

STATE OF NEW YORK
DEPARTMENT OF STATE

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KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

July 26, 2023

Anthony J Villani
Lyons Town Attorney
66 William Street
Lyons NY 14489

RE: Town of Lyons, Local Law 1 2023, filed on July 21 2023

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492



**Department
of State**

**TOWN OF LYONS
NOTICE OF PUBLIC HEARING
ON PROPOSED LOCAL LAW 1 of 2023**

PLEASE TAKE NOTICE that, for the purpose of adopting Local Law 1 of 2023 of the Town of Lyons, a public hearing will be held by the Town Board of the Town of Lyons at the Town Offices of the Town of Lyons located at 43 Phelps Street in the Town of Lyons, on the 12th day of July, 2023, at 7:00 p.m., to consider the enactment of the proposed local law described and summarized below:

A LOCAL LAW TO IMPOSE A TEMPORARY MORATORIUM ON THE REVIEW AND DECISION OF APPLICATIONS FOR VARIANCES, SUBDIVISION, SITE PLAN APPROVAL, BUILDING PERMITS AND SPECIAL PERMITS IN THAT PART OF THE TOWN OF LYONS DESCRIBED BELOW AND TO SUPERSEDE THOSE PROVISIONS OF §274-A, §274-B §276 AND 277 OF THE NEW YORK TOWN LAW AND THE TOWN CODE RELATING TO THE PERIOD OF TIME IN WHICH THE REVIEWING BOARD MUST RENDER DECISIONS ON APPLICATIONS BEFORE SUCH BOARDS FOR SITE PLAN, SPECIAL USE PERMIT AND/OR SUBDIVISION APPROVAL FOR THE PERIOD OF THIS TEMPORARY MORATORIUM, OR ANY EXTENSION THERETO AND TO SUPERSEDE THOSE PROVISIONS OF §§267, 267(A) AND 267(B) OF THE NEW YORK TOWN LAW AND OF THE TOWN CODE RELATING TO THE PROCEDURES FOR THE HEARING OF VARIANCE REQUESTS FROM THIS TEMPORARY MORATORIUM LAW BY TRANSFERRING TO THE TOWN BOARD THE POWER TO HEAR REQUESTS FOR VARIANCES FROM THIS TEMPORARY MORATORIUM LAW RATHER THAN THE TOWN'S ZONING BOARD OF APPEALS

AREA AFFECTED BY LOCAL LAW: In order to minimize the impact of the moratorium, the Town has limited the area affected as is shown on the map annexed hereto. The area generally includes all those properties within a 1200 foot diameter circle with a radius of 600 feet from the North West corner of the Pure Oil Gas Station, 52-54 Canal Street, Lyons, New York, tax map number 71111-09-155644. For those using the County NY Central Datum: the center of the circle is Northing: 1116683, Easting 711500.

Copies of the local law described above and of the Code proposed for adoption thereby are on file in the office of the Town Clerk of the Town of Lyons, where the same are available for public inspection during regular office hours.

PLEASE TAKE FURTHER NOTICE that all interested persons will be given an opportunity to be heard on said proposed local law at the place and time aforesaid.

Dated: June 29, 2023

By Order of the Town Board
Town of Lyons
Amy Shaffer, Town Clerk



TOWN OF LYONS, WAYNE COUNTY, NEW YORK
LOCAL LAW 1 of 2023

BE IT ENACTED, by the Town Board of the Town of Lyons, Wayne County, New York, a local law to impose a temporary moratorium on the review and decision of applications for variances, subdivision, site plan approval and special permits in that part of the Town of Lyons described below and to supersede certain sections of the New York Town Law.

Section 1: TITLE

This local law shall be known as Local Law No: 1 of 2023: Temporary Moratorium on the Review and Decision of Applications for Variances, Subdivision, Site Plan Approval and Special Permits in a Part of the Town of Lyons and to supersede sections 267, 267(a), 267(b), 274(a), 274(b), 276 and 277 of the New York Town Law insofar as these sections impose time limits for decisions.

Section 2: FINDINGS:

The Town Board finds as follows:

(a): The area described in the map annexed hereto as Attachment A, especially in the area both sides of the intersection of Canal Street with New York State Route 14, Clyde Road near its intersection with New York State Route 14 and Montezuma Street both sides of its intersection with New York State Route 14 within the Town of Lyons has become deteriorated with unsafe structures, buildings that have collapsed, and vacant properties. The area has several highly visible and blighted properties in a central business district in a highly distressed community, and these properties that have "a depressing effect on the overall economic development potential of the community" as described by the RNY 7 definition. As such, the Town Board found that the area qualified for Restore NY funding.

(b): To plan for addressing the situation, the Town of Lyons partnered with the Wayne County Land Bank and several significant owners as described below.

(c) The Town underwent a comprehensive planning process to complete the Lyons 2040 Comprehensive Plan which laid out seven vision themes that serve as building blocks for the community's future. The three vision themes specifically targeted for the Town's Restore NY grant include creating a unique and vibrant historic central business district, ensuring distinct and diverse neighborhoods, and preserving/building new infrastructure that is reflective of the Town's long-term growth vision. The Lyons 2040 Comprehensive Plan recognizes the need to promote redevelopment of the downtown to encourage business investment and tourism in conjunction with investing in housing infrastructure to enhance downtown and neighborhood character and create diverse housing options for all in the Town.

(d): Before the Lyons 2040 Comprehensive Plan, Lyons was selected to take part in the Main Street Communities of West Erie Canal Main Street Program. This program enabled to

Town to create a Community Specific Design Guidelines Plan (2013) to ensure any redevelopment or new development in the downtown and surrounding areas preserved the historic character of Lyons. These design guidelines provide broad historic preservation guidance to assist property and business owners through the design review process to ensure compatibility with the style and form of the historic buildings, neighboring buildings, and streetscape.

(e) The Lyons 2040 Comprehensive Plan and Community Specific Design Guidelines build upon the Wayne County Derelict Property Strategy (2019) which outlines a targeted redevelopment strategy, profile, and snapshot of existing conditions and potential recommendations for Lyons as well as two other communities. The analysis resulted in 79 properties considered derelict across the three communities, and the potential solutions outlined by Wayne County echo the proposed commercial, residential, and neighborhood development strategies outlined in the Lyons 2040 plan. Moreover, the proposed project continues the Wayne County tourism goals informed by the Wayne County Tourism Report (2002) intended to help communities market their unique locations and historic amenities. The Wayne County Administrator, Richard House, offered his full support of this project and believes these “project opportunities if funded, would be not only a great asset to the Lyons community but as Lyons is the County Seat, it would benefit Wayne County as a whole”.

(f) It was and remains the objective of the Town Board of the Town of Lyons to help revitalize Lyons’ Historic Central Business District to be a desirable tourism destination for visitors traveling along the Erie Canal.

(g) In furtherance of the above, the studies promoted by the Lyons Town Board identified thirteen properties that were ready to be transformed and required a combination of demolition, deconstruction, reconstruction, and rehabilitation to return the buildings to their former status. A proposal was developed to achieve this result. It involved project totals 67, 124 total square feet across the thirteen properties including 37 residential units (25 affordable housing units). The totality of this reconstruction would be a significant milestone in enabling the Town to address the vital need for safe and affordable housing and create a thriving downtown to attract businesses to settle in Lyons. The property owners and the Town of Lyons expressed eagerness for this project to positively impact the community in maintaining the strong historic preservation and distinct character of the downtown. In strong support of this project, the former Supervisor for the Town of Lyons and now current NY State Assembly member for the 130th District, Brian Manktelow issued a statement in which he, “applauds his small town on its plan for these significant improvements which will build a better community and effect positive change for a better quality of life for all who live, work, and vacation there”.

(h) The Town’s Historic Central Business District is the heart of the community. Lyons has also focused planning efforts on being an environmental steward. These project plans for these 12 properties will use green practices and plans to implement, install and follow clean energy guidelines for energy efficiency purposes. The Town is also reviewing how to be better participants in the Clean Energy Communities and Climate Smart Communities programs and this may be a great project for this kind of town-wide education.

(I) The initial plan provided that the Town, Land Bank, and property owners will be

involved in the implementation of the project for which funding would be sought. The specific entities that are involved currently are the Wayne County Regional Land Bank, the Town of Lyons, the Historical Society, and property owners Glenn Wasman, Lucas Dobbins, and Bob Ohmann. The Historical Society and the Town Board have also been involved in strategic planning sessions to ensure that the district keeps a historic look and feel when restoring and/or building.

(j): The Town has a Comprehensive Plan Implementation Committee that would be assisting as plans move forward, as this housing project was outlined in the most recent Lyons 2040 Comprehensive Plan as needed.

(k): To address the above, the Town of Lyons, on January 27, 2023 submitted a New York State Consolidated Funding Application to the Restore New York Communities Initiative, Round 7, for the Resurgence of the Canal District Special Project as described in the application.

(l): Pursuant to said application, the Town of Lyons has been awarded a grant in the amount of \$6,598,000 to fund the project. In addition, the Wayne County Land Bank has received grants in excess of \$1, 500, 000.

(m): The Town of Lyons plans to leverage the Restore NY funding to revitalize a vital part of the downtown. The project entails a combination of demolition, deconstruction, reconstruction, and rehabilitation of a total of 12 properties containing 37 residential units, 25 of which are affordable housing units. Housing availability and afford ability are essential aspects of having a healthy downtown, and this project can have a significant impact and on the Town's ability to not only provide housing for residents but also act as a catalyst to attract economic development opportunities through new business and investment in the downtown.

(n): The project aligns with the Restore NY goal of improving local housing stock, as the 12 properties are in various stages of blight and require a range of construction measures for them to be inhabitable once again. The needs for this work have been planned for and county-wide strategies are being executed: For instance:

Wayne County has explored housing needs and gaps through two existing reports: the 2019 Derelict Property Strategy, funded by N.S. Homes & Community Renewal, and the 2021 Wayne County Housing Needs Assessment, funded by the N.S. Preservation Opportunity Program (N.S.-POP) and administered by the New York State Office of the Attorney General and Enterprise Community Partners, Inc. Both of these plans outline key challenges within the housing market in Wayne County, including poor quality (generally concentrated in and around villages and downtown areas), aging stock, and lack of affordable, emergency, and supportive housing options for special populations (seniors, low-income families, individuals with disabilities, homeless/at-risk families, domestic violence survivors, etc.). Some of these challenges are caused in part by declining populations, absentee landlords/property owners, income disparities, and the rural character of the community. However, population and housing demand are projected to grow over the next 20 years, and as such these challenges must be addressed.

Furthermore, the County is currently undertaking a Housing Needs Assessment and Market Analysis that will specifically identify gaps in the housing market and provide a strategy to address those gaps.

Regarding affordable housing, the Wayne County Department of Social Services Interim Commissioner, Lisa Graf, states that the proposed project “could increase the housing inventory desperately needed not only in Lyons but in Wayne County.” Echoing these sentiments, Diane Devlin, the Director of Public Health for Wayne County Public Health is “concerned about the lack of affordable housing and safe housing throughout the county, but especially in the Town of Lyons” and believes that “individuals living in the proposed project will experience healthier lives”. Moreover, as the County Seat, Lyons is home to several County services providing support for vulnerable individuals, many of whom, “feel comfortable in the community due to access to stores and public services within walking distance” of downtown Lyons (David Calhoun, Executive Direct, Wayne ARC).

(o): As evidenced by the grant, this project will also address the Restore NY priority of spurring commercial investment through proposed mixed-use development plans. The combined effects of increasing viable housing in the downtown will translate into greater support and demands for retail, restaurant, and other commercial enterprises in downtown Lyons. Glenn Wasman, the owner of Evolve - a year-round Christmas store located in Lyons, is very excited to be one of the property owners to benefit if Lyons is awarded funding and looks to increase occupancy as currently, his building is underutilized.

(p): It is the goal of the Town Board that the Town will be a thriving destination in the Finger Lakes region, and many residents and employers, like Clair Britt Jr., the Executive Vice President of Lyons National Bank, are hopeful that Restore NY will help to “transform the core of Lyons downtown area into a vibrant hub of activity” and will create “positive ripple effect to encourage re-investment in other properties, improve housing stock and business opportunities for the entire town”. Lyons offers a variety of historical assets, some of which need support to continue their survival. The Ohmann Theater, a long-standing community institution could greatly benefit from “repairs that will assure the Theater will remain an attractive and viable anchor in Downtown Lyons for generations to come” (Bob Ohmann, owner of the Ohmann Theater). Ohmann believes this funding will help him renovate this vital community asset by filling the underutilized building and “transform the neighborhood to create excitement, economic development, and tourism” opportunities throughout the Town.

(q): It is the goal of the Restore NY grant to create dynamic urban centers to attract families, individuals, industry, and commercial enterprises to municipalities across New York State, and this project present a vital opportunity to transform the Town of Lyons so that its downtown reflects the community’s hopes for the future.

(r): The project promotes economic justice: Focusing on rehabilitation, building quality/affordable housing options increases residential opportunities for all. The project is in an area with approximately 60% of the population classified as low to moderate income, addressing environmental justice concerns & community resiliency is critical. Lyons seeks to incorporate environmental justice practices in the rehabilitation & construction of the project properties to ensure no adverse effects on the environment or surrounding community. The housing units

created from this project will be a mix of affordable & market-rate units, intended to provide quality housing for more people, addressing inequitable housing access within the community & environmental justice concerns.

There are several Potential Environmental Justice Areas located within the area **who** **which** are under-served and living in poverty, and the town of Lyons has been identified as being a severely distressed community. This project will bring additional housing units, and several low-income housing units to the center of downtown to allow those residents additional employment opportunities and allow skilled workers to learn relevant trades and build career skills while earning a livable wage. This project is critical to expanding economic opportunities for our low-income population which will allow workers to live closer to where they work.

(w): The intended moratorium is a Type 2 action under the New York State Environmental Review Act and does not require a finding of significance or the preparation of any other SEQRA documents.

Section 3: INTENDED ACTION:

Temporary moratorium on building and zoning matters including the review and decision of applications for variances, subdivision, site plans, building permits and special permits in that part of the Town of Lyons described below and to supersede sections 267, 267(a), 267(b), 274(a), 274(b), 276 and 277 of the New York Town Law insofar as these sections impose time limits for decisions.

Section 4: AREA AFFECTED

In order to minimize the impact of the moratorium, the Town has limited the area affected as is shown on the map annexed hereto. The area generally includes all those properties within a 1200 foot circle with a radius of 600 feet from a center point being the North West corner of an historic building known as the Pure Oil Gas Station, 52-54 Canal Street, Lyons, New York, tax map number 71111-09-155644. For those using the County NY Central Datum: the center of the circle is Northing: 1116683, Easting 711500.

Section 5: NEED FOR THE MORATORIUM

(a) Although the terms of the outstanding grants are significant, they are also unspecific in detail. It is a commitment to the grants and an intention of the Town of Lyons to leverage the grant funds by soliciting proposals for the resurgence of the area within the parameters of the grants. Until requests for proposals are finalized and projects designed and awarded, it is not currently possible to identify the design of the revitalized area. As a result, it is not currently possible to rationally determine the manner in which other proposed development in the area would be consistent with the design and use of the final project area. Since such findings are essential to zoning and planning matters, SEQRA and coherent design and use, the Town Board finds the need for a stop gap measure pending revision of the Town's Comprehensive Plan to incorporate the specifics of the intended project.

(b) The Town's Municipal Code and Comprehensive Plan, while dealing generally with

the affected area described in Section 4 does not currently contain any appropriate specifics as to the design and use of development in the affected area consistent with the grants awarded.

(c) Careful planning and potential amendments to the Town's Municipal Code and Comprehensive Plan have been identified as important measures to guard against inappropriate and negative effects associated with allowing continued development within the affected area that may be inconsistent and detrimental to the use and design contemplated.

(d) Such potential negative effects include, but are not limited to inappropriate location of such businesses and the current inability to assure that such development remains consistent with the design and use intended and funded by the grants.

(c) The current efforts to analyze and review options regarding the appropriate regulation of the affected area are anticipated to be completed within the next several months, following which the Town Board will be in a position to enact appropriate modifications to the Town's Municipal Code, Zoning Map and Comprehensive Plan, to adopt plans for the design and uses allowed within the affected area and assure consistency of future development with the character of the area affected.

(d) A moratorium on further development within the affected area is necessary in order for the Town to complete the analysis and review of options and consider appropriate amendments to the Town's Municipal Code, Zoning Map and Comprehensive Plan, thereby avoiding the potential negative effects identified above.

Section 6: PURPOSE AND INTENT

(a) It is the purpose of this law to pursue the project but avoid inconsistent development which may prejudice or negatively impact on the selection of the best design and use of the funds and project for a reasonable period of time in order to effectuate solutions and in order to resolve and lessen such inconsistencies which would endanger the project and its funding leading to a continuation of the above identified negative effects on the health, safety and welfare of the citizens of the Town of Lyons.

(b) It is the further purpose of this law to enable the Town of Lyons to temporarily halt further development in the affected area pending adoption of a final design and use plan to be incorporated into the comprehensive plan of the Town of Lyons and a further analysis and review of options for regulation, of the affected area, and the adoption of appropriate and necessary amendments to the Town's Municipal Code, Map and Comprehensive Plan.

(c) It is the further purpose of this law to fulfill the Town's constitutional, statutory and legal obligations to protect and preserve the public health, welfare, and safety of the citizens of the Town of Lyons, and, in particular, to protect the value, use and enjoyment of property in the Town, to prohibit the filing of applications for subdivisions, site plans, variances and/or municipal permits and thus defer official governmental action permitting the establishment of such development until the Town Board has instituted and completed proceedings on possible recommendations for adoption of amendments to the text of the Municipal Code of the Town

and other laws of the Town.

(d) It is the further purpose of this law to supersede those provisions of §274-a, §274-b §276 and §277 of New York Town Law and of the Town Code relating to the period of time in which the reviewing Boards must render decisions on applications before such boards for site plan, special use permit and/or subdivision approval for the period of this temporary moratorium, or any extension thereto.

(e) It is the further purpose of this law to supersede those provisions of §267, 267(a) and 267(b) of the New York Town Law, and of the Town Code relating to the procedures for the hearing of variance requests from this Temporary Moratorium Law. As stated below, it is the intent of the Town Board to hear requests for variances from this Temporary Moratorium Law, rather than the Town's Zoning Board of Appeals.

Section 7: IMPOSITION OF MORATORIUM

For a period of one hundred eighty (180) days from and after the effective date of this law, no application for the subdivision of real property; site plan and/or special permit; use and/or area variance or any permit issued by the Town's Building department may be filed, accepted or processed with respect to any parcel of real property located within the affected area as defined in Section 4 above, except as provided in Section 8 of this law.

Section 8. ALLEVIATION OF HARDSHIP

(a) The Town Board may authorize exceptions to the moratorium imposed by this law when it finds, based upon evidence presented to it, that deferral of action on an application and the deferral of approval of the application for the duration of the moratorium would impose an extraordinary hardship on a landowner or business operator with consent of the landowner.

(b) A request for an exception based upon extraordinary hardship shall be filed with the Town Clerk with a fee of fifty dollars (\$50.00) to cover processing and advertising costs, by the landowner, or the business operator with the consent of the landowner. Such request shall provide a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the Town Supervisor or his designee shall prescribe as necessary for the Town Board to be fully informed with respect to the application.

(c) A public hearing on any request for an exception for extraordinary hardship shall be held by the Town Board at the first regular meeting of the Town Board that occurs after the expiration of the period for publication of notice of the request for exception.

(d) In reviewing an application for an exception based upon a claim of extraordinary hardship, the Town Board shall consider the following criteria:

(1) The extent to which the applicant has prior to the effective date of this law received any permits or approvals for the proposed business establishment.

(2) The extent to which the proposed business establishment would cause significant environmental degradation, adversely impact adjacent areas, or adversely impact the land uses appropriate to the property.

(3) Whether the applicant, prior to the effective date of this law, has incurred financial obligations to a lending institution, which, despite a thorough review of alternative solutions, the applicant cannot meet unless the application and approvals proceed.

(4) Whether the moratorium will expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a reasonable return on the property.

(5) The extent to which actions of the applicant were undertaken in good faith belief that the proposed business establishment would not lead to significant environmental degradation, undue adverse impacts on adjacent areas, or adversely impact the current and proposed land uses appropriate to the property.

(e) At the conclusion of the public hearing and after reviewing the evidence and testimony placed before it, the Town Board shall act upon the request to approve, deny or approve in part and deny in part the request made by the applicant.

Section 9: TERM OF MORATORIUM AND EFFECTIVE DATES

The moratorium imposed by this local law shall commence on the effective date of this local law and continue for a period of six (6) consecutive months thereafter.

