsection, paragraph, sentence, clause or phrase which is a part thereof, irrespective of the fact that any one or more articles, sections, subsections, paragraphs, sentences, clauses or phrases are declared to be invalid or unconstitutional.

Section 3. Effective Date and Posting. This Ordinance shall take effect thirty (30) days after its adoption. The Town Clerk shall cause this Ordinance to be published in the Loomis News and to be posted at three (3) locations within fifteen (15) days after its passage; shall certify to the adoption and posting of this Ordinance; and shall cause this Ordinance and its certification to be entered in the Book of Ordinances of the Town of Loomis.

The foregoing Ordinance was introduced at a regular meeting of the Council of the Town of Loomis held on May 13, 2014, and was ADOPTED AND ORDERED published and posted at a meeting of the Council held on the 10th day of June, 2014, by the following roll call vote:

AYES:
NOES:
ABSENT:

By:_____
Mayor

ATTEST:

By:_____
Town Clerk