RESOLUTION NO. 8096

A RESOLUTION introduced by City Manager Norton N. Bonaparte, Jr., 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. 2007-6, which amends its zoning regulations to exclude certain cases from the requirement to submit a plat of subdivision which if left unchallenged, would have the effect of exempting the portion of unincorporated Shawnee County, Kansas which lies within the City's ETJ from the City’s subdivision regulation; and

WHEREAS, the Charter Resolution No. 2007-6 attempts to eliminate the City's ability to regulate the subdivision of land in the City’s three mile ETJ or 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 Charter Resolution No. 2007-6 attempts to impair the City of Topeka's ability to regulate the subdivision of land pursuant to K.S.A. 12-750 and K.S.A. 12-752 as well as 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 August 26, 2008.

CITY OF TOPEKA, KANSAS

William W. Bunten, Mayor

ATTEST:

Brenda Younger, City Clerk