

## **New York City Department of Consumer and Worker Protection**

### **Notice of Adoption**

Notice of Adoption to add and amend rules to implement Local Law 80 of 2021 and Local Law 98 of 2021. These changes affect amusement devices, amusement arcades, amusement operators, and gaming cafés, as well as auction houses and auctioneers.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of Consumer and Worker Protection by sections 1043 and 2203(f) of the New York City Charter and section 20-104 of Title 20 of the Administrative Code of the City of New York, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department amends chapters 1, 2, 4 and 6 of Title 6 of the Rules of the City of New York.

This rule was proposed and published on January 20, 2022. A public hearing was held on February 23, 2022. The Department received two comments from the public.

### **Statement of Basis and Purpose of Rule**

The Department of Consumer and Worker Protection (“DCWP” or “Department”) is adding and amending rules to implement Local Law 80 of 2021 (“LL 80”) and Local Law 98 of 2021 (“LL 98”). These rule changes affect amusement devices, amusement arcades, amusement operators, and gaming cafés, as well as auction houses and auctioneers. These rule changes also fix errors in the Department’s rules relating to general vendors, tobacco retail dealers, and income tax preparers without affecting substantive rights.

LL 80 provides civil penalty relief for small businesses from certain sanitation, health, transportation, consumer affairs, noise control and buildings violations. LL 80 sets fixed penalties at the bottom of existing penalty ranges, lowers existing penalty ceilings (or sometimes sets a lower fixed amount), or lowers existing fixed penalties. In certain instances, LL 80 allows a cure period for a first violation or eliminates the civil penalty for a first violation. LL 80 also repeals several requirements and prohibitions to provide relief for small businesses.

LL 98 increases penalties for certain deceptive and unconscionable business practices prohibited under the Department’s consumer protection law.

Specifically, these rule amendments:

- Extend the length of a general vendor license from one year to two years, as set forth in section 20-454 of the NYC Administrative Code. *See* section 1.
- Remove all rules relating to auctioneers and auction houses. LL 80 repealed this license category and all substantive regulations. *See* sections 1, 3, and 8. These businesses will be able to operate without a license.
- Remove all rules relating to the licensing requirements for amusement devices, amusement arcades, amusement operators, and gaming cafés. LL 80 repealed these licensing requirements. These businesses will be able to operate without a license. *See* sections 1, 2, 6, and 7.
- Move rules relating to amusement devices, amusement arcades, amusement operators, and gaming cafés from chapter 2 of the Department’s rules to a new subchapter in chapter 4. Because LL 80 repealed the licensing requirements but retained other regulations, the accompanying rules must be moved from chapter 2, which is dedicated to licensed categories, to chapter 4 of the

Department's rules. Section 12 of LL 98 also added an accident notification provision applicable to amusement operators. *See* section 4.

- Update the Department's list of curable rule provisions to account for these changes. *See* section 5.
- Update the Department's penalty schedule for tobacco retail dealers to provide that sale of tobacco products to individuals under the age of twenty-one is prohibited, pursuant to section 1399-cc(2) of the New York State Public Health Law. *See* Section 7.
- Update the Department's penalty schedule for amusement devices, amusement arcades, amusement operators, and gaming cafés. LL 80 lowered most penalties for this category of violations. *See* section 8.
- Update the Department's penalty schedule for income tax preparers to add a missing rule violation to implement LL 98. *See* section 9.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

### **Rule Amendment**

Section 1. Subdivision a of section 1-02 of chapter 1 of Title 6 of the Rules of the City of New York is amended to remove the rows for “Amusement Arcades” and “Auctioneer and Night Auction Sales” and subdivision b of section 1-02 is amended to read as follows:

(b) General vendor licenses are valid for [one year] two years. Such licenses shall expire September 30 of each year.

§ 2. Subchapter C of chapter 2 of Title 6 of the Rules of the City of New York is REPEALED

§ 3. Subchapter M of chapter 2 of Title 6 of the Rules of the City of New York is REPEALED.

§ 4. Chapter 4 of Title 6 of the Rules of the City of New York is amended by adding a new subchapter K to read as follows:

### **Subchapter K: Amusement Devices, Amusement Arcades, Amusement Operators, and Gaming Cafes**

#### **§ 4-140 Definitions.**

Accident. The term “accident” means a mechanical, electrical or structural malfunction which caused or could cause human injury or damage to property.

Amusement device. The term “amusement device” means any contrivance, open to the public, that carries and conveys passengers along, around or over a fixed or restricted course or within a defined area for the purpose of amusing or entertaining its passengers, other than coin-operated amusement devices as defined in § 20-626 of the New York City Administrative Code.

Amusement operator. The term “amusement operator” means any person who maintains or operates any amusement device.

Gaming café. The term “gaming café” means a place where, for a fee charged directly or indirectly, persons are provided access to three or more computers or electronic devices in which game software has been installed by or for the owner or operator for the purpose of playing a game on the premises.

**§ 4-141 Notification of Accidents Relating to Amusement Devices.**

a. Every amusement operator must submit to the Department, on a form provided for such purpose by the Department on its website, a written report of every accident relating to an amusement device within 24 hours after the occurrence of such accident. Such completed form must be signed by the amusement operator or his or her agent.

b. Whenever any person sustains an injury requiring medical treatment or dies in an accident related to an amusement device, the amusement operator who maintains or operates such amusement device must immediately notify the Department by telephone and by facsimile transmission to the telephone numbers prescribed by the Department, and furnish such information as is sufficient to identify the time and location of the accident and the nature of the injuries sustained by any person.

**§ 4-142 Sign Requirements for Amusement Arcades and Gaming Cafés.**

Each amusement arcade or gaming café owner or operator must prominently post in his or her establishment an 11 inch by 17 inch sign containing a notice that must be substantially worded as follows: “Warning! Unless exempt under New York State Education Law, persons under the age of 18 are not allowed on these premises Monday through Friday, between the hours of 9 a.m. and 3 p.m. during the regularly scheduled school year. New York State truancy laws will be enforced against such persons who remain upon these premises during those hours.” The requirements of this section may be fulfilled by posting a color print of the amusement arcades and gaming cafés truancy sign, which is publicly available on the Department’s website, in a clear and conspicuous manner in the establishment.

§ 5. Paragraph (5) of subdivision (b) of section 6-03 of subchapter A of chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

(5) The Department has made available on its website a list of provisions of the Administrative Code for which the opportunity to cure a first-time violation is available. The following provisions of Title 6 of the Rules of the City of New York constitute the mandates for which the opportunity to cure a first-time violation is available:

<b>Citation</b>	<b>Description</b>
6 RCNY § 1-03(a)	requiring the posting of a sign that includes instruction on contacting the Department to file a complaint about a licensed business
6 RCNY § 1-03(b)	requiring a sidewalk café to post a sign that includes the maximum number of tables and chairs permitted for such sidewalk café
6 RCNY § 1-05	requiring a licensee to include such licensee’s license number in advertisements and other printed and electronic matters
[6 RCNY § 2-24]	[requiring amusement arcades and gaming cafes to post a sign describing age restrictions during certain hours of operation]

6 RCNY §§ 2-41 through 2-59	all sidewalk café rules
6 RCNY § 2-66(a)	requiring newsstands to comply with display restrictions
6 RCNY § 2-66(b)	requiring newsstands to comply with advertising restrictions
6 RCNY § 2-70.2(g)	Sale or offer of improper items in a stoop line stand
6 RCNY § 2-161(g)(1)	requiring that parking lots and garages have separate entrances and exits, with the main entrance clearly designated with illuminated signs marked "entrance" and "exit"
6 RCNY § 2-161(g)(2)(i)	requiring parking lots and garages to post a rate sign
6 RCNY § 2-161(g)(2)(iv)	requiring parking lots and garages to post a rate sign at the location for payment of charges
6 RCNY § 2-161(g)(2)(v)	requiring that parking lot and garage auxiliary signs contain equally sized letters and numbers
6 RCNY § 2-161(g)(2)(vi)	requiring that parking lots and garages post a sign stating: the business hours; the licensed capacity; and the minimum number of bicycle parking spaces
6 RCNY § 2-161(g)(2)(viii)	requiring parking lots and garages to post a rate sign about bicycle parking
6 RCNY § 2-161(g)(3)(i)	requiring that the parking garage and lot sign required by 6 RCNY § 2-161(g)(2) is illuminated, clearly visible and readable
6 RCNY § 2-161(g)(3)(ii)	requiring parking lots and garages to post a Manhattan residents sign
6 RCNY § 2-161(h)(1)	requiring the posting of a sign that the garage is at full capacity for car parking
6 RCNY § 2-161(h)(2)	requiring the posting of a sign that the garage is at full capacity for bicycle parking
6 RCNY § 2-161(u)	requiring that parking lots and garages with waivers under section 20-327.1 of subchapter 17 of Chapter 2 of Title 20 of the Administrative Code of the City of New York post a sign that bicycle parking is not required by law
6 RCNY § 2-211(h)	requiring a sightseeing bus post a sign on the windshield and near the entrance door of such bus that designates the departure time and destination of such bus
6 RCNY § 2-253	requiring that electronic or home appliance service dealers post a sign stating the service dealer identity, the cash policy, and written estimates
6 RCNY § 2-275(c)	requiring dealers of products for the disabled to post a sign summarizing provisions of the New York City Products for the Disabled Law
6 RCNY § 2-424	requiring pedicabs to follow certain restrictions on advertisements
6 RCNY § 2-425	requiring certain signage on pedicabs
6 RCNY § 3-12	requiring labeling declarations required by subchapter A of Chapter 3 of Title 6 of the Rules of the City of New York to be written in English
6 RCNY § 3-24(f)(2)	requiring stores with weighing and measuring devices for customer use to post a sign informing customer that they may reweigh products using such weighing or measuring device or devices
6 RCNY § 3-60	<u>requiring certain signage for selling prepackaged meats</u>
6 RCNY § 4-55	requiring display of signs for out of order petroleum pumps
6 RCNY § 4-63	requiring display of signs for petroleum pumps
6 RCNY § 4-131(a)(4)(i)	requiring retail laundries to post a notice giving the name and contact information of the person or persons to whom complaints and claims for refunds may be made
6 RCNY § 4-131(a)(4)(ii)	requiring retail laundries to post an out-of-order sign on non-functioning machines
6 RCNY § 4-142	<u>requiring amusement arcades and gaming cafes to post a sign describing age restrictions during certain hours of operation</u>

6 RCNY § 5-24	requiring that a business that accepts credit cards post a list of limitations that such business puts on credit card usage at or near the entrance of the business and in all advertising indicating that credit cards are accepted
6 RCNY § 5-37	requiring the posting of refund policies
6 RCNY § 5-40(e)	prohibiting a sign stating that a business is not liable for its negligence if such a statement is invalid under law
6 RCNY § 5-66(c)	requiring that tax preparers post a sign: stating his or her name, address, telephone number and qualifications; stating that the preparer and taxpayer must sign every tax return; stating how fees are calculated; stating that the tax preparer or their agency will not represent the taxpayer in an audit, if true; and stating that the tax preparer is not licensed by the state board of public accounting or the New York state bar, or both, if true
6 RCNY § 5-70	requirements for retail service establishments
6 RCNY § 5-113	calculation and Display of Price Per Measure
6 RCNY § 5-114	requiring certain consumer commodities to be labeled
6 RCNY § 5-115	requirements for multiple pricing
6 RCNY § 5-191	sign size requirements for redemption of beverage containers
6 RCNY § 5-192	content of sign for redemption of beverage containers
6 RCNY § 5-194	substitute signs for redemption of beverage containers
6 RCNY § 5-195	requiring signage at businesses that sell beverages for off-premises consumption in beverage containers that are covered by title ten of article twenty-seven of the Environmental Conservation Law of the State of New York to be placed within a certain distance of cash registers or to be visible to consumers from any specific vantage point
6 RCNY § 5-222(b)	requiring collateral loan brokers to place signage relating to pawn tickets
6 RCNY § 5-222(d)	requiring collateral loan brokers to place certain signage with a reproduction of the pawn ticket
6 RCNY § 5-250	requiring the posting of signs by employment agencies
6 RCNY § 5-251	requiring the display of a license by an employment agency
6 RCNY § 5-265	requiring the posting of signs about tenant screening reports, pursuant to Section 20-809 of the Administrative Code of the City of New York
6 RCNY § 5-290(a)	requiring car rental businesses to comply with reservation requirements
6 RCNY § 5-290(d)	requiring car rental businesses to post a sign about certain rights
24 RCNY §6-19	requiring posting of a letter grade on mobile food vending cart.

§ 6. The row for NY Pub Health § 1399-CC(2) (sale) in the penalty schedule contained in Section 6-12 of subchapter B of chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

NY Pub Health § 1399-CC(2) (sale)	Unlawful sale of tobacco products, herbal cigarettes, liquid nicotine, shisha or electronic cigarettes to an individual under [eighteen] <u>twenty-one</u> years of age	\$1,500 (plus 2 [poi0nts] points on NYS registration)	\$1,500 (plus 2 points on NYS registration)	\$2,500 (plus 2 points on NYS registration)	\$2,500 (plus 2 points on NYS registration)	\$2,500 (plus 2 points on NYS registration)	\$2,500 (plus 2 points on NYS registration)
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§ 7. The chart in section 6-13 of subchapter B of chapter 6 of Title 6 of the Rules of the City of New York is REPEALED and section 6-13 of such subchapter is amended to read as follows:

**§ 6-13 Amusement Devices, Amusement Arcades, [and] Amusement Operators, and Gaming Cafés  
Penalty Schedule.**

All citations are to Title 20 of the Administrative Code of the City of New York or Title 6 of the Rules of the City of New York.

Unless otherwise specified, the penalties set forth for each section of law or rule shall also apply to all subdivisions, paragraphs, subparagraphs, clauses, items, or any other provision contained therein. Each subdivision, paragraph, subparagraph, clause, item, or other provision charged in the Notice of Violation shall constitute a separate violation of the law or rule.

[For the fine amounts marked by a single asterisk, if the respondent timely submits the appropriate proof of having cured a first-time violation, the respondent will not be subject to a civil penalty pursuant to Local Law 153 of 2013.]

[In certain cases, the Department may ask for license suspension or revocation, as permitted by statute. If a respondent is found in violation of multiple provisions that require a suspension period, the suspension periods shall run concurrently.]

Unless otherwise specified by law, a second or third or subsequent violation means a violation by the same respondent, whether by pleading guilty, being found guilty in a decision, or entering into a settlement agreement for violating the same provision of law or rule, within two years of the prior violation(s).

[The parties shall be authorized to present evidence to mitigate the license suspension or premise sealing period within the date range marked by two asterisks (\*\*).]

<u>Citation</u>	<u>Violation Description</u>	<u>First Violation</u>	<u>First Default</u>	<u>Second Violation</u>	<u>Second Default</u>	<u>Third and Subsequent Violation</u>	<u>Third and Subsequent Default</u>
Admin Code § 20-627(a)(1)-(3)	Failure to comply with requirements for amusement devices	\$175	\$175	\$300	\$300	\$500	\$500
Admin Code § 20-627(a)(4)	Failure to comply with notification of accidents requirement	\$500	\$500	\$500	\$500	\$500	\$500
Admin Code § 20-627(b)	Failure to comply with requirements for amusement arcades and gaming cafés	\$175	\$175	\$300	\$300	\$500	\$500
Admin Code § 20-627(c)	Failure to comply with requirements for placement of amusement devices	\$175	\$175	\$300	\$300	\$500	\$500
Admin Code § 20-628	Failure to comply with gambling and gambling device requirements	\$175	\$175	\$300	\$300	\$500	\$500
Admin Code § 20-629(a)	Improper location of player-operated amusement devices	\$175	\$175	\$300	\$300	\$500	\$500
Admin Code § 20-629(c)	Failure to prohibit minors from entering certain premises	\$0	\$0	\$175	\$175	\$300	\$300
Admin Code § 20-629(d)	Failure to prominently display required sign about minors on premises	\$175	\$175	\$300	\$300	\$500	\$500
6 RCNY § 4-141	Failure to comply with requirements for notification of accidents	\$500	\$500	\$500	\$500	\$500	\$500
6 RCNY § 4-142	Failure to comply with signage requirements	\$175	\$175	\$300	\$300	\$500	\$500

§ 8. Section 6-21 of subchapter B of chapter 6 of Title 6 of the Rules of the City of New York is REPEALED.

§ 9. The Income Tax Preparers penalty schedule contained in section 6-53 of subchapter B of chapter 6 of Title 6 of the Rules of the City of New York is amended to read as follows:

Citation	Violation Description	First Violation	First Default	Second Violation	Second Default	Third and Subsequent Violation	Third and Subsequent Default
Admin Code § 20-740(a)	Failure to post identification and qualification statement	\$375*	\$500*	\$675	\$750	\$750	\$750
Admin Code § 20-740(b)	Failure to provide customer with receipt	\$375	\$500	\$675	\$750	\$750	\$750
Admin Code § 20-740.1	Improper consumer bill of rights	\$375	\$500	\$675	\$750	\$750	\$750
Admin Code § 20-741	Improper records	\$375	\$500	\$675	\$750	\$750	\$750
Admin Code § 20-741.1	Failure to comply with refund anticipation loan requirements	\$375	\$500	\$675	\$750	\$750	\$750
6 RCNY § 5-66(b)	Improper tax preparation practices	\$525	\$525	\$1,050	\$1,050	\$3,500	\$3,500
6 RCNY § 5-66(c)(1) and (c)(2)	Failure to post the required tax preparation signs	\$150*	\$150*	\$250	\$250	\$350	\$350
6 RCNY § 5-66(c)(3)	Required tax preparation practices	\$525	\$525	\$1,050	\$1,050	\$3,500	\$3,500
6 RCNY § 5-66(d) and (e)	Requirements for tax preparation refunds and records	\$525	\$525	\$1,050	\$1,050	\$3,500	\$3,500
6 RCNY § 5-66(f)	Failure to provide disclosure in foreign languages	\$150	\$150	\$250	\$250	\$350	\$350
6 RCNY § 5-171	Failure to comply with sign location requirement	\$375	\$500	\$675	\$750	\$750	\$750
6 RCNY § 5-172	Improper sign form and content	\$375	\$500	\$675	\$750	\$750	\$750
6 RCNY § 5-173(a)	Failure to comply with sign requirements	\$375	\$500	\$675	\$750	\$750	\$750
6 RCNY § 5-173(b)	Failure to comply with requirements regarding provision	\$375	\$500	\$675	\$750	\$750	\$750

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