

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2015**

No. 92

Introduced by Council Members Constantinides, Richards, Williams, Chin, Miller, Kallos, Lander and Rosenthal (in conjunction with the Mayor).

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the use of air conditioning systems.

Be it enacted by the Council as follows:

Section 1. Section 20-910 of the administrative code of the city of New York, as added by local law number 38 for the year 2008, is amended to read as follows:

§ 20-910 Air conditioning prohibitions. a. For the purposes of this section, the following terms shall have the following meanings:

[1. "Chain of stores" shall mean] *Chain of stores. The term "chain of stores" means* five or more stores located within the city of New York that are engaged in the same general field of business and conduct business under the same business name or operate under common ownership or management or pursuant to a franchise agreement with the same franchisor.

[2. "Commercial building or structure" shall mean an] *Commercial building or structure. The term "commercial building or structure" means* a building or structure, or a portion thereof, classified in accordance with section BC 302 of the New York city building code in occupancy group B or M[, except that such term shall not include a small store].

[3. "Door" shall mean] *Door. The term "door" means* any door used to close off any exterior entrance to a commercial building or structure and that when open allows for the

co-mingling of indoor and outdoor air, but shall not include doors that (i) adjoin indoor seating areas where food or beverages are served and link such areas to outdoor space or outdoor seating areas, or (ii) allow for direct table service of food or beverages to outdoor seating areas during times when servers are actively engaged in serving such areas.

[4. "Person" shall mean] *Person. The term "person" means* (i) with respect to the portion of a commercial building or structure that is a retail or wholesale establishment that sells goods or provides services to consumers, the owner or lessee of such establishment; and (ii) with respect to any other portion of a commercial building or structure, the record owner or lessee of such building or structure.

Window. The term "window" means any window used to close off any exterior opening to a commercial building or structure and that when open allows for the co-mingling of indoor and outdoor air, but shall not include windows that allow for direct service of food or beverages to outdoor space during times when servers are actively engaged in serving customers present in such space.

[5. "Small store" shall mean a retail or wholesale establishment that sells goods or provides services to consumers and occupies under four thousand square feet of retail or wholesale space, excluding storage space, and is not one of a chain of stores.]

b. Except as provided in subdivision c of this section, it shall be unlawful to keep open any exterior door *or window* of a commercial building or structure while an air conditioner or central cooling system is operating that cools the area adjacent to such door *or window*, except as needed to permit the ingress and egress of people and the delivery and shipping of goods.

c. The provisions of this section shall not apply when an emergency situation exists that requires an exterior door *or window* to be kept open.

d. The department shall have the authority to enforce the provisions of subdivision b of this section. A proceeding to recover any civil penalty prescribed by subdivision e of this section shall be commenced by the service of a notice of violation, which shall be returnable to the environmental control board *or to any tribunal authorized to adjudicate notices of violation issued by the department*. The environmental control board *or such tribunal* shall have the power to impose any civil penalty prescribed by subdivision e of this section.

e. [Any] (i) *Prior to July 1, 2016, any person who violates this section shall receive a written warning for the first violation, and shall be liable for a civil penalty in the amount of two hundred fifty dollars for each open door or window for a second violation within an eighteen month period and [four] five hundred dollars for each open door or window for any third and subsequent violation within an eighteen month period, except that such person shall be liable for a civil penalty in the amount of five hundred dollars for each open door or window for a second violation within an eighteen month period and one thousand dollars for each open door or window for any third and subsequent violation within an eighteen month period if the violation occurs at a store that is part of a chain of stores.*

(ii) *On and after July 1, 2016, any person who violates this section shall be liable for a civil penalty in the amount of two hundred fifty dollars for each open door or window for the first violation and five hundred dollars for each open door or window for any second and subsequent violation within an eighteen month period, except that such person shall be liable for a civil penalty in the amount of five hundred dollars for each open door or window for the first violation and one thousand dollars for each open door or window for any second and subsequent violation within an eighteen month period if the violation occurs at a store that is part of a chain of stores.*

(iii) All violations issued prior to July 1, 2016, shall continue to count toward the cumulative total of violations issued to a person for the purpose of assessing the amount of a civil penalty under paragraph (i) or (ii) of this subdivision.

f. Every store that is part of a chain of stores shall conspicuously post on each door a notice that states that violations of this section may be reported to 311. Such notice must be in the form and must contain the content as provided by the commissioner on the department's website.

§ 2. This local law takes effect immediately, except that subdivision f of section 20-910 of the administrative code of the city of New York, as added by section 1 of this local law, takes effect 30 days after it becomes law.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on September 17, 2015 and approved by the Mayor on October 7, 2015.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 92 of 2015, Council Int. No. 850-A of 2015) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council and approved by the Mayor.

STEPHEN LOUIS, Acting Corporation Counsel.