

# Lyons, Nebraska

## Economic Development Plan

October 1, 2024 - September 30, 2034

Mayor: Kyle Brink

Council Members: Allen Steinmeyer  
Matthew Carr  
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City Clerk: Whitney Anderson

*Submitted by: Burt County Economic Development Corporation and Lyons Property Development Committee*

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## **Section I. General Community and Economic Development Strategies**

Nebraska's voters enacted a constitutional amendment in November 1990 granting cities and villages the power to use local sources of revenue for economic or industrial projects and programs. In 1991, the Unicameral implemented this amendment with the passage of Legislative Bill 840, the Local Option Municipal Economic Development Act.

The Local Option Municipal Economic Development Act (LB 840), Neb. Rev. Stat. § 18-2701 et seq., is based on the premise that communities should use their tax dollars in ways that best meet local needs. While ongoing planning processes in many towns have identified development, job creation and increased economic opportunity as their highest priority for the future, a variety of constitutional and legislative prohibitions kept them from investing local public funds in development programs. The removal of these limitations gives municipalities greater latitude in shifting spending priorities to implement local solutions for economic growth and development.

The core of LB 840 involves the formulation of a proposed plan for local economic development. The plan forms the foundation for the collection and expenditure of local tax revenues for economic development, and the provisions become the basis under which the municipality operates.

## **Section II. Statement of Purpose, General Intent and Proposed Goals**

It is the intent of the City of Lyons to implement an Economic Development Plan, the primary purposes and goals of which include:

- Generate additional employment opportunities.
- Retain and grow our local tax base.
- Recruit new businesses.
- Recruit and retain residents.
- Retain and expand our existing businesses.
- Revitalize downtown central business district.
- Assist in housing development.

In addition to soliciting input for the development of this Plan, an effort has been made to ensure consistency with the other plans and goals of the City of Lyons. Therefore, the City of Lyons' Strategic Plan, completed in 2021, has been reviewed and taken into consideration in the development of this Plan.

Lyons' community and economic development strategy involves building on its strengths. Not only does that involve increasing the job opportunities and residents to fill those positions, but also ensuring that the housing *is* available to attract people to live here and increase the city's tax base. Lyons has the unique opportunity to attract those wanting to leave the hustle and bustle of the larger metropolitan area for the safety of a welcoming small town. The city can create a favorable business environment that encourages and supports new ideas to create homegrown businesses.

The City of Lyons will always have the final vote on how the LB 840 dollars are spent. Burt County Economic Development, with the leadership of the Lyons Property Development Committee, has prepared the Plan for submission, first to the City Council, and upon Council approval, to the voters of the City of Lyons. The Legislature of the State of Nebraska has made available, through the Act, an invaluable tool to spur further economic development within the City. The City seeks, through the Economic Development Plan, to strengthen its economic base and attract and retain a diverse population.

### **Section III. Eligible Economic Activities**

Eligible economic activities under this Plan may include, but shall not be limited to, the following activities:

1. Direct loans or grants to qualifying businesses for fixed assets and/or working capital and job training.
2. Loan guarantees for qualifying businesses.
3. Grants for public works improvements essential to the location or expansion of or the provision of new services by a qualifying business.
4. The purchase of real estate, options for such purchase, and the renewal or extension of such options. If and when real estate is to be purchased or optioned by the City under the Plan, the real estate will be identified based upon the need of a particular qualifying business or based upon potential needs of qualifying businesses not yet identified. All such real estate should be properly zoned with no excessive easements, covenants, or other encumbrances. Any proceeds received by the City from the future sale of such real estate shall be returned to the City's Economic Development Fund for reuse under the Plan.
5. The issuance of bonds as provided for in the Local Option Municipal Economic Development Act.
6. Payments for salaries and support of city staff to implement the Plan or paying expenses of contracting the administration of the Plan to an outside entity.
7. Grants or loans for the construction or rehabilitation for sale or lease of housing, including, but not necessarily limited to, housing for persons of low to moderate income, or as part of a Workforce Housing Plan, or housing pursuant to an affordable housing action plan of the city.
8. Recruitment incentives or payment of expenses for locating a qualified business to the local area, and providing technical assistance to a qualifying business, such as marketing assistance, management counseling, preparing financial packages, engineering assistance, etc.
9. Site preparation and development, including demolition, and infrastructure improvements to real estate to be used by a qualifying business.
10. Equity investment in a qualifying business.

### **Section IV. Workforce Housing Plan**

"Workforce Housing Plan" means a program to construct or rehabilitate single-family housing or market rate multi-family housing which is designed to address a housing shortage that impairs the ability of the City to attract new businesses or impairs the ability of existing businesses to recruit new employees. In connection with the Workforce Housing Plan:

1. The City has participated in a County-Wide Housing Study (the "Housing Study") conducted by Hanna: Keelan Associates, P.C. for Burt County Economic Development Corporation. The Housing Study covered Burt County, and communities within Burt County, to include the City. The Housing Study found that the current housing stock in the City and Burt County, including both single-family and market-rate multifamily housing, was deficient in numbers and quality, and that the City has a housing shortage.
2. The Workforce Housing Plan is intended to include all single-family housing and market-rate multi-family housing.
3. Due to the lack of available housing within the City and Burt County, existing businesses have difficulty in recruiting new employees.
4. Construction costs, and the cost of providing infrastructure for housing (to include streets and utilities), are adversely impacting the ability to find housing for persons seeking new or rehabilitated housing in the City.

## **Section V. Low-income or Moderate-income Housing**

The City shall determine low-income and moderate-income standards for the Plan by basing such standards upon existing federal government guidelines or standards for qualifying for any federal housing assistance program as such levels may be modified by the consideration of existing local and regional economic conditions and income levels. In establishing the criteria to be applied in determining appropriate adjustments to the income of persons seeking consideration for participation, the City shall consider the following factors: the amount of income of the person which is available for housing needs; the size of the family to reside in each housing unit; the cost and condition of housing available in the City; whether the person or any member of the person's family who will be residing in the housing unit is elderly, infirm, or disabled; and the ability of the person to compete successfully in the private housing market and to pay the amounts the private enterprise market requires for safe, sanitary, and uncrowded housing.

## **Section VI. Amendments to Plan**

The eligible economic activities described above are considered priority activities for the use of generated funds under the local Option Municipal Economic Development Act. The City of Lyons recognizes that the attraction of a new business or industry to a community or the expansion of an existing business takes place in a very competitive marketplace, and in the creation of jobs in the area, the City retains the right to include additional activities allowable by law. In order to stay current with Nebraska law, the City of Lyons retains the right to amend this Plan when and as permitted by law.

## **Section VII. Eligible/Qualifying Businesses**

In municipalities, like Lyons, with populations of 5,000 inhabitants or less, a qualifying business is any corporation, partnership, limited liability company, or sole proprietorship regardless of its principal source of income. (Neb. Rev. Stat. § 18-2709)

A qualifying business does not have to be located within the corporate limits of the city if the Lyons City Council determines that there is a clear economic benefit to the city, but it must be located within the City's one-mile extraterritorial jurisdiction or on land titled in the name of the city. Eligible businesses may apply more than once and receive program benefits more than once.

## **Section VIII. Source of Funds, length of Program, Preliminary Budget, Bonding Authority**

This section describes the source of funds and a preliminary budget for this Plan. It is important to note that this budget must be developed annually and may be modified from time to time by the Lyons City Council. In the field of economic development, it is impossible to anticipate every condition or requirement. The City of Lyons should maintain the flexibility to respond to specific requirements and opportunities when necessary.

### *Source of Local Option Funds*

The Plan will be funded by a City sales tax in the amount of one-half percent (0.5%). Notwithstanding the actual amount of sales tax collected by the City for the benefit of the Plan, the City shall not appropriate funds derived directly from City sources of revenue in an amount in excess of the maximum permitted by Nebraska law in effect at the time of appropriation. By way of reference, the current limit as provided by law prohibits the City from appropriating funds from local sources in excess of \$3,000,000 in any one year. See Neb. Rev. Stat. § 18-2717. The total amount of sales tax estimated to be collected each year for the duration of this Plan to finance its objectives is \$64,000. The sales tax will be collected beginning on the first day of the calendar quarter that is at least 120 days from the date of the passage of the ordinance establishing this Plan and the sales tax; collection will end on September 30, 2034.

### *Plan Duration*

The Plan, if approved by Lyons residents and authorized by Lyons City Council, will exist from October 1, 2024 until September 30, 2034.

Uncommitted funds and revenues may continue to be used for eligible activities with the plan for an additional six-year period. Unless extended by the voters, this plan shall end September 30, 2034.

### *Preliminary Budget*

The City shall establish an Economic Development Fund and shall contribute an amount not to exceed the maximum amount permitted by law per year for the life of the Plan, as appropriated annually by the City Council. The annual amount of local option sales tax to be placed into this fund, estimated to be \$64,000 each year, shall be included in the City of Lyons' budget each year and approved by the Lyons City Council. The total sales tax collected for the duration of this Plan is estimated to be \$640,000. Any proceeds from the issuance of bonds to provide funds to carry out this Plan and any proceeds from land or building sales associated with this Plan shall be deposited into this fund. The City of Lyons shall not transfer or remove funds other than for the specific uses outlined in this Plan during the life of the Plan.

### *Bond Authority*

The City of Lyons may be presented with economic development opportunities which could require initial funds exceeding the single year proceeds of the local option sales tax. In order to take advantages of such opportunities the City of Lyons shall have the authority to issue bonds. Future local option sales tax receipts shall be utilized to retire these bonds. The City Council may authorize the issuance of bonds to execute the Lyons Economic Development Plan following a public hearing.

## **Section IX. Administration of Plan**

It is the intent of the Plan that the majority of the funds are used to support eligible activities and that only a minimal amount, not to exceed three percent (3%) of collections, is spent on administrative costs. The administration of this Plan will be shared by four separate entities. The entities are as follows: City Council, Plan Administrator, Application Review Committee, and the Citizens Advisory Review Committee.

### *City Council*

1. Will have final authority on expenditure of funds in support of the Plan.
2. Will have ultimate responsibility for the Plan.
3. May contract with an organization to act as Plan Administrator and will approve the membership of the Advisory Committee.

### *Plan Administrator - Burt County Economic Development Executive Director*

1. Will be responsible for the day-to-day operations of the Plan.
2. Will assist applicants and recruit potential applicants.
3. Will serve as ex-officio, non-voting member of the Loan Review Committee and the Advisory Committee and will provide the Advisory Committee with all necessary advice and information.
4. May in the performance of the above-referenced duties and responsibilities consult with the City Clerk and City Attorney whenever appropriate and necessary.

### *Application Review Committee*

1. Shall consist of three (3) members appointed by the Mayor and approved by the City Council.

2. Terms shall be six (6) years.
3. No appointee to the Application Review Committee may be an elected or appointed official of the City of Lyons; an employee of the City; a pending applicant nor an employee, agent, shareholder or officer of a pending applicant for LB 840 funds.
4. All members on the Application Review Committee must have experience in the field of business, finance or accounting and must be a registered voter of the City of Lyons.
5. Shall be responsible for reviewing all applications and making approval/denial recommendations to the City Council.

#### *Citizens Advisory Review Committee*

1. Shall consist of five (5) to ten (10) registered voters of the City who shall be appointed by the mayor.
2. Is the "Watch Dog" committee and not the decision-making committee.
3. At least one member of the committee shall have expertise or experience in the field of business finance or accounting.
4. No appointee to the Citizen Advisory Review Committee may be an elected or appointed official of the City of Lyons; an employee of the City; a pending applicant nor an employee, agent, shareholder or officer of a pending applicant for LB 840 funds.
5. Committee shall report to the City Council once every six-month period, after effective date of the ordinance adopting the Plan, the results of their oversight, the functioning and progress of the Plan, and any other information required by law. The Committee's report shall be in the nature of a public hearing.

In addition to the oversight provided by the Citizens Advisory Review Committee, at least once per year, the City shall provide for an outside, independent audit of the program by a qualified private auditing business. The auditing business shall not, at the time of the audit or for any period of the term subject to the audit, have a contractual or business relationship with any qualifying business receiving assistance under this Plan or any financial institution directly involved with a qualifying business receiving assistance under the Plan. The results of the audit shall be filed with the City Clerk and made available to the public during normal business hours.

#### **Section X - Financial Assistance Application Process**

To be considered for direct financial assistance under the Plan, an applicant must provide the following, unless waived by the Program Administrator:

1. A detailed description of the proposed project.
2. A business plan, including employment and financial projections.
3. Current financial statements, financing requirements for the project, and total project cost.
4. A completed "Lyons Economic Development Program Application for Financial Assistance" form. (An application shall be developed within the first 3 months of the Economic Development Program and may be revised from time to time to include pertinent information. Applications will be made available at the City of Lyons office).
5. Additional information relevant to the Application and proposed project, may be requested by the Application Review Committee and Program Administrator.

Generally, applications will be reviewed in the order in which they were received. When an application is received

that is deemed "urgent" by the Program Administrator, it may be reviewed and approved before other applications received, but other pending applications will then be addressed in a timely manner. Application review and approval, or disapproval, will be based on project feasibility as determined by review of the applicant's application and documents, along with the potential future economic benefit to the community. Applications may be prioritized by the Program Administrator with the most cost-effective project to receive a priority for the use of the funds. Before final approval, the Program Administrator will be responsible for the verification of business information provided by eligible businesses that receive a recommendation for financial assistance.

Upon completion of the agreed terms and conditions of assistance between the Program Administrator and the applicant, the project will be submitted to the Application Review Committee and then to the City Council for review and approval. The Application Review Committee and City Council will consider the overall benefits to the community in its deliberation and will provide the Program Administrator a decision. Once approved, the Program Administrator will take the necessary action to execute agreements made. Other incentive assistance processes, using alternative requirements and documentation, may be implemented so that the requirements are more appropriate for the type and amount of the incentive. For instance, in the case where a job creation incentive could be implemented, documents such as a business plan, financial statements, and similar documentation, may not be applicable to this type or amount of incentive. In this and similar cases, alternative requirements and application form could be developed and used for this type of incentive.

Eligible qualifying businesses may apply more than once and receive program benefits more than once as long as they are in good standing with previous applications. In the process of gathering information about a qualifying business and applicant, the Application Review Committee, Program Administrator, and other City personnel may receive confidential information about the business which, if released, could cause harm to the business or give unfair advantage to its competitors. State law authorizes cities and other public entities to maintain the confidentiality of the information it receives.

Procedures will be developed by the Application Review Committee and approved by the City Council to ensure the confidentiality of business information received from applicants for financial assistance. These will include the adoption of an ordinance which makes such information confidential and punishes disclosure; a restriction on the number of people with access to files; the designation of a responsible party for their safekeeping; and requirements for personnel involved in the program review or with access to any business information to sign statements of confidentiality regarding all personal and private submittals. These procedures may be revised from time to time with City Council approval. Contracts made with qualifying businesses shall include protective measures, applicable to the project, to safeguard Lyons' investment in the project.

#### *Confidentiality, Laws and Regulations*

To ensure applicant confidentiality, the following measures will be instituted and enforced.

1. Each member of the Advisory Committee and Application Review Committee (including ex-officio members) will sign a "Statement of Confidentiality".
2. Applicant's business and financial information will be available to the Application Review Committee during the approval/disapproval process only.

### **Section XI - Revolving Loan Program - Direct Financial Assistance**

The Plan is designed to provide direct financial assistance by funding different types of loans and loan packages to new and existing businesses with location and expansion opportunities.

## A. General Guidelines

1. The amount of funds available for any single project shall not exceed the amount of funds available under the Economic Development Program during the project term and shall not provide for more than fifty percent (50%) of applicant's total project costs. Any applicant must provide participation and evidence of participation through private funding as distinguished from federal, state or local funding in the minimum of ten percent (10%) equity investment. Rights are reserved to negotiate terms and conditions of the loan with each applicant. Terms and conditions may differ substantially between applicants. Maximum rate of loan is \$50,000.
2. The interest rate shall be fixed and negotiated on an individual basis but shall be no higher than one-half the rate of the lending rate for the project at a traditional banking source. The term shall not exceed ten (10) years for loans used for capital assets and five (5) years for loans involving any other asset category. Security for loans will include, but will not be limited to: promissory notes, mortgages or deeds of trust, UCC financing statements, and personal and/or corporate guarantees as appropriate and may be in a subordinate position to the primary lender.
3. The loan repayment could have up to a three-year deferment from making payments if the borrower creates at least two and one half (2.5) new full-time equivalent (FTE) positions within twelve (12) months of the execution of the agreement. Further, the borrower must continue and keep in place the newly created full-time equivalent positions (FTE) for a period of at least thirty-six (36) months from the date of creation of the full-time equivalent positions. The newly created full-time positions must be compensated at a rate at or above the NE minimum wage.
4. If the loan is approved, a business may be approved to recapture a portion of the loan amount on a grant basis. The recaptured amount will be determined by the City Council, based upon job creation or retention and economic impact on the project to the community.
5. A loan repayment schedule providing for monthly, quarterly, or annual payments will be approved in conjunction with project approval. Repayment will be held in the revolving loan fund for future projects when approved.
6. The Economic Development Director or contracted loan administrator is responsible for auditing and verifying job creation and retention and determine grant credits towards any loans made.
7. The Revolving Loan fund will be audited annually by a selected firm or certified public accountants.

## **Section XII - Process to Assure Applicable Laws and Regulations are Met**

The Plan Administrator will be responsible for procedures to ensure all applicable laws, regulations, and requirements are met by the municipality and the qualifying businesses that receive financial assistance. These procedures will be subject to review and approval by the City Council. The Program Administrator may use the City Attorney to review all contracts, official documents, land transactions, and other official actions related to the Plan, as well as applicable laws annually, to ensure compliance with applicable laws, regulations, and requirements. The Program Administrator may retain separate counsel, rather than using the City Attorney, for the review of any or all documents and laws, with the approval of the City Council. If there is a conflict between this Plan and the ordinance that governs it and the Revised Statutes of Nebraska (both current and future), the Statutes will prevail.

### *Community Economic Development Program Ordinance*

Upon approval by the voters of this Plan, the City Council will, within forty-five days after such approval, establish the Plan by ordinance in conformity with its terms as set out in the original enabling resolution.