

Department of Records & Information Services

NOTICE OF ADOPTION

NOTICE OF ADOPTION of rules for access to Municipal Archives and Library collections, the fee schedule for reproduction services, and publishing/use guidelines.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Department of Records & Information Services (DORIS) by Section 1043 and Chapter 72, Section 3008 of the City Charter, that DORIS hereby amends the Rules of the City of New York, **Title 49, Chapter 2, Sections 2-01, 2-02, 2-03, 2-04, 2-05, 2-06, 2-07, and Chapter 3, Sections 3-01, 3-02, and 3-03, and adds new sections 3-04 and 3-05.**

DORIS published the proposed rule amendments on September 18, 2020, and held a public hearing on October 16, 2020. DORIS received more than 300 written and verbal comments. The comments concerned the agency's rules regarding non-commercial licensing of historical materials for publication and other uses, and the payment of licensing fees.

In response to the comments received, DORIS made the following changes to the proposed rule which are reflected in the adopted rules.

- Reformatted the fee schedule to improve clarity.
- Eliminated licensing fees for non-commercial use of Municipal Archives and Library materials.

Statement of Basis and Purpose

The Department of Records & Information Services is responsible for facilitating access to Municipal Archives and Library materials.

The fee schedules are based on the cost of providing the service and are calculated in collaboration with the Office of Management and Budget. The cost of providing the service includes, where applicable, expenses related to digital reformatting of Municipal Archives and Library materials as well as storage and retrieval of digital copies.

These changes were made in accordance with the agency's mission to provide access to Municipal Archives and Library materials and support long-term preservation of these records.

The Department of Records and Information Services' authority for these rules is found in sections 1043(a) and 3008 of the New York City Charter.

“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.

Sections 2-01, 2-02, 2-03, 2-04, 2-05, 2-06, and 2-07 of chapter 2 of Title 49 of the Rules of the City of New York are REPEALED, and new sections 2-01, 2-02, 2-03, 2-04, 2-05, 2-06 and 2-07 are added, to read as follows:

New material is underlined.
 [Deleted material is in brackets]

§ 2-01 Certified Records*

<u>\$18.00</u>	<u>Certified copy of a vital record when the certificate or record number is provided.</u>
<u>\$25.00</u>	<u>When the certificate or record number is not known, a search for one name in 5 boroughs, and all years available for the vital record type, and issuance of search result (certified copy, transcript or “not found” statement.)</u>
<u>\$18.00</u>	<u>Certified copy of any library or archival record (other than vital records).</u>
<u>\$12.00</u>	<u>Letter of Exemplification.</u>
<u>\$12.00</u>	<u>Certified letter stating a vital record cannot be amended.</u>
<u>\$5.00</u>	<u>Raised seal applied to any individual library or archival record.</u>

*A certified record is a true and complete copy of the original record held by the Department of Records and Information Services and includes a signature and/or seal of an attesting official.

§ 2-02 On-site self service reproductions.

<u>No Charge</u>	<u>Use of personal hand-held devices.</u>
<u>\$0.25</u>	<u>Paper photocopies or printed pages 8 ½” 11” or 11” x 14”, per page.</u>

§ 2-03 Reproduction Services – Printed and text-based documents

<u>No Charge</u>	<u>Watermarked, low-resolution digital file of a previously digitized item.</u>
<u>\$0.25</u>	<u>Low resolution watermarked file digitized on demand from original print materials in a condition suitable for high speed scanning per page. [Per copy, up to 11" × 14" (self-service).]</u>
<u>\$60.00</u>	<u>High-quality non-watermarked digital files of original print materials, per hour of digitization time. Minimum charge \$15.00</u>

Ask for quote	Duplication of microfilm, per roll.
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§ 2-04 Reproduction Services – Still images and graphic materials

No Charge	Watermarked, low-resolution digital file of a previously digitized item.
\$45.00	High-quality non-watermarked digital file of a still image up to 28" x 36".
\$65.00	High-quality non-watermarked digital file of a still image larger than 28" x 36".
\$45.00*	8" x 10" hard copy print of a single still image.
\$60.00*	11" x 14" hard copy print of a single still image.
\$120.00*	16" x 20" hard copy print of a still image.

*Additional shipping, handling and credit card processing fees may apply.

§ 2-05 Reproduction Services – Audio-visual materials

No Charge	Low-resolution digital file of any moving image or sound recording previously digitized, per title.
\$50.00	Low-resolution digital file of a moving image or sound recording digitized on demand, per title.
\$100.00	High-resolution non-watermarked digital file of a moving image or sound-recording, digitized on demand, per title.
Ask for Quote	Digitization of motion picture film, videotape, sound recording or other analog format when in-house reformatting is unavailable.

§ 2-06 Conservation Services for Exhibition

\$125.00 [\$30.00]	Conservation services for exhibition loan preparation, per hour. Additional charges apply for materials. [Per roll, 35mm or 16mm diazo microfilm.]
Ask for quote	Materials required to conserve items for exhibition loan.

§ 2-07 Licensing Fees

Commercial use of print archival or library item

\$25.00	Book, catalog, catalog or serial publication print run 1 – 10,000, non-exclusive, one-time use, world-wide, in perpetuity, includes promotional products, per item.
\$50.00	Book, catalog, catalog or serial publication print run 10,001+, non-exclusive, one-time use, world-wide, in perpetuity, includes promotional products, per item.

\$15.00	Brochure, flyer, or pamphlet, one-time use, per item.
\$25.00	Website, social media, blog, or web application per item.
\$50.00	Motion picture film, television, documentary, or on-line streaming production, non-exclusive, one-time use, world-wide, in perpetuity, includes broadcast, dvd, and theatrical release, film festival, and promotional products, per item.
\$50.00	Exhibition or public display, per item.
Ask for quote	Other products.

Commercial use of a moving images

\$40.00	Motion picture film, television, documentary, or on-line streaming production, non-exclusive, one-time use, world-wide, in perpetuity, includes broadcast, dvd, and theatrical release, film festival and promotional products, per second.
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Commercial use of sound recordings

\$10.00	Radio, television, podcast, or on-line streaming production, non-exclusive, one-time use, world-wide, in perpetuity, includes broadcast, dvd, and theatrical release, film festival and promotional products, per second.
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Additional shipping, handling and credit card processing fees may apply to all payment transactions.

§ 2. Sections 3-01 and 3-03 of chapter 3 of Title 49 of the Rules of the City of New York are amended, and new sections 3-04 and 3-05 are added, to read as follows:

3-01 Governing Use of Municipal Archival and Library Materials.

The New York City Municipal Archives and Municipal Library, [a division] divisions of the Department of Records and Information Services, [is] are open to [all qualified persons] the public subject to the following regulations:

A. ACCESS TO MATERIALS.

- (1) [Researchers must provide acceptable identification upon request] All persons using Municipal Archives and Library materials must agree to follow posted guidelines.
- (2) All researchers requesting Municipal Archives and Library materials must [sign the register daily] complete a registration form indicating name, contact information, affiliation, if any, the research subject and purpose. Researchers must provide acceptable identification upon request.

(3) [Researchers using Municipal Archives and Library materials other than vital records must fill out and sign a registration form (MA-18) indicating name, affiliation, if any, and specifying the subject and purpose of the research.

(4) Municipal Archives and Library [Archival] materials may not be removed from the [Municipal Archives without written permission from the Director] premises.

(4) The physical condition of an item may prohibit access.

(5) [Special] In accordance with laws and regulations related to personal privacy, health information, and minors, certain records may be subject to redaction or other special access restrictions and procedures [apply to New York County District Attorney closed case files, and Board of Education "anti-Communist" case files].

B. [REFERENCE ROOM RULES.

(1) Researchers may bring only those materials needed for research to the document research area.

(2) Coats, bags, briefcases, and other personal articles are not permitted in the document research area.

(3) Archives staff reserve the right to inspect all research materials, briefcases, bags and other personal articles before a researcher leaves the Reference Room.

(4) Food and beverages are not permitted in the Reference Room.

(5) All notes must be taken with pencil, typewriter, word processor, or tape recorder. Ink pens may not be used.

(6) Researchers may not photograph or scan archival material.

(7) Archival material is fragile. Researchers may not write upon, lean upon, mark or otherwise mishandle material. Researchers should report any damaged material to staff immediately.

(8) Researchers must preserve the existing order of material and notify staff if any material is discovered to be not in order.

C. REPRODUCTION AND PUBLICATION OF MATERIALS] REPRODUCTIONS AND LICENSING SERVICES.

[Municipal Archives recognizes its responsibility to facilitate access to its collections by permitting the reproduction, reprinting, publishing, or other use of archival material, subject to the following conditions:

(1) The physical condition of an item may prohibit reproduction.

(2) Reproductions are provided for the researcher's personal use. They may not be reduplicated or transferred to another individual or institution.

(3) Researchers may use the self-service photocopy machines available in the Reference Room.

(4) Researchers must ask for staff assistance when copying fragile or oversize material.

(5) Permission to publish, reprint, broadcast, re-duplicate, or make other use of Archival material may be granted subject to the conditions indicated in the Publish/Use

Contract form (MA-45), and may be subject to licensing or use fees. The Director shall decide when and to what degree these restrictions shall apply.]

The Department of Records and Information Services facilitates access to Municipal Archives and Library materials by providing reproduction and licensing services. Copies of historical vital records obtained directly from DORIS or through professional research services are exempt from licensing requirements.

Non-commercial uses of Municipal Archives and Library materials are exempt from the licensing requirement.

All other publication and commercial uses of Municipal Archives and Library materials may be granted subject to the conditions listed in the Publish/Use Contract form (MA-45). License fees will apply to commercial uses; non-profit entities are exempt from licensing fees.

Acknowledgment is required for all published use of Archives and Library materials: Item Name, Collection, Courtesy of the Municipal Archives, City of New York or Item Name, Courtesy of the Municipal Library, City of New York.

[D. CITATION.

- (1) Proper acknowledgment or credit must be given to the Municipal Archives for all material used.
- (2) The citation should be written as follows (after identification of the item and title of the collection): NYC Department of Records/Municipal Archives.
- (3) The Municipal Archives would appreciate receiving copies of any research results. Any violation of these rules governing the use of Municipal Archives material may be considered sufficient cause for denial of future access.]

§ 3-03 Municipal Archives Guidelines for Archival Use of District Attorney Records.


- A. The Municipal Archives preserves and makes available for research the closed case files of the five New York [County] District [Attorney ("DANY")] Attorneys. [The case files date to 1896 and constitute one of the most important series in the Archives' extensive collection of records pertaining to the administration of criminal justice.] In accordance with the duly promulgated record retention schedule for this series, the closed case files are transferred to the Municipal Archives for permanent preservation twenty-five years after the date (year) of indictment.
- B. The regulations governing public access to all archival material are set forth in 49 RCNY § 3-01 [of this chapter]. In addition to those regulations, public access to District Attorney case files that are less than fifty years old (from the year of indictment) are governed by the following [additional] regulations and/or procedures:

- (1) For requests to examine records in case files that are less than fifty years old (from the date of indictment), the Municipal Archives Director, or an authorized staff member, will submit to [DANY] the office of the District Attorney which created or completed the records (“DA”) the following information: name of researcher and affiliation, if any, subject and purpose of Research, case file number(s) and name(s) of defendant(s). The Municipal Archives Director or authorized staff member will submit this information to [DANY] the DA prior to granting the researcher access to the requested records. The DA will be permitted to examine the material in the requested file(s) and separate any items as to which (a) public disclosure is prohibited by statute or court order (e.g. minutes of Grand Jury proceedings); or (b) disclosure would threaten the life or safety of any person, such as information about confidential informants or undercover law enforcement personnel. The Municipal Archives will not permit access to any items separated by [DANY] the DA from other items in the file. [DANY] The DA will have five business days (from the date of notification that the case file is available) in which to conduct a case file review. If the DA declines to conduct a review, the requested case file materials will be made available to the researcher in accordance with regulations governing public access to all Archival material set forth in 49 RCNY § 3-01.
- (2) For all case files regardless of age, the Municipal Archives will not permit access to minutes of Grand Jury proceedings or any other records when disclosure is prohibited by statute or court order. The Municipal Archives will also consider requests by [DANY] the DA to maintain the confidentiality of records whose age is greater than 50 years when exceptional circumstances warrant granting such request.

§ 3-04 Municipal Archives Guidelines for Archival Use of World Trade

Center- Related Materials

Several series of historical records related to the September 11, 2001 attack on the World Trade Center and subsequent recovery and rebuilding efforts are preserved and available for research at the Municipal Archives. Some of the series comprise materials that are fragile and/or contain personal and confidential information relating to the victims of the attack and their families. The Municipal Archives will evaluate requests for access to these materials considering its paramount responsibility to protect and preserve them. Consequently, the Municipal Archives may limit or forbid handling, duplication, or casual inspection of materials deemed highly sensitive, or fragile.

 **§ 3-05 Municipal Archives Guidelines for Archival Use of New York City Police Department Crime Scene Photographs and Surveillance Records.**

The Municipal Archives preserves and makes available for research historical records of the New York City Police Department Inspectional Services Bureau (“ISB”) and more than 100,000 historical crime scene photographs. The ISB and crime scene collections contain records that relate to minors, crime victims, under-cover police officers, and/or informants that may have personal privacy concerns. The Municipal Archives will make these materials available for research, but may restrict access to, reproduction or publication of personally-identifiable information in the research product.