

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH**

**NOTICE OF ADOPTION OF A RESOLUTION
TO AMEND SECTIONS 207.07 and 207.13 OF ARTICLE 207 OF THE NEW YORK
CITY HEALTH CODE**

In compliance with §1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Board of Health by §558 of said Charter, a Notice of Intention of the proposed amendment of Sections 207.07 and 207.13 of Article 207 of the New York City Health Code (the “Health Code”) was published in the City Record on June 26, 2009, and a public hearing was held on July 28, 2009. One person testified at the public hearing and one written comment was received. Two technical changes were made to the resolution. At its meeting on September 22, 2009, the Board of Health adopted the following resolution.

STATUTORY AUTHORITY

This amendment to the Health Code is made pursuant to §§ 556, 558 and 1043 of the New York City Charter (“Charter”). Section 556 of the Charter provides the Department of Health and Mental Hygiene (“Department”) with jurisdiction to regulate all matters affecting health in the City of New York. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the New York City Health Code (“Health Code”) and to include in the Health Code all matters to which the authority of the Department extends. Section 1043 grants the Department rule-making authority.

STATEMENT OF BASIS AND PURPOSE

The Board of Health hereby approves revisions to Sections 207.07 and 207.13 of the Health Code to establish fees, effective January 1, 2010, for certain vital records corrections and permits. The effective date of the fees is being added to the resolution to reflect the Department’s intent.

Background

The Department does not currently charge fees for correcting or amending birth and death certificates, or for issuing disposition permits to funeral directors, which are required for burial, cremation or transport outside the City. The Department is proposing to charge fees based on cost analyses to partially recover the Department’s costs in performing these functions.

Cost calculations

Fees for each service were calculated through a user cost analysis, conducted by the Department’s Division of Finance and Planning in cooperation with the City’s Office of Management and Budget. A user cost analysis assesses costs of current operations involved in providing a specific service to the public. A fee, no greater than the cost, is then determined on a per unit basis. The costs that are factored into the calculation include direct costs (PS-personal services, including fringe and OTPS-other than personal services) and indirect costs (executive management overhead, including fringe; administrative services overhead, including fringe; space and utilities; and cost of other agency services).

The new disposition permit fee matches the Department's cost. The correction fee will recover roughly two-thirds of the Department's costs and will be comparable to fees charged by other jurisdictions.

Corrections and amendments application fee

The Department's Office of Vital Records receives and processes requests for corrections and amendments to birth and death certificates. Approximately 45,000 corrections applications are processed annually. Currently, Health Code §207.07 requires the Department to issue amended certificates "without further charge" when amendments are approved. In order to avoid confusion and potentially conflicting provisions, the Department is deleting these words from §207.07. The Department is further adding a subdivision (g) to §207.13, effective January 1, 2010, to charge a \$40.00 fee, to be paid upon application, for about two-thirds of the corrections applications for the following:

- Adding a given name more than 60 days after birth
- Correcting birth and death certificate errors and omissions made by family members and informants
- Correcting hospital birth certificate errors and omissions filed after 12 months
- Correcting funeral home errors
- Correcting funeral home omissions filed after 12 months
- Amending a birth certificate for an adoption
- Amending a new birth certificate for a person who has undergone convertive surgery
- Re-submitting an application more than 1 year after rejection

No fee will be charged for the following:

- Acknowledgments of paternity
- Orders of filiation (parentage)
- Medical Examiner amendments
- Recording delayed registrations of births
- Reports of foundlings
- Correcting Department errors
- Birth certificate amendments filed within 12 months of the birth when filed by hospitals or licensed midwives
- Adding missing information within 12 months of filing a death certificate by a medical certifier or funeral director

Disposition permit fee (burial, cremation, transport permits)

Health Code §205.25(a) requires, in part, that, "When a death or termination of pregnancy occurs in the City, the remains shall not be buried, cremated or transported out of the City unless an appropriate permit has been issued by the Department." Furthermore, the Department is considering amending the Code to reflect the issuance of an interim disposition permit. If such a proposal is adopted, the Department will charge a fee for the interim permit, but will not charge when that permit is surrendered in exchange for a final disposition permit. In 2007, there were 54,073 deaths and several hundred terminations over 24-weeks gestation. Each of these requires a disposition permit. The Department is adding a subdivision (h) to section 207.13, effective January 1, 2010, to charge a \$40.00 fee for each disposition permit, to be paid upon application, except for those burials in the City cemetery (about 3,000 per year). A reference to Article 205

of the Code is being added to the resolution in order to clarify that the fee will be imposed for disposition permits issued pursuant to that Article.

STATEMENT PURSUANT TO SECTION 1042-REGULATORY AGENDA

This rule was not included in the Department’s Fiscal Year 2009 Regulatory Agenda as this action is in response to recent analysis by the Department.

The adopted rule is as follows:

Note - Matter in brackets [] to be deleted
Matter underlined is new

RESOLVED, that §207.07 and §207.13 of Article 207 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, and the same hereby are amended to delete the words “without further charge” from §207.07, to re-title §207.13 as “Fees for vital statistics services” and to add new subdivisions (g) and (h) to §207.13 to reflect the broader range of fees contained in this section, to be printed together with explanatory notes to read as follows:

**ARTICLE 207
GENERAL VITAL STATISTICS PROVISIONS**

§207.07 Correction of records; copy of amended certificate to be issued.

When a certificate of birth, termination of pregnancy or death is amended, the Department shall issue to the applicant [without further charge] in exchange for the copy submitted with the application pursuant to §207.01 the following:

Notes: This section was amended by resolution adopted on September 22, 2009. The words “without further charge” were deleted from the first sentence of this section in order to avoid confusion or potential conflict with new subdivision (g) of §207.13 which authorizes the charging of fees for some corrections or amendments of birth or death certificates.

§ 207.13 Fees for [searches and transcripts of records] vital statistics services.

- (g) The Department shall, effective January 1, 2010, charge an application fee of \$40.00 to correct or amend birth or death certificates as follows:
 - (1) Adding a given name more than 60 days after birth

- (2) Correcting birth and death certificate errors and omissions made by family members and informants
 - (3) Correcting hospital birth certificate errors and omissions after 12 months
 - (4) Correcting funeral home errors
 - (5) Correcting funeral home omissions filed after 12 months
 - (6) Amending a birth certificate for an adoption
 - (7) Amending a new birth certificate for a person who has undergone convertive surgery
 - (8) Re-submitting an application more than 1 year after rejection
- (h) The Department shall, effective January 1, 2010, charge a fee of \$40.00 for disposition permits issued pursuant to Article 205, except those for burials in the City cemetery.

Notes: This section was amended by resolution adopted on September 22, 2009. The section was re-titled as "Fees for vital statistics services" and new subdivisions (g) and (h) were added to include fees for corrections of birth and death certificates and for disposition permits issued pursuant to Article 205. The fees are based on cost analyses to partially recover the Department's costs in performing these functions.