

Written testimony only of Brenda Satterlee in favor of SB 346

My husband and I would not have purchased our home in Prairie Village, KS where we raised our four children and have lived for over 25 years if it was not located in an R1 zoned neighborhood. We did so with the comfort of knowing that we, the landowners, were the only ones that could petition to change our property zoning. This process gives surrounding neighbor's certain rights associated with such a proposed change in zoning, including the right to notification, to a public hearing, and to file a petition against an unwanted zoning change within three hundred feet.

In the last year, our local government recommended changing all R1 in Prairie Village to allow multifamily units, despite significant bipartisan opposition from longtime residents such as myself. This change, which has been pushed as a partisan-charge initiative by cities and states in other parts of the country, would eliminate the individual property rights that have been a bedrock principle in KS since the state's founding. The rezoning issue in Prairie Village created a lot of animosity, perplexity, and mistrust towards the local government. Our property (our Home) is our largest and most important investment. Changing the rules and eliminating property rights is not democratic, and I therefore strongly encourage you to support the passing of SB 346.

Brenda Satterlee

8600 Mission Road

Prairie Village, KS 66206

Written Testimony Only of Charles Satterlee (a Kansas Resident) in Favor
of SB 346

My wife and I have owned and lived in a single family residence in Kansas for over 35 years. Perhaps my deepest held reason for living in Kansas is the State's long-standing commitment to the preservation of property rights of landowners. The individual property owner is who should initiate any zoning changes, with notice and input from the adjacent property owners, not city government. This protection is especially warranted in light of recent attempts by city government's such as Prairie Village to utilize blanket-like rezoning of single family housing, despite substantial bipartisan opposition from long-standing residents. What conceptually might work well in a large urban city in other states does not universally apply in suburban and rural Kansas. Please support SB 346.

Charles Satterlee
8600 Mission Road
Prairie Village, Kansas

Tuesday, February 6, 2024

SB 346

Senate District: 7

Chair McGinn, Vice Chair Bowers, Ranking Minority member Francisco, and members of the Committee,

I am writing this testimony in support of SB 346 currently under review. I submit my support as a resident of Prairie Village, KS for nearly thirty years. I am also one of 3700 Prairie Village residents that signed an initiative petition to protect individual property rights. The City Council of Prairie Village has determined they can override individual property rights and do so without the consent of the landowner.

City government has never had the power or authority to re-zone someone else's property. Prairie Village has become an attractive place to live based on the current zoning process. Local government, by the vote of twelve council members and one mayor should not be granted the authority and power to remove a landowner's rights and claims.

Dan Schoepf

8941 Linden Lane
Prairie Village, KS 66207

Testimony for SB 346

I am testifying as a proponent of SB 346.

At this time Property owners in the 3 mile zone have no voice over city control. We cannot vote our city “rulers” in or out of office. We can not run for city office.

We are told that our Counties have power over the 3 mile zone; but because of rules and regulations and state statutes, our constitutional right to the use of our own property has been taken from us. This is done through Home Rule, Zoning, and 3 mile Zoning. The County has no power. They do not have Home Rule. SB 346 is just a “baby step” in solving the problem.

I pulled a quote from the Kansas League of Municipalities last year concerning zoning:

“””””””” If there are counties not actively engaged in the process, that needs addressed with them. Every citizen in a County who lives in an ETJ has representation through their County Commissioners, who have direct say into the processes and actions taken by cities in the zone. If a County or County Commissioner indicates otherwise, that is an issue with those elected officials, not the ETJ and current laws in place. “”””””””

This isn’t happening in our city and county, and from contacts I have made in other counties tell me the same thing.

The Interlocal agreement for us expired. It was totally useless anyway. Due to state statutes our counties have no power over cities. The interlocal agreement only provided an advisory council for determining an action in the 3 mile zone. The City is the final Ruler.

Our County wants open communication with the city, but the City refuses. At this time the city is trying to take EMS from county residents. They submit bills to the county, but refuse to document what the billing is for. The city has stated that they expect the county to just pay a flat rate! This violates and breaks the EMS contract from the 60’s. If the city is allowed to do this, then anything can be thrown into the EMS account without anyone knowing a thing. Currently the city is requiring the county to pay thousands of dollars for financial information

regarding the EMS financial information. It sounds like an audit is needed. It happens to financial institutions, why not cities?

Does this sound like a city that should have the power to rule outside of the city?

We as residents in the 3 mile zone do not have a voice. The Junction City Commissioner; upset with us going to City meetings to give our input into their proposed Slaughterhouse development, told my husband and I one night that he could take away our power to run cattle on our property! At that time we had no idea they had this kind of power. All because of state statutes.

It is well documented that the rural population continues to dwindle in the state of Kansas and others. No wonder. With Home Rule and Zoning, along with the Cities ability to annex rural residents for more of a Tax base and the county has no power to stop them. It is not surprising that people leave Kansas! It makes me wonder why we chose to move to Kansas.

As I stated “, SB 346 is just one small step in fixing the situation, but if we must take a “baby step”, let us do that.

Please refer to the Kansas Attorney General, Kris Kobach’s, Opinion concerning HB 2145 and HB 2150 regarding Zoning. Under the Constitution we are given Article IV dealing with the **Gaurantee Clause**. “ It provides in part that the US shall guarantee to every State in this Union a Republican form of Government.”””

Read another comment: “”We like you are concerned by K.S.A. 12-749’s ability to subject county residents to laws passed by governmental officials whom the residents cannot elect. “ “

Another quote from this opinion: “ And without the Guarantee Clause, Alexander Hamilton said, “”userpation may rear its crest in each State and trample upon the liberties of the people, while the national government could legally do nothing more than behold its encroachments with indignation and regret.””” “

One last point to touch on. Compare State Statute zoning power over residents in the 3 mile zone to Federal power over State power. The Feds continue to try to rule over states. They try to force states to comply with Federal powers through funding, penalties, etc, but because of the Constitution, States still have a voice and power. If not, the Federal Government would rule over all of us without state control. There would be no need for a state government. This is what has

happened in the 3 mile zone. We are not needed. We are forced under city rule and have no voice. Imagine, just bowing down every time the Fed's told you to do something and the state only enforcing Federal wishes. That is not the American way and sure not why or how our forefathers drew up with the Constitution. This is a Republic.

Cities can use our own tax dollars against us to take our property. Where are the tax dollars for us to use to fight them? They can bankrupt a property owner and cease the property. There is something wrong here. I could give you so many more examples of abhorrent city actions due to the powers given to them by State Statutes.

I have to give cities credit, they have learned to use these statutes to their best advantage, and to the detriment of the tax payer in the 3 mile zone. They have almost succeeded in destroying rural America.

I believe it is time that City power is limited and support SB 346.

Sincerely,



Desree Pettera

I am writing as a Prairie Village resident that is seeing a city council that is trying to change the make-up our city without the support of the residents. More than 3,000 signatures were gathered to bring some of the issues to a vote and the council hired a lawyer to stop allowing residents a choice.

We need Bill 346 passed to bring control back to the property owners. I hope you will support this bill.

Donna Potts
8324 Somerset Dr.
Prairie Village, Ks. 66207

Tuesday, February 6, 2024

SB 346

Proponent Testimony ONLY

John P. Stacy

Senate District: 7

Chair McGinn, Vice Chair Bowers, Ranking Minority member Francisco,
and members of the Committee,

I'm writing this testimony in full support of SB 346.

Thank you.

A handwritten signature in blue ink, appearing to read "John P. Stacy". The signature is stylized and cursive, with a large initial "J" and a long horizontal stroke extending to the right.

My name is Jori Nelson, and I am a former Prairie Village City Council Ward One representative for eight years from 2014-2022. I am writing this testimony in support of SB346. An exceptionally large group of 3,700 residents signed a citizen's initiative to oppose the overreach of our elected officials and their attempt at rezoning our residential neighborhoods. Our goal was to allow the residents to vote on these sweeping changes which would increase our density by a significant amount. In fact, our 2018 Community profile states that "compared to nearby suburbs, Prairie Village has greater density of both population and housing. With a population density more than double the Johnson County average. Prairie Village is one of the most dense suburban communities in the metro." When we submitted our petitions to the Council, they turned around and sued the residents to prohibit us from voting.

I was on the City Council when the mayor and nine of the Council made these sweeping changes to our comprehensive plan, Village Vision 2.0, and our current rezoning process. This process began in the fall of 2019. There were two public meetings in which approximately 60 residents attended with a 15-minute presentation and 20-minute roundtable discussion. Then COVID hit and Prairie Village was hit hard including our senior living facilities. It was during this time that the mayor pushed through Village Vision 2.0. During COVID he scheduled the remaining "community meetings" all held online, as people were attempting to maintain their jobs, their health, their children's education, and the health of their family. The final vote to pass the comprehensive plan happened on ZOOM, January 2021. Three Council members, including myself, voted "no" because of the lack of resident knowledge, transparency, and the impact that this plan would have on the future of our city.

All homeowners should have the right to be involved in the process of any proposed zoning changes for their property and the property that surrounds it. Therefore, I support SB 346 that states that municipalities cannot rezone properties without the consent of the landowner.

Chair McGinn, Vice Chair Bowers, Ranking Minority member Francisco, and members of the Committee,

I'm writing this testimony in support of SB 346. For almost two years now I have tried to stop a destructive rezoning path that the city council of Prairie Village has proposed. It all started during covid when the mayor of PV was appointed to the board of UCS, a nonprofit organization. UCS made far reaching housing recommendations for Johnson County. None of those were recommended for PV as we are a 6.2 square mile, fully built out city with no open land to build on. Prairie Village is also one of the densest cities in the state as our lots are smaller than most cities.

Don't get me wrong, we love our city and are proud of our charming, neighborhood feel.

Our mayor created an ad hoc committee, and they parroted the UCS report suggesting rezoning single family zones to cram in more rental properties. The city council unanimously approved the zoning changes for implementation.

That is when 200-300 citizens started attending city council meetings, emailing, calling, and demanding to be heard. When the council ignored our concerns, the residents created a citizen initiative to allow the citizens to vote. How democratic of us?! Over 3700 residents came out to parks all over the city to sign and say we want to vote. What did our council do? They sued us to stop the citizens from voting. I am here today to be heard. To ask for representation. To have the hope that our democratic system will listen. I support SB 346 so that cities can't rezone properties without landowner's consent.

Thank you for your attention to this matter.

Lori sharp

Tuesday, February 6, 2024

SB 346

Senate District: 7

Chair McGinn, Vice Chair Bowers, Ranking Minority member Francisco, and members of the
Committee,

I am writing this testimony in support of SB 346 currently under review. As a resident of Prairie Village, KS for nearly thirty years, I stand with my fellow Prairie Village residents in support of protecting individual property rights. 3700 concerned citizens signed an initiative petition through a grass roots effort. The City Council of Prairie Village has determined they can override individual property rights and do so without the consent of the landowner.

City government has never had the power or authority to re-zone someone else's property. Prairie Village has become an attractive place to live based on the current zoning process. Local government, by the vote of twelve council members and one mayor should not be granted the authority and power to remove a landowner's rights and claims.

Mary Schoepf

8941 Linden Lane
Prairie Village, KS 66207

Michael Nossaman
Senate District: 7

Chair McGinn, Vice Chair Bowers, Ranking Minority member Francisco, and members of the Committee,

Thank you for allowing me to submit my written testimony in support of SB 346.

Your work here is important to all Kansas homeowners, and I applaud your effort to protect our rights.

To encourage your adoption of SB 346 I offer you a cautionary tale of what can go wrong when the governing body attempts to abridge long-standing traditions and rights of homeowners.

For three years, the charge to radically change zoning amendment rights has pitted citizens against the governing body of Prairie Village.

It began in 2021 when the Unified Community Services of Johnson County, Kansas published *The Johnson County Community Housing Study*. The UCS described it as "...an in-depth analysis of the current and future needs for affordable, workforce, and other housing options to bridge the gaps in housing demand and supply."

A by-product of the UCS Study is the *Housing For All Toolkit* depicted as "...a go-to resource for local governments, organizations, service providers, developers, and residents to learn about, take action, and contribute to housing solutions in Johnson County."

The UCS Toolkit contains recommendations, one of which is germane to SB 346.

"Recommendation 3.C Encourage and incentivize the development of Missing Middle Housing Types by..."

"Amending ordinances to allow blended densities and encourage developers to create residential products in a range of sizes for a range of income levels."

"Amend local ordinances to allow quality, attainable housing, especially in Missing Middle Housing **by-right** in more zoning districts thereby eliminating the need to rezone, reducing costs and risks associated with public hearings and City Council approval." (Emphasis added.)

Toolkit Recommendation 3.C added context for amending local zoning ordinances.

"Going to concept to build can be a lengthy process for developers. Delays in the process can add to the cost of development. These uncertainties increase the level of risk for developers and tend to drive developers to continue creating existing housing types that have evidence of approval, removing their uncertainties and risk."

"Public hearings can delay developments, lead to multiple changes in development plans, and create additional costs for developers including soft costs preparing for and attending

the meetings. Policy changes allowing for Missing Middle Housing can be implemented in areas to eliminate the additional costs currently associated with attempting to build Missing Middle Housing in **single family** zoning.” (Emphasis added.)

Eager to participate in the initiative to fill the gap in middle housing, members of the Prairie Village governing body empaneled an ad hoc committee to propose housing ordinances the city could enact that would comport with UCS recommendations.

The work of the ad hoc committee occurred during the pandemic, and few people other than ad hoc committee, city council, and planning commission members were aware of or involved in the discussions, deliberations, and recommendations of the committee. According to the public record, the ad hoc committee met four times between September 2021 and March 2022 for a total of four hours and 50 minutes mostly, if not entirely, via Zoom meetings.

The ad hoc committee adopted the UCS Toolkit as its playbook. Indeed, the committee’s recommendations were essentially a recitation of the UCS Toolkit Recommendation C.3.

The UCS Toolkit suggests that suitable sites for middle housing development include undeveloped land, abandoned malls, and brownfields. Prairie Village does not have any of those types of sites, it is a small landlocked city of just over six square miles that is already 90 percent developed predominately with single-family dwellings. The ad hoc committee needed a different solution.

It was easy. Two of the ad hoc committee’s recommendations, which were unanimously adopted by the council, were upzoning in single-family dwelling R-1 and R-2 areas to permit the development of multi-family housing units, accessory dwelling units also known as “Granny Flats,” and a “by-right” provision that would eliminate the long-standing requirements that nearby homeowners be notified of a requested zoning amendment and a have process for objecting.

A tempest of citizen resistance erupted.

A citizens group launched a campaign to inform and educate PV citizens about the unprecedented proposals of the ad hoc committee. PV citizens went further and organized a petition drive not to reject the zoning recommendations but merely to put the question to a public vote. The Johnson County Election Commissioner certified that the petition satisfied the statutory requirements needed to be on the 2023 ballot.

The city council sued to deny the people the right to vote. The court also ruled that the petition was valid, but due to delays caused by the lawsuit, the deadline to place the question on the 2023 ballot had passed. The Prairie Village City Council spent an estimated \$100,000 of tax dollars for legal fees to run out the clock!

The 3,700 registered voters who signed the petition were further enraged. They felt that they had been disenfranchised.

In response, the city council claimed that they approved a motion to amend the housing recommendations to remove references to R-1, R-2, and by-right. In a moment of candor,

however, one council member said, “[T]he goal of the motion was to temporarily pause the discussion and reduce the level of apprehension among residents.” The council member added, “If this idea towards better affordability is still good and there are viable options, we can still discuss those, we’re not just saying we’re done and we’re washing our hands with it.”

In other words, the council can wait, hope the furor subsides, and try again.

“By right” is akin to a blank check for developers and governing bodies to do as they please and render Kansas homeowners impotent to preserve and protect their property.

SB 346 will codify that every Kansas homeowner has the right to be notified of requested zoning changes that directly affect them and offers a path to redress any grievance they may have as a result.

I urge the Kansas Senate to approve SB 346 to safeguard and protect the rights and privileges of all Kansas homeowners.

Thank you for this opportunity to testify.

Testimony of Rex Sharp in Favor of SB 346

The largest investment most people make is in their family home. They buy or build a house in the neighborhood zoned to fit their family's needs—single family, two family (duplex), or multi-family.

Re-zoning, changing from one use to another, is difficult and should be. The landowner should initiate it with notice to his neighbors for them to have an opportunity to be heard and protest if necessary. A single family use can't be easily changed to a multi-family zone, or vice versa.

Single family residential zones with one dwelling per lot have made up a large majority of the award winning, small suburban city of Prairie Village for generations. The City Council of Prairie Village, however, without the consent or permission of any of the landowners, claimed it could change, city-wide, single family residential zones with one dwelling per lot to double family residential with two dwellings per lot zoning by a majority vote of the Council. The City Council claimed this was not rezoning which is not defined in K.S.A. 12-757. Over 3700 PV residents signed initiative petitions to prevent that, but the City Council playing party politics instead of representing their constituents, pressed on, sued the residents to prevent an initiative petition from being voted on, and have spent over \$100,000 trying to prevent its citizens from voting (as the outcome of an election would be clear). By running the citizens out of money, stalling the vote, and using the courts for delay, the City Council pushes on. K.S.A. 12-757 was never intended to allow a City Council to usurp property rights of people and their neighbors' due process rights by changing zones and just claiming it was not rezoning. The definition of words apparently is a new battle ground, so rezoning needs to be clarified to prevent runaway City Councils and clogging the courts.

Without it, a City Council could eliminate single family zones or multi-family zones without landowner consent and change entire neighborhoods or cities by a majority vote of the Council. That is unfair, probably unconstitutional, and never been done in Kansas before.

This is not about local government control. City government never had authority to re-zone someone else's property. If the City wants to exercise eminent domain to buy property and then rezone its own property, it can still do that. And it retains the ability to legislate the size of buildings within each zone—up or down zoning. But it cannot usurp the rights of landowners.

Rex A. Sharp
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Senate Committee on Local Government

Sara Nelson
964 E Pineview St
Olathe, KS 66061

SB 346
Proponent

Chairwoman and Committee Members,

I am a Proponent on SB 346.

The zoning should be with the property owner requesting any change. Individuals' rights need to be protected.

Please pass SB 346 favorably out of committee.

Thank you,
Sara Nelson

Senate Committee on Local Government

Sheila M. Sumpter
201 N Normandy St
Olathe, Kansas 66061

SB 346

Proponent

Written only

Chairwoman and Committee Members,

I am a proponent on SB 346. The property rights of the individual need to be protected. Zoning change requests should only be made by the property owner. It is only right and fair that owners of record adjacent to proposed zoning changes be notified of requests for change and have access to a hearing regarding the matter.

Please pass SB 346 favorably out of committee.

Thank you,

Sheila Sumpter

Tuesday, February 6, 2024
SB 346
Proponent Testimony
Request to appear in person

Stephen Platt
Kansas Senate District : 7

Members of Senate Committee on Local Government;

My testimony is in support of SB346. The concern has been overreaching of Local Governments and other government agencies regarding rezoning. The local governments need to be held to a higher standard in rezoning actions. The electors need to have an equal say in issues involving the dictating of rezoning over property owners including government owned property.

A higher level of “hurdles” needs to be in force especially when it comes to matters of Historical Sites, Churches, Schools, and Parks.

Recent events can be found where planning commissions and elected officials have ignored and are overriding long standing Master Community Plans. State statues and rules have been ignored or misrepresented in attempts to advance rezoning.

Often, taxpayers’ financial interests are compromised with use of Industrial Revenue Bond, Sales Tax Exemptions on building materials, Star Bonds, and Tax Incentive Financing (TIFs). The electorate often has little recourse when these incentives are included in rezoning efforts. This tax burden is then borne by the state and throughout most other county tax jurisdictions.

Governments and agencies have the ability to ‘break the bank’ of citizens opposed to rezoning due to the availability of funds and other resources. A limiting factor is the property owners ability to protest for those only within 200 feet (up to 1000 feet in a few instances) when so many are potentially impacted.

Recent example of this overreach are the events occurring in Westwood, KS where the local government is ignoring a Kansas Statue when the municipality declared their park is not a park. Intimidation and threats of legal action against citizens have followed in the attempt to limit first amendment rights. When the city was presented with a protest petition, by recharacterization of the citizens’ petition the efforts were declared invalid. This abuse of the electorates can be seen in other municipalities locally and throughout Kansas.

Passage of SB346 would be a start to counter officials and unelected planning commissioners and municipalities from imposing rezoning changes unjustly.

Tuesday, February 6, 2024
SB 346
Proponent Testimony
Request to appear in person.

Timothy Swanson
Senate District: 7

Chair McGinn, Vice Chair Bowers, Ranking
Minority member Francisco, and members of the
Committee,

I'm writing this testimony in support of SB 346.

Lori Sharp is my councilwoman in Ward 3 in
Prairie Village, Kansas, and I wholeheartedly
agree with her testimony. It is accurate and
truthful! I have been to all the council meetings
except for maybe 3 in the last two years and can
tell you that most single-family home property
owners in Prairie Village do not support the re-
zoning changes. I also might add that this is

a non-partisan issue. As you probably know, the conversation about zoning is being heard in many cities throughout the United States and is being met with great resistance.

I have been to the zoning committee meetings, and the committee members are at a loss for what the city council members want them to do regarding zoning changes. They have discussed all the zoning regulations in detail, and the council members still have no suggestions for updating or changing the zoning rules. In my opinion, it appears to be just filling a square on the council's part and has nothing to do with updating or fixing zoning regulations. Is this whole issue political? You be the judge.

When it comes to property rights and zoning, the people directly affected should be the ones to have a vote and a voice. To this point, we have not been heard. I respectfully request you to support SB 346.

Thank you,

Timothy Swanson