



ECI Service Charge Application Guidelines

One of the key elements in the Rapid Approval process is the Employment Cost Index (ECI) which is a measure of the change in the cost of labor. The ECI service charge review process is codified in Not-for-Profit Corporation Law Section 1509(e)(3)(D). The ECI includes changes in wages and salaries and employer cost for employee benefits. The Cemetery Board considers the ECI to be a more accurate indicator of the cost increases incurred by cemeteries than the Consumer Price Index or other economic indices because cemetery service charges are extremely labor intensive.

The figures for the ECI are published quarterly by the Federal Bureau of Labor Statistics, www.bls.gov. These percentages are actually determined by calculating the ECI for the twelve months ending September 30; the ECI is released at the end of October. BLS's timing of this release allows cemeteries to print and mail their bills in January. The ECI becomes effective January 1 of the following year.

The other key element in the Rapid Approval process is the use of self-certification. N-PCL § 1509(e)(3)(D) does not just require accurate calculation of the proposed service charge using ECI, it also requires that the cemetery be in compliance with various requirements of Article 15. Self-certification puts the burden on the cemetery to accurately report that it is in fact in compliance. Any cemetery that fails to meet any of the compliance requirements may not use the Rapid Approval process.

The following outlines the process by which ECI service charge applications are submitted.

1. In late October BLS announces the ECI.
2. The Division will post the ECI on its website and provide the rate to any cemetery requesting it. The Division will not send a mailing to cemeteries advising them of the ECI.
3. After the ECI is published and posted, cemeteries may apply for rate increases based on the ECI. An ECI service charge application must:
 - a. Identify all services for which a charge is imposed.
 - b. Identify all the current approved service charges.
 - c. Identify which charges are proposed to be increased using the ECI.
 - d. Identify the proposed new charges after applying the ECI to said charges. Service charges quoted in even dollar amounts may be rounded to the nearest dollar and service charges quoted in dollars and cents may be rounded to the nearest multiple of 25 cents.
4. An ECI service charge application must NOT:
 - a. Be made within 12 months of the cemetery's most recent application to amend/increase service charges.
 - b. Contain any new charges.
 - c. Propose any change in service charge other than by applying the ECI.

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5. A cemetery is **not** entitled to an ECI increase on the \$35 fee collected on interments that must be deposited into the cemetery's permanent maintenance fund. If the cemetery includes the \$35 fee in its interment charge, rather than listing it as a separate fee, it must subtract \$35 before applying the ECI, and then add the \$35 back after application of the ECI.
6. If a cemetery has not filed for a service charge increase for multiple, consecutive years, it may seek to apply the ECI increase for each of those years. The cemetery submitting such an application must indicate that it is doing so in a cover letter and in the application.
5. The treasurer or other designated officer or trustee of the cemetery must complete the certification in the form annexed to these guidelines.
6. If the application complies with the foregoing requirements, is in proper form and is properly executed, it will be approved by the Division without a detailed review of the calculations or of the truth and accuracy of the certification and an acknowledgment letter will be sent. However, such approval does not preclude a subsequent detailed review by the Division. An application subsequently found to be materially false or incorrect will be deemed never to have been approved and the Division may impose penalties pursuant to the Not-for-Profit Corporation Law against the cemetery and against the person completing the certification, in addition to any other remedies permitted by law.
7. If the application seeks to establish new charges or seeks a non-ECI change in service charges for at least one charge, the Rapid Approval process may not be used and the cemetery need not complete the self-certification. The application will not be approved until reviewed by a Division accountant.
8. Even though an application is self-certified, the Division will still issue a letter, in the form annexed to this memorandum, indicating that the service charges have been approved. If the Division fails to issue a letter approving the service charges, per statute they nevertheless are deemed approved 60 days after submission.

The ECI percentages for recent years are as follows:

Year	ECI Rate	Year	ECI Rate	Year	ECI Rate	Year	ECI Rate
1991	4.5%	1992	3.9%	1993	4.0%	1994	3.7%
1995	3.4%	1996	3.3%	1997	3.0%	1998	3.7%
1999	3.1%	2000	4.3%	2001	4.1%	2002	3.7%
2003	3.9%	2004	3.8%	2005	3.1%	2006	3.3%
2007	3.3%	2008	2.9%	2009	1.5%	2010	1.9%
2011	2.0%	2012	2.0%	2013	1.9%	2014	2.2%
2015	2.0%	2016	2.3%				



Division of Cemeteries

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Certification of Application for an Increase of Service Charges Using the Employment Cost Index

I, _____, an Officer or Director of _____, hereby certify:

1. I am authorized to submit this application for an increase of service charges.
2. The service charges set forth in the accompanying application comply with applicable law, regulations, and guidelines, including, but not limited to, Not-for-Profit Corporation Law (N-PCL) Section 1509 and the increases in service charges requested herein comply with N-PCL Section 1509(e)(3)(D) and any applicable regulations and guidelines.
3. The most recent application to amend/increase service charges was made at least 12 months ago and, if this increase is approved/deemed approved, no further request for a service charge amendment/increase will be made within the 12 months following such approval.
4. The accompanying application requests service charge increases that are calculated using the most recently published employment cost index identified in N-PCL Section 1509(e)(3)(D) (the ECI).¹ If the application is for multiple, consecutive years, the increases are calculated using the published ECI for each such year.
5. The application:
 - a. identifies all services for which a charge is imposed and identifies all the current, approved charges for such services;
 - b. identifies the services charges proposed to be increased; and
 - c. identifies the proposed charges after applying the ECI to said charges.
6. There have been no invasions of the permanent maintenance fund by the cemetery that have not been reported to the Division of Cemeteries and that have not been repaid or are not currently being repaid.² Any that are currently being repaid are set forth in the attached Schedule A.
7. There have been no invasions of the perpetual care accounts.³
8. With regard to court orders and New York State Cemetery Board (Cemetery Board) orders (including orders in connection with loans against the cemetery's permanent maintenance fund):
 - a. there are none that are currently being enforced against the cemetery; or,
 - b. if any such orders exist, they are attached to this certification and the cemetery is in compliance with them or, if not in compliance, those orders are currently under judicial review.

¹ I understand that for whole dollar charges, the cemetery is permitted to round up to the next whole dollar and for charges that are in dollars and cents, the cemetery may round up to the nearest multiple of twenty-five cents.

² An invasion includes both an impermissible withdrawal or expenditure and a failure to make a required deposit.

³ An invasion includes both an impermissible withdrawal or expenditure and a failure to make a required deposit.

Certification of Application for an Increase of Service Charges Using the Employment Cost Index

9. The cemetery has timely filed its annual reports with the Division of Cemeteries as required under N-PCL Section 1508.
10. The cemetery has paid all assessments as required under N-PCL Section 1508(c).
11. The cemetery has paid all vandalism fund payments as required under N-PCL Section 1507(h).
12. The information contained in this certification and the accompanying application for an increase in service charges is true and correct to the best of my knowledge and belief.
13. I understand that the Division of Cemeteries and the Cemetery Board will rely on this certification and the information contained in the accompanying application. Should it be determined that the service charge increases do not comply with the applicable law and any regulations and guidelines, or that the information in this certification and the accompanying application is materially false or incorrect:
 - a. the service charge increases will be deemed to never have been approved; and
 - b. appropriate enforcement and disciplinary action will be taken by the Division of Cemeteries and the Cemetery Board against the cemetery and the officer completing this certification.

Signature of Officer or Director: _____ *Date:* _____

Name of Officer or Director: _____

Title of Officer or Director: _____

Cemetery Number: _____

Cemetery Name: _____

Cemetery Address: _____

City: _____ *State:* New York *Zip Code:* _____

Direct Telephone Number: _____ *Fax Number:* _____

E-Mail Address: _____

Certification of Application for an Increase of Service Charges Using the Employment Cost Index

SCHEDULE A

DEFICITS IN CEMETERY'S PERMANENT MAINTENANCE FUND

If your cemetery has a deficit in its permanent maintenance fund, please provide the following:

Total Amount of Deficit (Including Portions Repaid)	Payments to Date	Payments to Be Made (Indicate Amount and Frequency, e.g., Monthly)	Estimated Date of Full Repayment