



CITY OF TOPEKA

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To: House Committee on Local Government
From: Mike Hall, Land Use Planning Manager for the City of Topeka
Date: February 19, 2024
Re: Opposition Testimony HB 2704

I would like to thank Chair Emil Bergquist and the Committee for allowing the City of Topeka the opportunity to provide opposition testimony on HB 2704.

HB 2704 has the potential to undermine the purpose and implementation of any zoning regulations that restrict commercial uses in residential, office, and institutional districts. HB 2704 may also conflict with federal and state laws regarding housing for persons with disabilities. It defers the control of undesirable business activities to restrictive covenants and deed restrictions, which are more likely to apply to residential subdivisions platted since the 1940s, so HB 2704 is likely to have a much more deleterious effect on subdivisions platted prior to the 1940s, which are not likely to have restrictive covenants. Therefore, HB 2704 is likely to negatively affect older neighborhoods much more than newer neighborhoods.

The term “no-impact” is misleading and disingenuous. As defined, “no-impact businesses” would include retail sales of goods other than illegal drugs or liquor. It can be presumed HB 2704 will allow the sale of cars, building materials, and other heavy retail commercial uses as a “no-impact business.” Allowing the sale of “lawful goods and services” could allow uses that are industrial in nature, uses such as towing services, storage of vehicles and equipment, self-storage services.

Some of the other terminology is vague, making consistent and efficient enforcement difficult. For example, a “no-impact home-based business” is partly defined as one that does not generate a “substantial increase in traffic through the residential area” although “substantial increase” is not defined. The Act allows activities associated with “no-impact businesses” to occur “inside the residential dwelling or in the yard” but does not state that such uses may occur in a building that is not part of the dwelling, such as a detached garage or shop building. It appears to allow business activities in all parts of a residential yard; however, business operations occurring outdoors can have a substantial negative impact to surrounding property owners, and it appears the Act would not allow local government to restrict such activities except under a narrow set of circumstances which does not include excessive noise generation or excessive smell. HB 2704 is a threat to homeowners wanting to maintain their property values and quality of life. Most do not move into a city neighborhood expecting constant machine noise from the neighbor’s backyard. Local zoning regulations typically allow for some home-based businesses, but with reasonable restrictions to protect neighboring property owners and residents. We respectfully ask that this legislation not be passed out of the committee.