

## OFFICE OF THE CHIEF MEDICAL EXAMINER

NOTICE OF PROPOSED RULEMAKING

The Chief Medical Examiner ("CME"), District of Columbia Office of the Chief Medical Examiner ("OCME"), pursuant to the authority set forth in Title XXIX of the Fiscal Year 2001 Budget Support Act of 2000, effective October 19, 2000 (D.C. Law 13-172) (48 DCR 938), D.C. Official Code §5-1401 *et seq.* and Mayor's Order 2001-04 dated January 5, 2001, hereby gives notice of her intent to repeal Chapter 24 of Title 22 of the DCMR, adopt the following rules to be included in Chapter 51 (Medical Examiner) of Title 28 (Corrections, Courts & Criminal Justice)(May 1987) of the District of Columbia Municipal Regulations ("DCMR") in not less than 30 days from the date of publication of this notice in the D.C. Register and upon completion of the forty-five (45) day Council period of review if the Council does not act earlier to adopt a resolution approving the proposed amendments. The purpose of the amendments is to reflect the establishment of OCME as a subordinate agency under the Deputy Mayor for Public Safety & Justice; to clarify rules for handling evidence and property in the possession of the CME; to add new rules based upon statutes codified in D.C. Official Code §§5-1402, 5-1405, 5-1408, and 5-1412 (2001); and to increase fees for records, other information, reports, and services.

(a) Chapter 24 (Medical Examiner) of Title 22 (Public Health and Medicine)(August 1986) of the D.C. Municipal Regulations (DCMR) is repealed in its entirety.

(b) Title 28 (Corrections, Courts, & Criminal Justice)(May 1987) is amended by adding Chapter 50 (Medical Examiner) as follows:

5000 GENERAL PROVISIONS

- 5000.1 There is established as a subordinate agency in the executive branch of the government of the District of Columbia, the Office of the Chief Medical Examiner ("OCME").
- 5000.2 The Mayor shall nominate, with the advice and consent of the Council, a person to serve as the Chief Medical Examiner ("CME) within the OCME pursuant to §1-523.01(a).
- 5000.3 The CME shall be responsible for the management and operation of the OCME. The CME shall appoint a Deputy CME and any other medical examiners the CME finds necessary to carry out the duties of the OCME.

- 5001 DUTIES OF THE CHIEF MEDICAL EXAMINER'S OFFICE
- 5001.1 The CME and such other medical examiners as may be appointed, may administer oaths and affirmations and take affidavits in connection with the performance of their duties.
- 5001.2 The CME, other medical examiners, and such other medical examiners as may be appointed, medicolegal investigators and toxicologists as he or she may appoint, may be authorized by the CME to teach medical and law school classes, to conduct special classes for law enforcement personnel and to engage in other activities related to their work.
- 5001.3 The CME, other medical examiners, and medicolegal investigators (physician assistants or advanced practice registered nurses) licensed under subchapter V of Chapter 12 of Title 3, are authorized to make determinations of death.
- 5001.4 The OCME shall investigate the types of human deaths enumerated in D.C. Official Code §5-1405(b) (2001), which include the following:
- (a) Violent deaths whether apparently homicidal, suicidal or accidental including deaths due to thermal, chemical, electrical or radiation injury and deaths due to criminal abortion, whether apparently self-induced or not;
  - (b) Sudden, unexpected or unexplained deaths not caused by readily recognizable disease, including sudden infant deaths or apparent sudden infant death syndrome (SIDS);
  - (c) Deaths under suspicious circumstances;
  - (d) Deaths of persons whose bodies are to be cremated, dissected, buried at sea or otherwise disposed of so as to be thereafter unavailable for examination;
  - (e) Deaths related to disease resulting from employment or on-the-job injury or illness;
  - (f) Deaths related to disease which might constitute a threat to public health;
  - (g) Deaths of persons who are wards of the District of Columbia government;

- (h) Deaths related to medical or surgical intervention, including operative, peri-operative, anesthesia, medication reactions or deaths associated with diagnostic or therapeutic procedures;
- (i) Deaths of persons while in legal custody of the District;
- (j) Fetal deaths related to maternal trauma including substance abuse, and extra-mural deliveries;
- (k) Deaths for which the Metropolitan Police Department, or other law enforcement agency, or the United States Attorney's Office requests, or a court orders investigation; and
- (l) Dead bodies brought within the District of Columbia without proper medical certification.

#### 5002 DEATHS -- NOTIFICATION; PENALTIES FOR NONCOMPLIANCE

- 5002.1 For all deaths described in subsection 5001.4, the CME shall take charge of the body upon the mandatory and direct notification of the death required by subsection 5002.2. The CME, or duly authorized representatives of the CME, shall have authority to respond to the scene of the death. The body of the decedent shall not be disturbed unless the CME, or the CME's designee, grants permission to do so.
- 5002.2 All law enforcement officers, emergency medical service (EMS) residential facilities, prisons and jails, funeral directors, Embalmers and other persons shall promptly notify the OCME of the occurrence personnel, physicians, nurses, health care institutions, nursing homes, community of all deaths coming to their attention which are subject to investigation under subsection 5001.4 and shall assist in making the bodies and related evidence available to a medical examiner for investigation and autopsy.
- 5002.3 Any person subject to the reporting requirements in subsection 5002.2 of this section who willfully fails to comply with this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than \$100 nor more than \$1,000.

## 5003 POSSESSION OF EVIDENCE AND PROPERTY

5003.1 At the scene of any death subject to investigation under subsection 5001.4, the medical examiner, a medicolegal investigator, or a law enforcement officer shall take possession of any objects or articles which, in his or her opinion, may be useful in establishing the cause and manner of death or the identity of the decedent and shall hold them as evidence.

5003.2 In the absence of the next of kin, a police officer, a medical examiner or a Medicolegal investigator may take possession of all property of value found on or in the custody of the decedent. If possession is taken of the property, the police officer, medical examiner or medicolegal investigator shall make an exact inventory of it and deliver the property to the Property Clerk of the Metropolitan Police Department.

## 5004 DELIVERY OF BODY; EXPENSES

5004.1 Following investigation or autopsy, the CME shall release the body of the decedent to the person having the right to the body for the purpose of burial or other disposition pursuant to law.

5004.2 Bodies which are unidentified or unclaimed after a period of thirty (30) days following reception at the Office of the Chief Medical Examiner shall be released to the anatomical Board pursuant to law or shall be cremated, or otherwise disposed of according to law.

5004.3 Only the CME shall dispose of unclaimed bodies in the District without a next of kin or other means of disposition

5004.4 Clearances by the CME shall be required for all deaths occurring in the District of Columbia for which cremations are requested regardless of where the cremation will occur.

## 5005 ACCESS TO DOCUMENTS AND RECORD RETENTION

5005.1 The CME shall be responsible for maintaining full and complete records and files, properly indexed, which provide the following information:

(a) The name, if known, of every person whose death is investigated;

(b) The place where the body was found;

- (c) The date the body was found;
  - (d) The cause and manner of death; and
  - (e) All other relevant information and reports of the medical examiner concerning the death.
- 5005.2 The CME shall promptly deliver copies of records relating to deaths as to which further investigation may be advisable, and the records and files maintained under the provisions of subsection 5008.1 of this section shall be open to inspection by the following:
- (a) The Mayor;
  - (b) The Mayor's authorized representative;
  - (c) The United States Attorney;
  - (d) The United States Attorney's Assistants;
  - (e) The Metropolitan Police Department; or
  - (f) Any other law enforcement agency or official.
- 5005.3 Any other person with a legitimate interest in the records and files maintained under the provisions of subsection 5008.1 may obtain copies of such records and files upon such conditions and payment of such fees as may be prescribed by these rules and applicable privacy laws. If such person fails to meet the prescribed conditions, such person may obtain copies of such records by doing one of the following:
- (a) Providing written authorization of the next of kin for release of the records;
  - (b) Serving a subpoena on the custodian of records, Office of the Chief Medical Examiner; or
  - (c) Pursuant to a court order if the court is satisfied that such person has a legitimate interest.
- 5005.4 Information obtained by the OCME from the Homicide Section of the Metropolitan Police Department pursuant to 5008.1 of these regulations shall not be available to those individuals covered under subsection 5008.3.

- 5005.6 Records and files maintained pursuant to Section 2408.1 shall be preserved by the Chief Medical Examiner for a period of 30 years except that records and files related to an open investigation of a homicide shall be retained for 65 years from the date the CME initiates its investigation of the homicide.
- 5005.7 In accordance with the accreditation requirements of the National Association of Medical Examiners, Toxicology specimens shall be preserved for a minimum of 12 months and Histology specimens shall be preserved for a minimum of three months.
- 5006 FEES FOR COPIES OF RECORDS, REPORTS, AND SERVICES
- 5006.1 The following fee schedule shall apply to copies of records and reports and for other services provided to private parties by the Office of the Chief Medical Examiner:
- (a) Autopsy Reports
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|---------------------------|----------|
| (1) Family members        | \$ 15.00 |
| (2) Insurance Companies   | 50.00    |
| (3) Other Private Parties | 50.00    |
- (b) External Examination Report (Certified Copy) 25.00
- (c) Proof of Death 25.00
- (d) Photographs (\*produced on site)
- |                   |            |
|-------------------|------------|
| (1) Laser Prints  | 10.00 each |
| (2) Glossy Prints | 10.00 each |
| (3) 35mm Slides   | 15.50 each |
- (e) Histology
- |                           |            |
|---------------------------|------------|
| (1) Unstained             | 15.00 each |
| (2) Hematoxylin and Eosin | 15.00 each |
- (f) Cremation Approval 75.00

(g) Still Births	75.00
(h) Investigation Reports	6.50 per page
(i) Body Storage	150.00
(j) Expert Testimony and Depositions	300.00 per hour

5006.2 If in the opinion of the Chief Medical Examiner or the United States Attorney, further investigation is required as to the cause and manner of death, the Chief Medical Examiner may appoint a qualified private pathologist to perform an autopsy and to retain tissues and biological specimens as deemed necessary.

5006.3 A pathologist, other than a medical examiner, who performs an autopsy at request of the CME shall be compensated in accordance with the fees set forth in subsection 5009.2 of these rules.

5006.4 The payments required by these rules shall be made by check or money order made payable to the D.C. Treasurer and shall reflect the medical examiner case number of the decedent for whom records and information are being requested.

#### 5007 DEFINITIONS

5007.1 For the purposes of this chapter, the following terms shall have the meanings ascribed :

- (a) "CME" - the Chief Medical Examiner.
- (b) "Death investigation" - an investigation conducted by the Office of the Chief Medical Examiner into the cause and manner of death of an individual who died in the District of Columbia.
- (c) "District"- the District of Columbia.
- (d) "Legal custody"- imprisonment, jail, or detention.
- (e) "Legitimate interest," - a direct interest in obtaining medical, scientific information, or other information maintained by the Office of the Chief Medical Examiner.
- (f) "Medical Examiner Case" - a case for which OCME has accepted jurisdiction to investigate pursuant to D.C. Official Code

§ 5-1405 (2001).

- (g) "Medicolegal Investigator" or "MLI" - a physician assistant or advanced practice registered nurse licensed under the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §3-1201 et seq. (2001) and employed by OCME, who conducts death investigations including the use of scene investigations, body examinations and medical history documentation to support forensic investigations and death certifications by OCME.
- (h) "OCME" - the office of the Chief Medical Examiner.
- (i) "Open investigation" - the same meaning as provided in section 101(10) of the Millicent Allewelt Amendment Act of 2004, passed on 2<sup>nd</sup> reading on March 2, 2004 (Enrolled version of Bill 15-34.
- (j) "Public disposition"-the burial or cremation of an unclaimed human body that is paid for by the District of Columbia.
- (k) "Ready for Release"- following investigation or autopsy, the CME shall relinquish the decedent's body to the person having the right to the body for the purpose of burial or other disposition pursuant to law.
- (l) "Ward" - any person in the official custody of the District government, on a temporary or permanent basis, because of neglect, abuse, mental illness or mental retardation.
- (m) "Forensic Investigator" - an individual who gathers information related to the application of scientific knowledge to legal problems.

All persons desiring to comment on the subject matter of this proposed Rulemaking should file comments in writing not later than 30 days after the date of publication of this notice in the D.C. Register. Comments should be filed with the General Counsel, District of Columbia Office of the Chief Medical Examiner, 1910 Massachusetts Ave., SE, Bldg. 27, Washington, D.C. 20003. Copies of the proposed rules and increases in fees may be obtained from the Office of the Chief Medical Examiner at the above address.

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

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**NOTICE OF PROPOSED RULEMAKING**

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The Director of the Department of Housing and Community Development, pursuant to the authority set forth in § 5 of the Housing Production Trust Fund Act of 1988, D.C. Law 7-202, D.C. Official Code § 42-2801 *et seq.*, and Mayor's Order No. 89-130 (June 9, 1989), hereby gives notice of the intent to amend, in not less than thirty (30) days from the date of publication of this notice in the D.C. Register, Chapter 41 (Housing Production Trust Fund Program) of Title 10 DCMR (Planning and Development) governing the administration and operation of the Housing Production Trust Fund.

The purpose of this rulemaking is to implement revisions to the Housing Production Trust Fund Act of 1988 as amended by the "Fiscal Year 2005 Budget Support Act of 2004" (D.C. Law 15-205, effective December 7, 2004). Adoption of this rule will implement Subtitle B. of Title II of the "Fiscal Year 2005 Budget Support Act of 2004".

Housing Production Trust Fund

Section 4100 of Chapter 41 (Housing Production Trust Fund Program) of Title 10 DCMR is amended as follows:

Subsection 4101.7 is amended by adding the following sentence to the end of the paragraph:

"The duration of the period of affordability for which the housing shall be affordable on a continuing basis is detailed in §4107.2(c)."

Subsection 4102.1 is amended by striking the phrase "expended from" and inserting the phrase "deposited into" in its place.

Subsection 4107.1 is amended by inserting the phrase "as further defined in § 4107.2 (c)", after the phrase "continuing basis".

Subsection 4107.2(c) is amended to read as follows:

"(c) Reserved Units shall be continuously affordable to low, very low and extremely low-income households as required by the Act and further specified in § 4112.5, subject to the following requirements:

- (1) Reserved Units shall be continuously affordable for a period of at least 15 years from the date of loan settlement for for-sale units;
- (2) Reserved Units shall be continuously affordable for a period of at least 40 years from the date of the issuance of a Certificate of Occupancy for rental units; and

- (3) No period of affordability will be attached to units where assistance is provided for the rehabilitation of owner-occupied single-family homes or where assistance is provided under the Homestead Housing Preservation Act of 1986, effective August 9, 1986 (D.C. Law 6-135; D.C. Official Code § 42-2107) or another statutory program; and”

Subsection 4112.8(a) is amended by striking the “semi-colon” after the phrase “extremely low-income households” and inserting in its place the phrase “for the periods specified in § 4107.2 (c);”

Subsection 4112.8(b) is amended by striking the “period” after the phrase “continuing basis,” and inserting the phrase “for the periods specified in § 4107.2(c).”

Subsection 4112.9 is amended to read as follows:

“With respect to Reserved Units, if any, which may be sold to low, very low and extremely low income households for homeownership, including condominium and cooperative ownership, each applicant shall provide a written strategy subject to the express, prior written approval of DHCD, to ensure that the initial sale prices and all subsequent resale prices shall be continually affordable to low, very low and extremely low income households for the periods specified in § 4107.2(c).”

Subsection 4199.1 is amended by inserting the following definition:

**“Continuing Basis** – Without interruption for the periods of time defined in § 4107.2(c)”

## DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

**NOTICE OF PROPOSED RULEMAKING**

The Board of Directors of the District of Columbia Water and Sewer Authority ("the Board"), pursuant to the authority set forth in the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Code § 34-2201.01 et seq.,) hereby gives notice of its intent to amend the Water and Sanitation Regulations (21 DCMR) Chapter 4, Section 407. The proposed rules will revise the referenced section to establish new rules for the adjustment of water bills when leaks occur between the meter and the structures that are served by the meter, and underground leaks.

If adopted, these rules will replace existing rules. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Comments on these proposed rules should be submitted, in writing, no later than thirty (30) days after the date of publication of this notice in the D.C. Register, to Linda R. Manley, Secretary to the Board of Directors, 5000 Overlook Ave., S.W., Washington, D.C., 20032. Copies of these rules may be obtained from the Authority at the same address.

Title 21 DCMR Chapter 4 "Contested Water and Sewer Bills" Section 407 "Adjustment for Leaks Which Occur Between the Meter and the Structures that are Served by the Meter and for Underground Leaks" is amended to read as follows:

**407 ADJUSTMENT FOR LEAKS WHICH OCCUR BETWEEN THE METER AND THE STRUCTURES THAT ARE SERVED BY THE METER AND FOR UNDERGROUND LEAKS**

- 407.1 When a meter leak is discovered, the Authority shall make the repairs. A licensed plumber may make the necessary repairs at the expense of the Authority if the amount and nature of the repairs is approved in advance by the General Manager but only if the General Manager has not determined that the leak constitutes an emergency or unsafe condition.
- 407.2 The General Manager shall investigate the cause and location when notified of the possibility of leaks. If the investigation discloses a leak, other than a meter leak, of indeterminate location in the underground service, or at some other location where the leak is not apparent from visual or other inspection, the General Manager shall

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determine whether the leak is on public space, on private property, or on property that is under the control of the occupant.

407.3 If, pursuant to § 407.2 the leak is determined to have been caused by the Authority, or is determined to be in public space, the Authority shall repair the leak and the General Manager shall adjust the bill to equal the average consumption of water at the same premises for up to three (3) previous comparable periods for which records are available. If the leak is determined to have been caused by the owner or occupant, no adjustment shall be made.

407.4 If, pursuant to § 407.2 the leak is determined to be on private property or on property that is under the control of the owner or occupant, the owner or occupant shall repair the leak. The General Manager may, at his discretion, upon request of the owner, adjust the bill(s) for the periods during which the leak occurred by an amount not to exceed 50% of the excess water usage over the average consumption of water at the same premises for up to three (3) previous comparable periods for which records are available. The General Manager may take the following into consideration in determining whether there should be a reduction in the bill(s):

- (a) There has been no negligence on the part of the owner or occupant in notifying the Department of unusual conditions indicative of a waste of water;
- (b) The owner has taken steps to have the leak repaired promptly upon discovery of a leak on private property;
- (c) Repairs have been made by a District registered plumber and approved by the Chief, Plumbing Inspection Branch, Department of Consumer and Regulatory Affairs, or his or her designee in accordance with D.C. Code §8-205;
- (d) Form ES-138 has been obtained from the Authority, completed in full, signed by the owner or occupant, and certified by the plumber who made the repairs; and
- (e) The request for adjustment has been made promptly.

The General Manager may, at his discretion, adjust up to 100% of the excess sewer charges resulting from an underground leak if it is determined that the excess water usage did not enter the wastewater system.

407.5 No Adjustment shall be made if the leak is determined to have been caused by the owner or occupant.