RESOLUTION NO. 7438

A RESOLUTION introduced by Mayor James A. McClinton authorizing the City Attorney's office to take all appropriate legal action necessary to protect the City of Topeka's ability and authority to regulate subdivision of land in its three mile extraterritorial jurisdiction.

WHEREAS, the City of Topeka has pursuant to K.S.A. 12-750 adopted subdivision regulations in the three mile extraterritorial jurisdiction (ETJ) as codified in Topeka City Code § 134-2; and

WHEREAS, the Board of Commissioners of Shawnee County, Kansas has adopted Home Rule Resolution No. 2003-16, which promulgated subdivision regulations for unincorporated Shawnee County, Kansas which includes land lying within the City's ETJ; and

WHEREAS, the Board of Commissioners of Shawnee County, Kansas has adopted Charter Resolution No. 2003-5, which attempts to remove the county from the statutory provisions contained in K.S.A. 12-749, 12-750, and 12-751, et seq.; and

WHEREAS, the Charter Resolution No. 2003-5 attempts to eliminate the City's ability to participate jointly in the creation of subdivision regulations in the three mile ETJ under the provisions contained in K.S.A. 12-750; and

WHEREAS, Shawnee County's attempted Charter Resolution No. 2003-5 impairs the City of Topeka's ability to determine its local affairs in contravention of K.S.A. 19-101(a)(5).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Topeka, Kansas, that the City Attorney's office is hereby directed and authorized to take all appropriate legal action, including filing suit, seeking injunctive or declaratory relief, seeking
judgment, and appeal therefrom necessary to protect the City of Topeka's ability and
authority to regulate land use in its three mile ETJ.

PASSED and APPROVED by City Council JAN 27 2004

CITY OF TOPEKA, KANSAS

JANUARY 27, 2004

ATTEST:

James A. McClinton, Mayor

Iris E. Walker, City Clerk

APPROVED AS TO FORM AND LEGALITY

DATE 1/14/04 BY B3C