



LEGAL SERVICES DEPARTMENT

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TO: Members of the Board of Health

FROM: Amanda Abshire, Assistant City Attorney

DATE: March 6, 2019

RE: Resolution #14-R-18/Spears – E-Cigarettes
Our File No. A18-0958

Our office was asked to draft language that could exempt retail shops that specialize in vape products (“vape shops”) from the indoor smoking ban.

As a reminder Sec. 7-100 of Appleton’s Smoke Free Indoor Air ordinance as written, provides for the following:

(g) **Exceptions.** The following areas shall not be subject to the smoking restrictions of this section:

(1) Retail tobacco stores

.....

A retail tobacco store is defined in Sec. 7-100(a) as a business whose primary purpose is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

While I am unclear as to the intent of the Board, the Board could do any (or none) of the following:

- 1) Include a “retail electronic delivery device store” as an additional location that is exempt from the smoking restrictions. This would also require defining a “retail electronic delivery device store” within the ordinance.
 - By way of example, a “retail electronic delivery device store” could be defined as:
 - A business whose primary purpose is the sale of electronic delivery devices and accessories and in which the sale of other products is merely incidental OR
 - An establishment that has a 100% revenue from e-cigarette products

- 2) The Committee could further restrict the retail electronic delivery device store exemption; for example:
- Retail electronic delivery device stores are subject to the following:
 - The store may provide electric delivery devices and accessories for the purposes of sampling; and/or
 - The store must have an entrance opening directly to the outside; and/or
 - The store must be located in a free-standing structure occupied solely by the retail store; and/or
 - Service of food is not permitted.

I have included the language above in response to the request to supply examples of ways in which the Board could carve out exceptions to the Smoke-free Indoor Air ordinance.

If you have any questions or concerns, please do not hesitate to contact me.