



Planning Division

STAFF REPORT**Planning Commission Meeting: July 13, 2020**

Application:	<u>SU20-0004</u>: Special use permit for keeping chickens on a lot less than three (3) acres
Location:	1010 S. Lennox Drive
Owner/Applicant:	Randy & Tammy Leckliter
Staff Contact:	Brenna Kiu, Planning Assistant

Site Area:	<u>0.56± acres</u>	Proposed Use:	<u>Keeping chickens on a residential lot less than three (3) acres</u>
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	Land Use	Zoning	Comprehensive Plan Designation
Site	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
North	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
East	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
South	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>
West	<u>Single-family home</u>	<u>R-1</u>	<u>Conventional Neighborhood</u>

1. Comments:

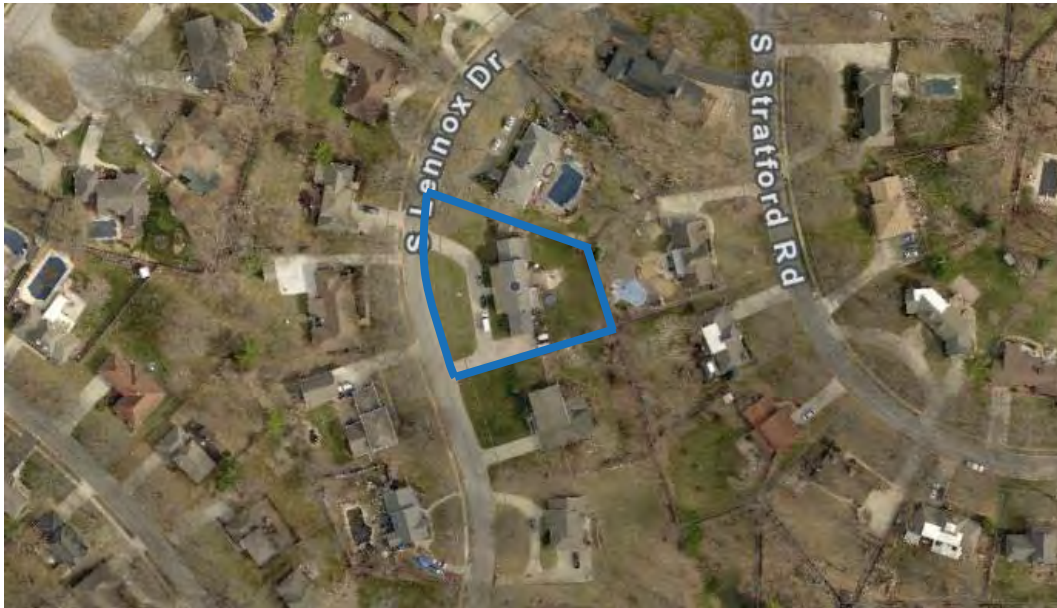
The following is a request for a special use permit to allow the property at 1010 S. Lennox Drive to keep four (4) laying chickens on a lot less than 3 acres and is the first special use permit request on this property. A special use permit is required to keep chickens on a residential lot less than 3 acres and this lot is approximately 0.56 acres in size.

2. Details of Proposal:

The applicant is requesting to keep four laying hens. The chickens will be kept for egg collection and as a learning experience for their grandchildren. No roosters will be kept on the property.

The property contains a single-family home on a large lot, and the chicken coop and outdoor run is proposed to be centrally located in the rear of the yard. The coop is more than 6 feet from the rear and side property lines and more than 40 feet from the nearest neighboring dwelling unit which is compliant with setback requirements per UDO Section 18.30.270.D. The proposed coop is 16 sq.ft. and will also have an attached 24 sq.ft.

outdoor chicken run. The backyard is enclosed with a six foot privacy fence where the chickens will occasionally be allowed to roam under supervision from the applicant.



Site Aerial



Street View

3. Public Notification

Per the requirements of the Unified Development Ordinance (UDO), the applicant notified all property owners of the public hearing date within two hundred (200) feet of this property.

Per the requirements of the Unified Development Ordinance (UDO), the applicant also notified all property owners within five hundred (500) feet of this property via mail to invite them to a neighborhood meeting regarding the project. A neighborhood meeting was held and seventeen neighbors attended. Discussion included if a rooster would be present and

noise. All questions were addressed by the applicant and several neighbors expressed interest in having chickens of their own. Staff has not received any phone calls or written correspondence from the neighbors.

4. Time Limit:

Per Section 18.40.100.F.4 of the UDO, the Planning Commission may recommend, and the Governing Body shall grant or extend a permit for any period as is warranted under the circumstances.

The applicant is requesting a 5-year time limit. Staff is supportive of this request as there are no current code violations at this property and there has not been any concern from neighbors.

5. Comprehensive Plan Analysis

The following are criteria for considering special use applications as listed in *Unified Development Ordinance (UDO) Section 18.40.090.G* and staff findings for each item:

A. *The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.*

The Comprehensive Plan promotes sustainable and environmentally conscious practices to encourage the responsible use of land in Olathe.

B. *The character of the neighborhood including but not limited to: land use, zoning, density (residential), architectural style, building materials, height, structural mass, siting, open space and floor-to-area ratio (commercial and industrial).*

The proposed use is located within a single-family neighborhood and is surrounded by single-family homes within lots of a similar size.

C. *The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.*

The surrounding properties are zoned R-1 (Residential Single-Family). The proposed use for the keeping of animals is not uncommon on single family properties.

D. *The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.*

The property is suitable for the permitted uses which it has been restricted within the R-1 District; however, a special use permit is required to further evaluate the compatibility of the nature of this particular use to ensure consistency and compliance with the City Code given the existing conditions in the surrounding area.

E. *The length of time the property has been vacant as zoned.*

The subject property is not currently vacant and was zoned R-1 Residential Single-Family in 1970 (Ord. No 70-346C). The existing home was building in 1971.

F. *The extent to which approval of the application would detrimentally affect nearby properties.*

The proposed special use permit should have no detrimental effect on nearby residential properties. The R-1 District promotes uses and activities that commonly occur on residential properties.

G. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

The proposed use will have no impact on the road network or parking available on the property.

H. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

The proposed use of the subject property for the keeping of animals is not anticipated to generate any environmental harm or pollution concerns as proposed by the applicant. The keeping on animals is also subject to the provisions of Title 8 of the Olathe Municipal Code which outlines of proper treatment of animals, encourages responsible ownership and the responsibility of the property owner to eliminate possible health hazards that could be created by animals that have not received adequate care.

I. The economic impact of the proposed use on the community.

There is no anticipated economic impact on the community.

J. The gain, if any, to the public health, safety and welfare due to the denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.

The proposed use does not negatively impact public health, safety, or welfare as presented. If the use were denied, the applicant would not be able to keep chickens on the property.

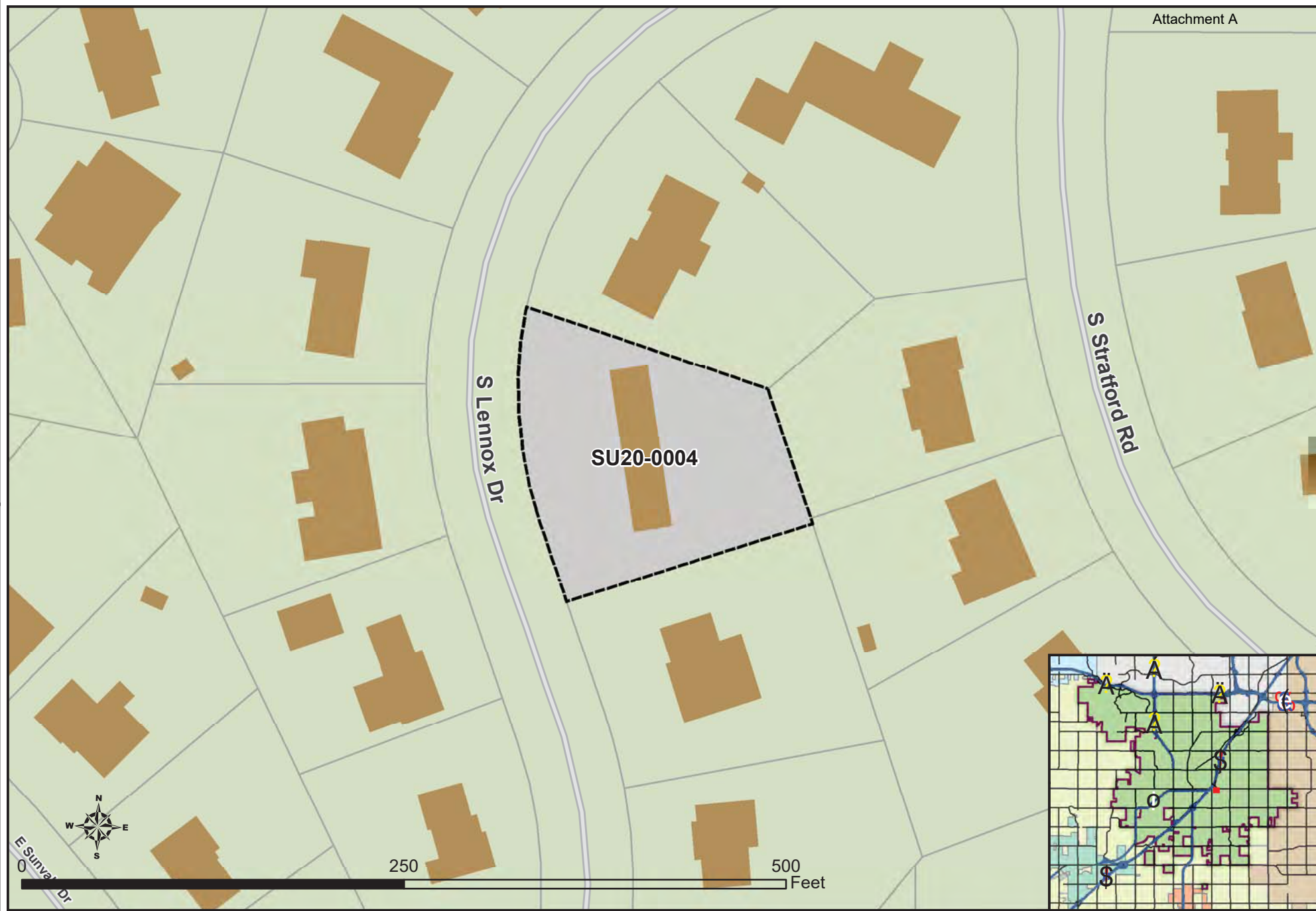
6. Staff Recommendation:

a. Staff recommends approval of SU19-0004, for the following reasons:

- 1) The proposal conforms to the Goals, Objectives and Policies of the *Comprehensive Plan*.
- 2) The proposal complies with the Unified Development Ordinance (UDO) criteria for considering special use permit requests.

b. Staff recommends approval of SU20-0004 subject to the following stipulations:

- 1) The special use permit is valid for a period of five (5) years following Governing Body approval, effective the date of adoption of the Resolution.
- 2) The property will be limited to a maximum of four (4) hens only at any one time.
- 3) Chickens may not be bred, boarded or sold for commercial purposes.

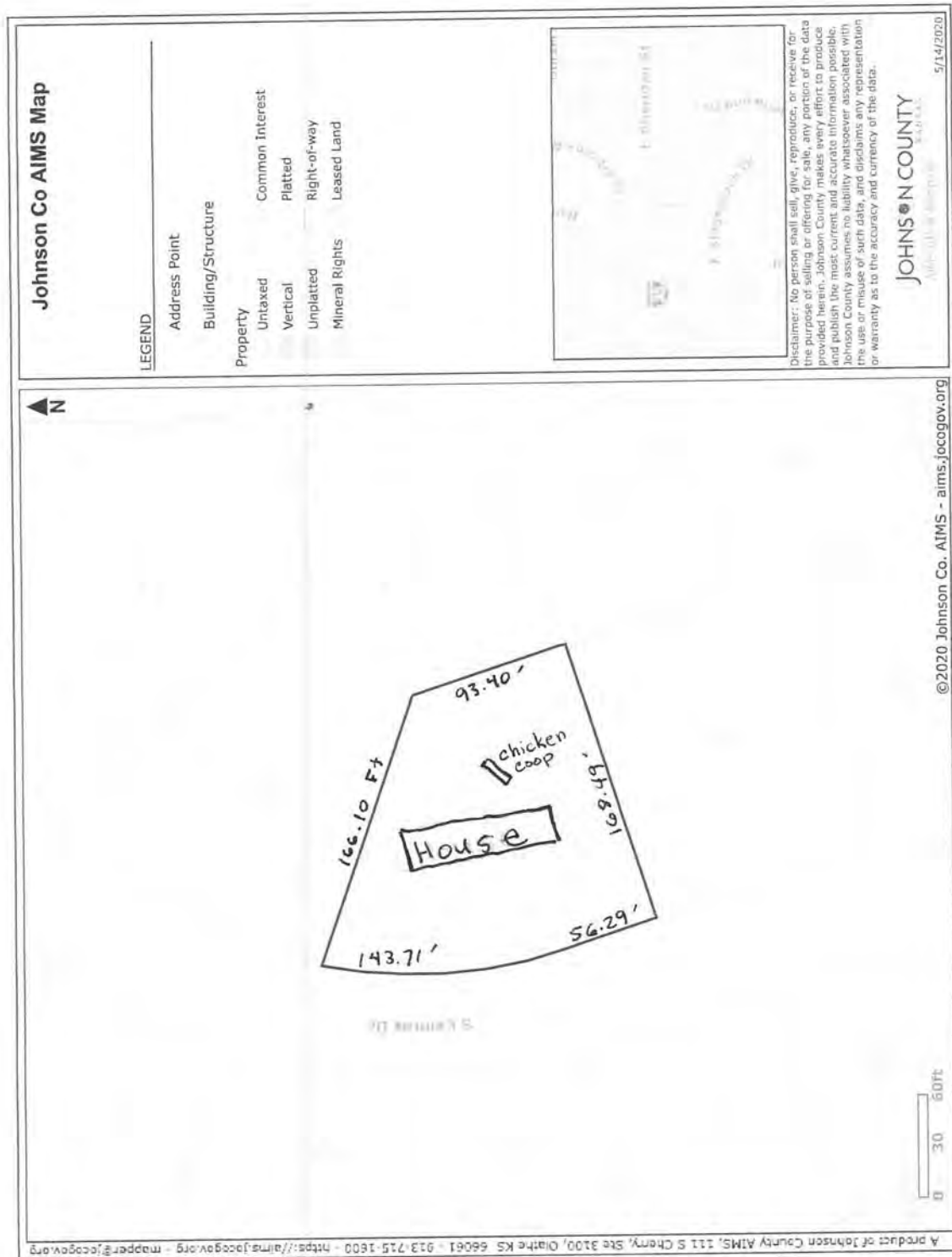


1010 S. Lennox
SU20-0004



User: GradyRM
Date: 7/9/2020





our property is on .56 acres. We plan on having 3-4 chickens. We had chicken prior to the city instituting the special use permit.

CITY OF OLATHE
Property Owner Notification Letter

Case No. SU20-0004

Dear Property Owner:

This is to notify you that a public hearing will be held at the Olathe City Hall Council Meeting room at 100 E. Santa Fe, Olathe, Kansas, to consider a **SPECIAL USE PERMIT** for Keeping backyard chickens (hens) on the following described tract of land:

Legal Description:HAVENCROFT LOT 5 BLK 2 OLC

General Location: 1010 S Lennox DR, Olathe, KS 66062 (See general location map attached)

A public hearing will be held to consider a request for a special use permit for the above-described tract at 7:00 PM on July 13, 2020. Any interested persons or property owners are invited to attend. Due to the COVID-19 pandemic, the City of Olathe continues to follow social distancing and recommendations from the State and Johnson County, therefore additional means of meeting participation may be provided through interactive communication methods, such as Zoom. Please refer to the City of Olathe Planning Division website (<https://www.olatheks.org/government/planning>) for updates and latest news on the meeting format. You may also call the Planning Division at 913-971-8750.

Information regarding this special use permit application is available in the Planning Division located at City Hall, at 913-917-8750, through email at PlanningContact@Olatheks.org, or you may contact [insert contact name] at [insert phone number] or [insert email address] for additional information regarding this request.

A fourteen (14) day protest period begins at the conclusion of the public hearing during which you may file a protest petition with the City Clerk. If valid protest petitions are received from property owners of twenty (20) percent of the land within the notification area, exclusive of the public right-of-way, a three-quarters ($\frac{3}{4}$) vote of the City Council is required to approve this request.

Copies of the protest petitions are available from the Planning Division or City Clerk office at 913-971 8521 or CCO@Olatheks.org.

Respectfully,

Randy and Tami Leckliter

Applicant (or Owner or Agent)

PHONE: 913-393-4093ADDRESS: 1010 S Lennox DrCITY: OlatheSTATE: KSZIP: 66062

1. Will you have a rooster? No. Illegal in city limits, and who would want one anyway?

2. How can you get eggs without a rooster? Biology lesson ensued. Chicken eggs are like women's ovulation eggs. They put one out even if it doesn't get fertilized. (No farmers in our group).

How much does it cost? When I explained the fees, everyone was dumbfounded. 2 others were there that would like to get chickens also. One family is in 4H. They all wanted to come to the council meeting to discuss the fees with the council members.

Are they loud? We had them 5 years ago for 2 years. Did anyone even know we had them? Nope. Not even our next door neighbors. Now everyone really thought the 500' radius was crazy.

I will say that all the hoops I have had to jump through to do this, the meeting was a blessing. I was surprised that so many would come during Covid. They all want to get together in August again and have a chicken naming party if we get to have them.

I have attached the names and address that is typed up for our neighborhood. These people all came. I also have attached the page that most people signed in on. Some didn't because they knew I already had their information.

Brenna Kiu

From: Lynnora S.
Sent: Friday, July 10, 2020 9:32 AM
To: Brenna Kiu
Subject: in favor of chickens
Attachments: CDC _Healthy People.pdf; Larimer County Backyard Chicken Regulations.pdf

Good evening,

One of my neighbors, Tami Leckliter, will be speaking at a city council meeting on July 13th regarding backyard chickens. **I would like to support Tami and encourage the city of Olathe to amend its animal regulations (ordinance 18.50.030) in regards to for backyard chickens. Please ALLOW families to have a small number of backyard hens without extensive application procedures or large fees.** I have attached a few documents to this e-mail regarding health, safety, and how similar cities have handled backyard chickens.

Under the current ordinance, residents on 3 acres or less pay a \$375 fee to own chickens (up to four hens). There are also many application steps required, including: sending letters of intent to approximately 60 closest neighbors, drafting a detailed yard diagram and sending it to approximately 20 neighbors, posting a zoning sign in the front yard, and holding a neighborhood meeting to discuss chicken concerns.

In comparison, Olathe residents who would like to adopt a spayed/neutered dog or cat pay a \$10 license fee and fill out an online form. A "Dangerous Dog License" is \$150, which is less than half the chicken permit fee.

Prairie Village recently voted 8-4 in favor of taking steps towards allowing residents to own backyard chickens. Mission, Roeland Park, and Overland Park also allow backyard chickens, within certain guidelines.

Health concerns are of course legitimate, and the CDC has an entire section on their website dedicated to backyard poultry. They have simple ways for maintaining, "healthy poultry, healthy people" when raising backyard poultry. One of the documents I attached is from their "healthy people" page. <https://www.cdc.gov/healthypets/pets/farm-animals/backyard-poultry.html>

I'm definitely not qualified to write new policies, but here are two examples of how an updated to ordinance 18.50.030 would better serve neighbors like Tami:

IDEA 1: Remove the word "chickens" from the "farm animal" category in ordinance 18.50.030B. Add "hens" or "female chickens" to the "pets" category. This would allow households to include female chickens in their 4-animal "pet" total.

OR

IDEA 2. Keep chickens in the "farm animal" category, but add the following amendment under the "where/how permitted" column: "Residents allowed up to four female backyard chickens without a special permit."

++Chickens would still be subject to all current noise, nuisance, stray animal, and coop rules, as well as all animal rules/guidelines under Title 8 of the Municipal Code. For the safety of both animals and people, it may be advisable to add a short addendum to Title 8 requiring owners to follow CDC guidelines for backyard poultry.

I do think regulations are a good idea, just as there are regulations for dogs and cats in Olathe. Which is why we are asking the council to only amend the fees and procedures, not any safety guidelines. We do not want any disease-spreading giant egg farms in our neighborhood any more than the next person! There are studies showing that *unregulated* backyard chickens can lead to a health risk. However, very small flocks, properly housed, are no more dangerous than dogs, cats, or other backyard pets. Interestingly, the science even shows, "Making sure that we have the right to small flocks of backyard chickens is a way to protect ourselves and our communities from the diseases that proliferate in large scale commercial operations where tens of thousands of birds are concentrated together in a very small space."* An article from American Veterinarian even reports that chickens can repel malaria-causing mosquitoes.**

*quote source: <https://blog.mypetchicken.com/2015/07/17/salmonella-the-cdc-and-handling-pet-chickens/>

**full article: <https://www.americanveterinarian.com/news/chickens-release-chemicals-that-repel-malaria-mosquitoes->

I have attached the guidelines adopted by Larimer county in Colorado regarding backyard chickens. It's a similar demographic and similar neighborhoods to ours. They distinguish the difference between "backyard chickens" and "commercial poultry farm" and have clearly defined rules for both. Neighborhoods such as ours would allow backyard chickens, but not commercial poultry farms. Also, backyard chickens do NOT require all the special fees and application procedures that a commercial poultry farm would in Larimer county.

I am more than happy to discuss poultry concerns regarding smell, disease, noise etc. I'm always available via Zoom, and could potentially meet in-person as well.

Thank you,
 Lynnora Stary