

Inspection Checklist: Restaurant Surcharges and Mandatory Gratuities

Do you operate a restaurant?

Use this checklist to learn what our inspectors look for and help avoid violations. All businesses also must comply with the General Retail Inspection Checklist, which is included at the end for easy reference.

For your convenience, each Requirement includes the relevant section of law and/or rule, so you can refer to it for more information. The KEY below describes the legal citations and symbols used in this checklist.

KEY
RCNY: Rules of the City of New York
§: Section

Requirement		Do you meet this requirement?
1	Restaurants cannot charge a surcharge or other fee in addition to listed food or beverage prices. Tip: Examples of surcharges or other fees include a 5% living wage fee, 20% administrative charge, or 15% mandatory gratuity. Tip: “Surcharge” does not include tax.	<input type="checkbox"/> Yes
	6 RCNY §5-59(a), 6 RCNY §5-59(c)	
2	Restaurants may charge a bona fide service charge, but only if the charge is conspicuously disclosed to consumers before food is ordered (e.g., on a sandwich board, menu, or sign). Tip: Examples of bona fide surcharges include a charge to split a single meal on multiple plates; a minimum per person charge; or a mandatory gratuity for parties of eight or more. Tip: It is a violation to include the disclosure on the back of a menu or hidden in the design of a menu or on a sign that is blocked from public view or in a location where consumers cannot see it.	<input type="checkbox"/> Yes
	6 RCNY §5-59(b)	

For more information: **Visit** nyc.gov/BusinessToolbox | **Contact 311** (212) NEW-YORK (Outside NYC)

This document is provided for informational purposes only, is not exhaustive, and does not constitute legal advice. New York City businesses must comply with all relevant federal, State, and City laws and rules. Businesses are responsible for knowing and complying with current regulations that affect their business.

Inspection Checklist: General Retail

Does your business sell goods or services?

Use this checklist to learn what our inspectors look for and help avoid violations. For your convenience, each Requirement includes the relevant section of law and/or rule, so you can refer to it for more information. The KEY below describes the legal citations and symbols used in this checklist.

KEY
<p>NYC Code: NYC Administrative Code RCNY: Rules of the City of New York NY GBL: NY General Business Law §: Section</p>

Requirement	Do you meet this requirement?
Price Lists for Services	
<p>1 A price list must be displayed and include the following:</p> <ul style="list-style-type: none"> List of the type of services Minimum price for each service Conditions or variations of service that change the minimum price Range of additional charges caused by conditions or variations (e.g., \$10 pants, \$15 pants with pleats) (if the price is based on an hourly labor rate) Rate as dollars per hour <p>Tip: If the price list states a price “and up” or “from” — e.g., “\$5 and up” or “from \$5” — it must also state the reason(s) for the different prices and include the range of prices.</p> <p>6 RCNY §5-70(a)</p>	<input type="checkbox"/> Yes
<p>2 The price list must be clearly posted or clearly displayed at the place(s) where payment is made (e.g., near the cash register) and/or where orders are placed.</p> <p>6 RCNY §5-70(a)</p>	<input type="checkbox"/> Yes
<p>3 If there is a sale or promotion, the pre-sale prices must also be posted.</p> <p>NYC Code §20-750(b)</p>	<input type="checkbox"/> Yes
<p>4 Prices for services cannot be based on gender.</p> <p>Tip: Words like “men’s,” “women’s,” and “ladies” cannot be used to describe the price.</p> <p>NYC Code §20-750(c)</p>	<input type="checkbox"/> Yes
Pricing for Goods	
<p>5 All items offered for sale must show a price, exclusive of tax, as follows:</p> <ul style="list-style-type: none"> The price must be attached to the item by a stamp, tag, or label. OR The price must be stated on a sign that is plainly visible where the item is displayed. <p>NYC Code §20-708, NYC Code §20-708.1</p>	<input type="checkbox"/> Yes

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Requirement	Do you meet this requirement?
<p>6 If your store’s annual revenue is more than \$2 million or you are a chain store, you must individually price each item, including food products, paper products, detergents, soaps, nonprescription drugs, and health and beauty aids.</p> <p><i>Exceptions:</i> The following items must be individually priced unless shelf prices and a price look-up function are provided:</p> <ul style="list-style-type: none"> • Milk • Items that are under 3 cubic inches in size, weigh less than 3 ounces, and cost under 1 dollar • Eggs • Fresh produce not packaged for retail sale • Products sold through a vending machine • Food sold for consumption on the premises • Snack foods offered for sale in single packages that weigh 5 ounces or less, e.g., cakes, gum, candies, chips, and nuts • Cigarettes, cigars, tobacco, and tobacco products • Food offered for sale in bulk • Frozen juice • Ice cream • Frozen foods packaged for final retail sale in plastic bags • Items on sale for 1 week or less, but only if they are located in a segregated display at the end of the aisle and the sale period, name of the product, and the advertised price are clearly posted on a sign at the point of display • Jars of baby food <p>NYC Code §20-708.1(b), NYC Code §20-708.1(c)</p>	<input type="checkbox"/> Yes
Signs	
<p>7 Sale signs that advertise a price range or percent discount—example: “Savings of 20 to 50%” or “20% to 50% off”—must state the minimum and maximum percentages in equal size.</p> <div style="display: flex; justify-content: center; gap: 20px; margin: 10px 0;"> <div style="border: 2px solid green; padding: 10px; text-align: center;"> <p>20-50% OFF</p> </div> <div style="border: 2px solid red; padding: 10px; text-align: center;"> <p>20-50% OFF</p> </div> </div> <p>6 RCNY §5-94(a)(1)</p>	<input type="checkbox"/> Yes

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Requirement		Do you meet this requirement?
8	Advertising, including sale signs, cannot contain any of the following phrases: <ul style="list-style-type: none"> • “Our list price” • Below “manufacturer’s wholesale cost” • “Manufacturer’s cost” 	<input type="checkbox"/> Yes
6 RCNY §5-101		
9	Businesses that sell goods and services must post a refund policy sign. <p>Tip: A refund policy sign must be posted at each register, point of sale, or entrance, or attached to each item.</p> <p>Tip: Even if the policy is not to give refunds, a sign must be posted stating “No Refunds.”</p> <p>Tip: The sign must state that a written copy of the store’s refund policy is available on request.</p>	<input type="checkbox"/> Yes
6 RCNY §5-37; NY GBL §218-a		
10	The refund policy sign must state any and all conditions or limitations to getting a refund. For example, it must state: <ul style="list-style-type: none"> • Any fees charged for refunds, such as “restocking fees” • If a refund will not be provided for “as is” or “sale” items • Whether the refund will be in cash, credit, or store credit only • If proof of purchase is required for a refund • If a refund will be provided at any time or within a specific period of time 	<input type="checkbox"/> Yes
6 RCNY §5-37; NY GBL §218-a		
11	If there are limitations on using credit cards, such as minimum purchase amounts, the policy must be clearly posted at or near each entrance and in all advertising that indicates credit cards are accepted.	<input type="checkbox"/> Yes
6 RCNY §5-24(b)		
Receipts		
12	Receipts must be given to customers for purchases over \$20 and upon request for purchases between \$5 and \$20. <p>Tip: This does not apply to food and drink that is meant to be consumed on the premises.</p>	<input type="checkbox"/> Yes
6 RCNY §5-32		
13	The receipt must include each of the following: <ul style="list-style-type: none"> • Date of purchase • Amount paid for each item • Total amount paid • Separate statement of tax • Business name and address 	<input type="checkbox"/> Yes
6 RCNY §5-32(c)		

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Requirement		Do you meet this requirement?
14	Receipts for audio, photographic, and video equipment that cost more than \$100 must also include the make and model number of the item.	<input type="checkbox"/> Yes
	6 RCNY §5-32(c)(5)	
Price Accuracy		
15	The price charged for an item at checkout, including scanned items, must not exceed the item's tagged, stamped, or marked price, shelf price, sale price, or advertised price.	<input type="checkbox"/> Yes
	NYC Code §20-708.1(d), NYC Code §20-708.1(e)	
16	Tax cannot be charged on tax-exempt items. Tip: Examples of tax-exempt items include but are not limited to: feminine hygiene products, canned vegetables, baby food, clothing under \$110, diapers, nonprescription or over-the-counter drugs, contraceptives. Tip: Check with the New York State Department of Taxation and Finance for a complete list of which items are exempt.	<input type="checkbox"/> Yes
	6 RCNY §5-41	
Layaway Plans		
17	A "layaway plan" means a purchase over \$50 where consumers agree to pay for the purchase in 4 or more installments before getting the merchandise. If a layaway plan is offered, each of the following written disclosures must be provided to consumers prior to accepting any payments: <ul style="list-style-type: none"> • Description of the item, including name of manufacturer, brand name, color, size, style, or model number • Total cost of the item, including tax, installation, delivery, or freight charges • Any charge to use layaway, including any service charge, carrying charge, or cancellation fee • Duration of the layaway plan • Payment schedule and any consequences of missed payments • Refund policy regarding the payments • Notice of where the item is being stored, if other than the place of purchase, or if the item will not be removed from inventory until additional payments are made: <p><i>Example 1:</i> NOTICE: NO MERCHANDISE WILL BE REMOVED FROM INVENTORY UNTIL X% OF THE PURCHASE PRICE HAS BEEN PAID.</p> <p><i>Example 2:</i> ATTENTION: YOUR SELECTION OF MERCHANDISE WILL NOT BE ORDERED UNTIL YOU HAVE MADE YOUR NEXT TO FINAL PAYMENT.</p>	<input type="checkbox"/> Yes
	6 RCNY §5-23; NY GBL §396-t	

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Requirement	Do you meet this requirement?
Expired Over-the-counter Medication	
18 It is illegal to sell over-the-counter medication after the expiration date on the label. NYC Code §20-822(a)	<input type="checkbox"/> Yes
Cash Payments	
19 Your store cannot refuse to accept cash payments from consumers. <i>Exceptions:</i> <ul style="list-style-type: none"> • Your store may refuse bills above \$20. • Your store may refuse cash payments for telephone, mail, or internet-based transactions, unless the transaction takes place in the store. • Your store may accept prepaid cards from an on-site device that converts cash into prepaid cards, but only if: <ul style="list-style-type: none"> – The device does not charge a fee for the prepaid card or require a minimum deposit above \$1. – Upon request, the device provides the consumer with a receipt stating the amount of cash the consumer deposited onto the prepaid card. – Cash deposits onto the prepaid card do not expire. – There is no limit on the number of transactions a consumer can complete with the prepaid card. <p>You must clearly post a sign on or immediately next to the device when it is not working that states your store is required to accept cash payments and consumers may report violations by calling 311.</p> NYC Code §20-840	<input type="checkbox"/> Yes
20 Your store cannot charge a consumer who pays in cash a higher price for the same “consumer commodity” than a consumer who pays by credit card or other cashless transaction. <p style="text-align: center;">Tip: “Consumer commodity” means any article, good, merchandise, product, or commodity of any kind that is produced, distributed, or offered for retail sale.</p> NYC Code §20-840(c)	<input type="checkbox"/> Yes