RESOLUTION NO. 8992

A RESOLUTION introduced by City Manager Brent Trout regarding an appeal to the Kansas appellate courts in the matter of DWAGFYS Manufacturing, Inc. d/b/a The Vapebar Topeka and Puffs ‘N Stuff, LLC v. City of Topeka, Kansas.

WHEREAS, on December 5, 2017, the Governing Body passed Ordinance No. 20099 which prohibits the sale or furnishing of cigarettes, electronic cigarettes, tobacco products and liquid nicotine to any person under 21 years of age; and

WHEREAS, the City’s ordinance was modeled after ordinances previously adopted by 15 cities in Kansas, as well as Shawnee County; and

WHEREAS, on March 22, 2018, in response to litigation filed by two businesses engaged in the sale of one or more of these products, the district court of Shawnee County entered an injunction prohibiting the City from enforcing its ordinance because, in the court’s opinion, the City exceeded its constitutional home rule authority by enacting an ordinance that conflicts with the Kansas Cigarette and Tobacco Products Act; and

WHEREAS, in addition to the significant public interest regarding smoking among young adults, the case raises an important question of law relating to the ability of cities to exercise their constitutional home rule powers; and

WHEREAS, the Greater Kansas City Chamber of Commerce, the Health Care Foundation of Greater Kansas City and the League of Kansas Municipalities have agreed to provide assistance with the appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY that the City Manager is directed to pursue an appeal of this matter to the Kansas appellate courts.
ADOPTED and APPROVED by the Governing Body on April 10, 2018.

CITY OF TOPEKA, KANSAS

Michelle De La Isla, Mayor

ATTEST:

Brenda Younger, City Clerk