

The
CO-OPERATIVE
HOUSING
FEDERATION
of Canada



**Community Tool Box:
Creating Consensus through Good By-laws,
Policies, and Procedures**

COCHF Fall education event
October 24, 2015

Agenda

- Introductions
- Objectives of the workshop
- Why by-laws?
- By-laws vs. polices vs. procedures
- Why do a by-law check-up?
- How to adopt or amend a by-law
- Distributing by-laws to your members
- Preview of the New Organizational By-law (2015)
- Review of the Occupancy By-law (2014)
- Other model by-laws
- When by-laws do not work?
- Wrap-up



Objectives

During this session we will:

- Discuss what by-laws, policies and procedures are and why we have them
- Learn how to adopt or amend a by-law
- Review a list of CHF Canada's model by-laws focusing on the Organizational and Occupancy By-laws
- Discuss ways to distribute by-laws to members
- Discuss when to update your by-laws



Why By-laws?

- To fulfill legal requirements
- To reinforce good business practices
- To assist in the development of a democratic community



By-laws should:

- Be functional and straightforward
- Understood and respected by members
- Reflect consensus



What is a procedure?

- The steps followed to complete a task
- Procedures are set and amended by the Board or a Committee
- Procedures do not need to be approved by the general membership



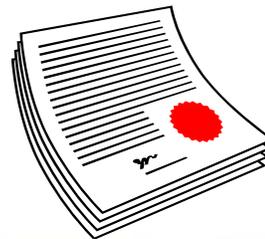
What is a policy?

- Rules of the co-op that generally deal with just one aspect of the co-op's operations
- Some policies are set by the members
- Some policies are set by the Board



What is a by-law?

- Part of the co-op's governing documents
- Basic standing rules for the co-op and its members
- Can be very broad setting out guiding principles for the community or
- Can deal with just one aspect of the co-op's operations
- Member approval required
- Breach of a by-law can lead to eviction



What by-laws do you need?

- Co-op Corporations Act states that the co-op can pass by-laws to deal with the business of the co-op
- The co-op decides what by-laws it needs to operate effectively
- CHF Canada produces model by-laws that member co-ops are welcome to adopt



When do you change a by-law?

- Laws that affect by-laws change
- Members of the co-op want different rules
- A decision in court affects what is in a co-op's by-laws
- The program administrator (federal or municipal) regulates you to act
- Member complaints



Why do a by-law check-up?

- To ensure that you have the by-laws (and policies) that you need
- To ensure that your by-laws do not contradict legislation that applies to your co-op or Articles of Incorporation
- To make sure they reflect the current needs of the membership
- An opportunity to educate members on the by-laws
- Solidifies common understanding of the rules



Who performs the by-law check-up?

It could be assigned to:

- The Board of Directors
- An Ad Hoc Committee
- Management



Adopting a By-law

Steps to adopting a by-law:

- The Board of Directors passes the by-law
- The Board of Directors calls a members' meeting to confirm the by-law
- The minutes of the members' meeting should note the by-law was passed by at least a two-thirds majority that voted
- Copy of the by-law should be attached to the minutes of the members' meeting as corporate record



Amending a By-law

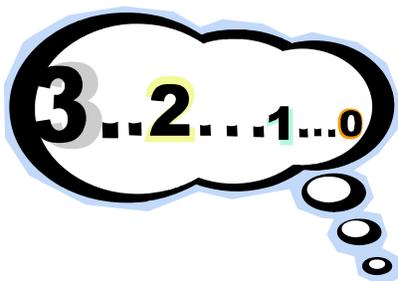
When a co-op wants to amend a by-law:

- It passes a new by-law called an amending by-law
- An amending by-law can replace part of a by-law or an entire by-law



Numbering by-laws

- Numbered consecutively
- First ever by-law would be By-law No. 1 and then all later by-laws (including amending by-laws) would be numbered one higher than the last



Group Exercise

Tips for Presenting a By-law

- What do you do at your co-op to engage the members when presenting a new by-law or amending an existing by-law?



Sample Resolution

- **Board Resolution:**

MOVED by _____ SECONDED by _____ THAT we pass By-law No. 14, the new Occupancy By-law and repeal By-law No. 3, the old Occupancy By-law.
CARRIED



Sample Resolution (2)

- **Members' meeting resolution:**

MOVED by _____ SECONDED by _____ THAT we confirm By-law No. 14, the new Occupancy By-law as adopted by the Board of Directors of the co-op and repeal By-law No. 3, the old Occupancy By-law
CARRIED by a two-thirds majority



Distributing By-Laws

- Paper Handbook
- PDF electronic file for consenting members
 - ✓ memory stick
 - ✓ e-mail
 - ✓ website
 - view or download
 - member vs. public access



Model By-laws (and policies)

- Organizational
- Occupancy (includes Arrears and Housing Charge Assistance)
- Housing Services Act (HSA)
- Member Approval & Unit Allocation*
- Spending*
- ~~Investment~~* +
- ~~Conflict of Interest~~**+
- Human Rights
- Workplace Violence & Harassment
- Accessible Customer Service

* Written for HSA Co-ops, but adaptable

+ Included in the New Organizational By-law



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Organizational By-law

(sometimes called General By-law)

- Organizational By-law has rules about the corporate structure of the co-op.
 - Membership
 - Board of Directors
 - Meetings
 - Auditor
- Modernized model bylaw available late 2015



Organizational By-law

Replaces/consolidates the following:

- General By-law
- Borrowing By-law
- Conflict of Interest By-law
- Confidentiality By-law or Privacy By-law
- Financial Good Standing By-law
- Investment By-law
- Policies and Procedures that were adopted under an older Organizational By-law (unless they were listed in the new Model Occupancy By-law or are listed in this By-law)

New Organizational By-law: Highlights

The by-law works with any funding program or for co-ops that don't have a mortgage or funding program, BUT

- For Housing Services Act co-ops, each Service Manager may have different rules for things in the by-law. Those rules are the equivalent of laws so they automatically have priority over co-op by-laws
- Other co-ops have municipal rent supplement agreements that could make them subject to the same requirements. In that case they would be part of the agreement, not the law, so the by-law would have to be amended



New Organizational By-law: Highlights

Electronic Communications

With the modernization of the Organizational By-law, your co-op can now have the ability to have:

- Electronic board meetings (e.g. conference call/ video conferencing)
- Electronic distribution of non-confidential Board material to consenting directors
- Electronic distribution (email/website/blog) of general meeting notices, informational announcements, newsletters, etc. to consenting members

New Organizational By-law: Highlights

Electronic Communications

- This does not include notices relating to evictions. That is covered in the Model Occupancy By-law and e-mail notices are not permitted



New Organizational By-law: Highlights

Board Polls

- The by-law now clarifies what many co-ops do
- If no director objects, a board poll can be used to get an advance opinion from the directors. A board poll is not a legal decision. The results have to be reported to the next board meeting. The board can pass a motion to confirm the decision



New Organizational By-law: Highlights

No Payment of Directors and Officers—On-call

- The by-law limits payment to a director for on-call. If the amount payable to anyone or a relative is more than \$100, that person cannot be a director
- The Model Occupancy By-law has bigger limits for members, but people should not be on the board if they get very much money from the co-op
- Service Managers are active in this area and they may have a different limit



New Organizational By-law: Highlights

Management Company Employee

- Some people who work for management companies live in a different co-op. The by-law now states rules for ensuring that there is no conflict of interest



New Organizational By-law: Highlights

Conflict of Interest

- Parts of the Article are new, but the basic procedure has not changed
- Conflicts or possible conflicts still have to be declared and people with conflicts cannot participate in the decision
- If there is a manageable situation, then a director with a conflict cannot see the documents related to the item either before or after the decision is made
- The board may have to investigate situations where there could be a conflict and individuals involved have to provide any information requested



New Organizational By-law: Highlights

Financial—Major Commitments

- The by-law clarifies a number of grey areas. It is more specific on when the board must get member approval and when the board can act without consulting the members
- Sometimes boards ask for member approval when it is not necessary under the by-laws. If so, the board must act in accordance with the member decision
- Sometimes co-ops deal with things that are not normal day-to-day decisions. The board, the members and the staff may not have much experience or expertise in the area. This section states requirements for the type of information the board or members should have when making this kind of decision



New Organizational By-law: Tidbits

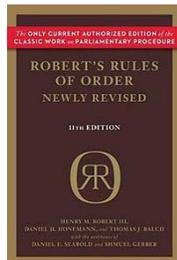
- The board is responsible for obtaining adequate insurance for the co-op, as a result sections on Bonding and Directors' and Officers' Liability Insurance have been removed from the by-law
- A co-signer agreement is in Schedule D for applicants with credit problems to coincide with Human Rights legislation
- Directors who resigned are not eligible to be on the board until the second election meeting after they resigned
- No Taping of Meetings without board authorization
- New rules to limit the number of people with access to electronic records (entry and security systems) to make sure these tools are used only for proper purposes



New Organizational By-law: Tidbits

Clarifies majority required in Rules of order:

- Motions are decided by simple majority unless the Act or the co-op's by-laws say something else.
- A simple majority is more than half of the votes cast. A two-thirds majority is at least two-thirds of the votes cast. Abstentions and spoiled ballots are not considered votes cast. Examples:



- Simple majority:
 - 31 members present and 25 vote
 - a simple majority is 13 (more than $25/2 = 12\ 1/2$)
 - **it is not 50% plus one** (more than $12\ 1/2 + 1 = 13\ 1/2$), which would be 14.
- Two-thirds majority:
 - 31 members present and 26 vote
 - a two-thirds majority is 18 (at least $2/3 \times 26 = 17\ 1/3$)
 - **it is not 17**, because it has to be "at least" $17\ 1/3$

Occupancy By-law (2014)

- This by-law states the basic rules for the co-op to provide housing for its members and the basic rights and obligations of the co-op and the members
 - Arrears
 - Budgets
 - Evictions
- Occupancy Agreement is a schedule to the by-law and is signed by all members (like a lease)



Occupancy By-law (2014)

Why a new by-law?

- Eviction law reform resulted in amendments to the Co-operative Corporations Act and the Residential Tenancies Act (RTA) that changed how co-ops handle evictions
- Historical experience/lessons learnt
- Other legal changes
- Changes in co-ops as they move towards the end of their mortgages



Occupancy By-law (2014) Highlights

- The model by-law can be used by all Ontario non-profit housing co-ops, no matter what program they were funded under and also those co-ops where the funding program is over.
- To save the co-op from having to amend the Occupancy By-law to meet Municipal Service Manager changes, the Model states that the board is authorized to change the Attachments to the Occupancy By-law to meet the requirements of government or other subsidy providers.



Occupancy By-law (2014) Highlights

Eviction

- The by-law sets the co-op's internal rules to fit with eviction law reform. But many of the eviction law reform changes happen after the internal process is over
- Incorporates arrears by-law and directors in arrears
- For information on this you can check the *Ontario's eviction system* section of the Resource Centre on CHF Canada's website

Occupancy By-law (2014) Highlights

Appeals to Membership

- The changes in the Co-operative Corporations Act leaves it up to each co-op to decide when a membership appeal is available. This has to be stated in the by-laws
- Each co-ops can decide to:
 - Allow appeals for everything
 - Allow appeal for everything except arrears
 - Allow appeal for everything except arrears, violence, illegal acts, impairing safety; that is what is in the new Model
 - Not to allow appeals to the membership on any grounds



Occupancy By-law (2014) Highlights

Legal

- If there is a lawsuit or human rights complaint against the co-op, it is at the discretion of the Board, upon legal advice, whether or not to disclose details of the case
- External Complaints: Sometimes people complain to others about the co-op without telling the truth or all the truth. The by-law authorizes the co-op to respond
- The *Co-operative Corporations Act* and the *Residential Tenancies Act* have changed the system of serving documents



Occupancy By-law (2014) Highlights: Tidbits

- Allows for more current methods of paying housing charges
- Addresses “related uses” of units to reflect more home businesses
- Sub-occupancy modified to address possible impact of government rules
- Household size provisions (minimums only) consistent with Human Rights rulings
- Gives the co-op the ability to decide whether members’ household insurance is to be compulsory
- *Able to Live Independently* was removed to coincide with human rights accommodation
- Three months limit for a casual guest without board approval. Board approval is required for longer than three months and the guest is then a long-term guest.
- The notice requirement for ending membership is now 60 days under the Co-operative Corporations Act (section 178.1).

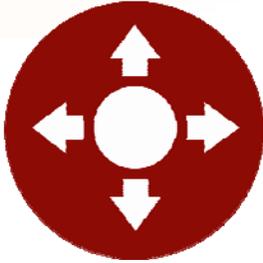


HSA By-law

Specific rules for co-ops operating under the Housing Services Act

- Guest rules as applied to members receiving RGI assistance
- Selecting members for special needs or RGI units
- Internal reviews of decisions affecting members receiving RGI assistance or living in a special needs unit

Member Approval and Unit Allocation By-law



- Rules and processes for approving new members
- Membership criteria
- Applying to the co-op
- Waiting lists

Spending By-law

- Sets out the rules for how the co-op's money is spent
- Outlines who must give permission for each type of spending
- Operating, Capital and Emergency expenses
- Budget control
- Fair business practices



Human Rights By-law

- Reflects Human Rights Commission policy from 2009
- States the commitment of the co-op to the human rights of the members of the co-op community and the co-op's rules for fulfilling that commitment
- Rights, principles and obligations
- Duty to accommodate
- Dealing with problems



Human Rights

Policy on Workplace Violence & Harassment

- Reflects amendments to the Occupational Health and Safety Act, effective June 2010
- Addresses prevention of and response to violence and harassment in the workplace
- Sets out duties of employer and employees in assessing risk, providing safe environment, reporting and investigating complaints.



Accessible Customer Service Policy

- Required under the Accessibility for Ontarians with Disabilities Act (AODA) 2005, effective January 2012
- Describes how the co-op provides services to people with disabilities. Covers:
 - Assistive devices
 - Service animals
 - Support persons
 - Communication and information
 - Notice of service disruptions
 - Feedback
 - Training of staff and volunteers



When by-laws do not work



Some examples:

- Participation by-laws when punitive, demoralising or out of touch with the needs of the members
- Pet by-laws limiting pets by size and weight
- By-laws with illegal requirements (e.g. rent/income ratios for applicants)
- The co-op may not know the problem until someone complains

Review of Objectives



Can you explain

- The difference between a by-law, policy, and procedure?
- How to adopt or amend a by-law?
- How can by-laws be distributed to the members?
- When to review your by-laws?
- Which model by-laws are available for co-ops to use?

Wrap-Up

- Any final questions?
- Evaluations

