

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2008**

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No. 38

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Introduced by Council Members Brewer, Gonzalez, Koppell, Mark-Viverito, Martinez, Recchia Jr., Vallone Jr., Weprin, Garodnick, McMahon, Nelson, Lappin, Gioia, Liu, Monserrate, Mendez, Vacca, White Jr., Avella, Gennaro and Sears.

**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. Legislative findings and intent. The Council finds that it is the public policy of the City of New York to conserve energy, reduce peak power demands during hot weather periods and limit environmental pollution and local contributions to global warming. Prohibiting commercial establishments from leaving their doors ajar while air conditioners or central cooling systems are on is a sensible energy conservation measure. According to the Long Island Power Authority, the practice of leaving open doors while air conditioners or central cooling systems are operating can increase the amount of electricity used by establishments by 20 to 25 percent. The Council finds that such practices increase power plant related pollution and place heightened energy demands on local utilities during hot summer months, when excessive energy consumption can lead to power shortages.

§2. Title 20 of the administrative code of the city of New York is amended by adding a new chapter 7 to read as follows:

*CHAPTER 7*

*ENERGY*

*§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 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 building or structure 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 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 (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.*

*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 of a commercial building or structure while an air conditioner or central cooling system is operating that cools the area adjacent to such door, 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 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. The environmental control board shall have the power to impose any civil penalty prescribed by subdivision e of this section.*

*e. 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 dollars for each open door for a second violation within an eighteen month period and four hundred dollars for each open door for any third and subsequent violation within an eighteen month period.*

§3. This local law shall take effect ninety days after enactment, except that the commissioner of consumer affairs shall take such actions as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

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 August 14, 2008 and approved by the Mayor on September 3, 2008.

Michael McSweeney, First Deputy City Clerk  
Acting City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed Local Law (Local Law 038 of 2008, Council Int. No. 264-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on August 14, 2008:  
41 For, 8 Against, 0 Not Voting  
Was signed by the Mayor on September 3, 2008  
Was returned to the City Clerk on September 3, 2008.

Jeffrey D. Friedlander, Acting Corporation Counsel.