

By-law No 11

Membership Approval and Unit Allocation By-law

Passed by the Board of
Directors on _____

Confirmed by the Members
on _____

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Article 1: About This By-Law

This By-Law deals with membership approvals, unit allocations and waiting lists. The following by-laws, policies, or parts of by-laws are repealed when the By-Law becomes effective:

By-Law #10, Member Selection and Unit Allocation By-Law

Some related provisions appear in the Co-op's Occupancy By-law and the Co-op's Organizational By-law. In addition certain laws affect admission to the co-op. The following will govern in order of priority:

- first, the *Co-operative Corporations Act and the Ontario Human Rights Code* and other government requirements
- second, the Co-op's Occupancy By-law
- third, the Co-op's Organizational By-law, and
- fourth, this By-Law
- fifth, the other by-laws of the co-op, unless the by-laws state differently.

1.1 Special Meanings

Certain words have special meanings when used in this By-law.

(a) **Applicable Occupancy Standards**

Applicable Occupancy Standards means the occupancy standards, if any, set out in the Co-op's Occupancy By-law.

(b) **Business days**

Business days refers to Monday through to Friday and does not include Saturday or Sunday or any public holidays.

(c) **Government Requirements**

"Government requirements" means the laws, regulations or agreements with government bodies that apply to the co-op.

(d) **Manager**

In this By-law "manager" refers to the senior staff person. That person could have a different job title. Also, in some cases the board of directors or manager may authorize other staff members to perform some of the manager's duties mentioned in this By-law.

(e) **Overhoused**

“Overhoused” is the term used to describe a household where there are fewer occupants than permitted under the minimum applicable occupancy standards as stated in the Co-op’s Occupancy By-Law

(f) **Underhoused**

“Underhoused” is the term used to describe a household where there are more occupants than permitted under occupancy bylaws.

1.2 Aims of the Process

The aims of the application and membership approval process are to make sure that:

- Applications are evaluated fairly against the co-op’s membership criteria
- Applicants have enough information to decide whether they are interested in living in the co-op
- The co-op has enough information to evaluate the application
- The process minimizes loss of revenue caused by vacancies

1.3 Non Discrimination

In assessing applications for membership the co-op will comply with the *Ontario Human Rights Code* and will not discriminate against anyone in a way that is prohibited by the *Ontario Human Rights Code*. The co-op will assess applications on the basis of the Co-op Principle of Open and Voluntary Membership.

1.4 Membership Criteria

Applicants for membership in the co-op must meet the following standards:

- At least one member of the household is aged 16 years or older
- The household's credit and rental history together with other financial information gives the co-op reasonable grounds to believe the household will pay the housing charge
- The household meets the applicable Occupancy standards
- Applicants have:
 - A positive attitude towards living in a community with people from different social, economic and cultural backgrounds and have a commitment to treating other members with respect
 - An interest in contributing to the operation and life of the co-op
 - Are prepared to accept their responsibilities as co-op members

The co-op will apply these standards equally to all applicants and in accordance with the *Human Rights Code*.

1.5 No Appeal to the Members

Decisions of the board under this By-law cannot be appealed to the members.

Article 2: Applying to the Co-op

2.1 Application Requirements

All applicants must apply to the co-op on the application form that the co-op provides. Schedule A of this By-law provides an application form. Application forms must be complete and signed by all adult household members.

All members of the applicant's household who are 16 years of age or older and intend to live in the co-op must apply for membership or long-term guest status. If they do not, the co-op will not consider the application. All applicants must go through the co-op's membership process.

All applicants for membership must provide proof of income in a form determined by the co-op.

All applicants for membership must pay the application fee and attend an information session.

2.2 Confidentiality

Each applicant must sign a form that gives permission for the co-op to conduct a credit check and a landlord check, for purposes of determining rental history only. The co-op will use the information obtained in connection with the application and with the applicant's membership, if accepted. *(This consent is in the attached application form)*

2.3 Membership Process

The board may adopt procedures for dealing with member applications. Until the board decides otherwise, the procedures will be as stated in Schedule B. The procedures shall conform to this By-law.

Article 3: Application Refusals and Appeals

3.1 Purpose of this Article

The co-op will consider all applications seriously and will not refuse applications without careful consideration. This article sets out the rules and the process for refusal of applicants.

3.2 Refusals

The reasons to refuse an applicant must conform to the criteria stated in Article 1.4 of this By-law.

3.3 Notify the Applicant

When the board decides to refuse an applicant, the co-op will notify the applicant in writing within **10 business days** of the date of the board meeting. The letter will state the reasons for the refusal and inform the applicant that they are entitled to request an appeal of the board's decision.

3.4 Appeals

Applicants who have been refused can request an appeal of the board's decision. The request must be in writing and must be received at the co-op office within **20 business days** after the letter refusing the applicant was given to the applicant.

The board can decide to deny the request or offer the applicant a second interview with two different interviewers. The interviewers will forward their recommendations to the board for approval. The board can make any decision that could have been made originally. The decision of the board will be final. The co-op will notify the applicant in writing of the board's decision within **10 business days** of the board meeting at which the decision was made.

3.5 Record of Refusals

The co-op will maintain a written record of refusals for a period of at least seven years after the day the letter was given to the household. The written record will include:

- The board's decision to refuse
- Copies of all correspondence that were given to the applicant
- Any materials received from the applicant
- The information used by the co-op to make its' decision

3.6 Re-applying after Refusal

Applicants that have been refused membership can submit a new application in the future. For example, the applicants may feel that their circumstances have changed and they now meet the co-op's membership criteria.

The board may decide not to consider the application if they feel that the circumstances have not changed.

Article 4: *Waiting Lists*

4.1 Two Waiting Lists

There are two waiting lists in the co-op:

- The Internal Waiting List
- The External Waiting List

The Internal Waiting List is made up of people who live in the co-op who

- required to transfer under the co-op's By-laws or any Government Requirements of a rent-geared-to-income program
- Are a household who have been given priority status by the board of directors and have requested a transfer
- Want or need to move to a different unit

The External Waiting List is made up of households who do not live in the co-op but have applied for a unit.

4.2 Priority

Subject to Article 5.6 Adjustment to Maintain CMHC Subsidy Levels, the Internal Waiting List normally has priority over the External Waiting List. When a unit becomes vacant or the co-op learns that a unit is going to become vacant, the co-op will offer the unit first to a qualified member on the internal list who has indicated an interest in a unit that size.

The normal priority for the internal waiting list is set out in Article 5.3 Priority on the Internal Waiting List. Exceptions to the normal priority are set out in Article 5.4 Exceptions to the Normal Priority.

If there is no internal waiting list, or, if no household on the internal waiting list qualifies for the unit, the unit will be offered to a qualified household on the external waiting list. The priority for the external waiting list is set out in Article 6.2 Priority in Allocating Units. The exception to the normal priority on the external waiting list is set out in Article 5.6 Adjustment to Maintain CMHC Subsidy Levels.

Articles 5 and 6 of this By-law describe how the Internal and External Waiting Lists are set up and used by the Co-op.

Article 5: Internal Waiting List

5.1 Member's Right to Apply

Subject to Article 5.2, members may apply to transfer to any size or type of unit for which they qualify (or will qualify at the time of transfer). All households must meet any applicable occupancy standards.

Members may specify that they only wish to transfer to a particular area of the co-op, a particular type of unit or a particular unit or units.

All requests to transfer to another unit in the co-op must be submitted to the co-op office using a form provided by the co-op. The co-op may use the form attached to this By-law as Schedule D Internal Transfer Form.

5.2 Minimum Period of Residence

(a) Except where the internal transfer is required under the co-op's Occupancy By-law, or where the household has been given priority status and has requested a transfer, applicants for internal transfer must have been resident as members in a unit in the co-op for a minimum of one year immediately prior to submitting an application to transfer (this includes adult children of the household 16 years or older, who have applied and been accepted as a member). Following an internal transfer, members must have been resident in that unit for a minimum of two years immediately prior to applying to transfer to another unit.

(b) The board may waive the residency time requirements set out in (a) of this section for any of the following reasons:

- The member's household size has changed and as a result of the change, the household qualifies for a size of unit for which it was not previously eligible; or
- Any other special circumstance such as conflicts with neighbours that are recognized by the board

(c) The circumstances in 5.2 (b) allows a household to be placed on the internal waiting list as stated in 5.3. There is no priority granted; only the waiving of a minimum time of residency requirement.

(d) A person who moved into the co-op to join a member already resident may not apply to transfer independently of that member for a period of three years after becoming a member. However, they may be eligible under (b) of this section provided that there is a documented change of circumstance that is approved by the board.

5.3 Priority on the Internal Waiting List

The normal priority for determining an applicant's place on the internal waiting list will be the later of:

- The date that a completed application was received by the co-op and
- The earliest date on which the member is first permitted to make an application to transfer under Article 5.2 Minimum period of residence.

Subject to Article 5.4 Exceptions to normal priority and Article 5.6 Agreement to maintain CMHC subsidy levels, for members requesting an internal transfer that is not required under the Occupancy By-law, their priority will be lower than households described in Articles 5.4 and 5.5 of this By-law.

The following items will be taken into consideration when a transfer is requested:

- Whether the members are in good financial standing with the co-op;
- The condition of the existing unit;
- Whether the member is participating in accordance with the co-op By-Laws.

5.4 Exceptions to Normal Priority

The co-op may alter members' normal priority on the internal waiting list and give priority to households with a later application as follows:

- Any household which is entitled to be offered a unit under the provisions of the Occupancy By-law which deal with fire or other damage, or sale of the co-op. Priority among such households will be in the order in which they first became entitled to be offered a unit.
- Any household who has requested a transfer which is required under *the Human Rights Code*. The co-op has a duty to accommodate issues under the Code.
- The co-op has determined that there is abuse by another member of the household or immigration sponsor.
- Any household subject to the government requirements of a rent-geared-to-income program (subsidy).

5.5 Transfers Required under the Co-op's Occupancy By-law

For households that have to make a required transfer under the co-op's Occupancy By-law, the rules are set out in the Occupancy By-law. These households have greater priority than households described in 5.3 of this By-law.

5.6 Agreement to Maintain CMHC Subsidy Levels

The Co-op's Agreement with the Canada Mortgage and Housing Corporation (CMHC) requires that the co-op provide subsidies up to ____% of the units. If a unit becomes available and the number of households in the co-op receiving subsidy is below the minimum number required in the co-op's Agreement with CMHC, the board may have to give applicants on the external waiting list subsidy priority over households on the internal waiting list in order to comply with CMHC's requirements.

5.7 Relocation of Part of Household

If one or more, but not all residents who live together in a unit wish to apply to the internal waiting list in order to transfer to a separate unit or if one or more members of an existing household wish to apply to the internal transfer list in order to join another existing household in the co-op, they may do so provided that:

- at least one of the persons remaining in the original unit is a member of the co-op and at least one of the persons moving to the new unit is a member of the co-op;
- current member(s) of a household who wish to join another household must provide proof of residency in the current unit
- at least one member remaining in the old unit and at least one member moving to the new unit have resided in the old unit for the minimum period of residency set out in Article 5.2 Minimum period of residence;
- the household is not in arrears, or, if the household is in arrears, the household complies with Article 5.8 Arrears;
- the size of the household remaining in the old unit and the size of the household moving to the new unit will at the time of the transfer, meet the applicable occupancy standards;
- any new residents in a household that are 16 years of age or older are accepted for membership or given guest status;

- the board is satisfied that the household remaining in the old unit and the household moving to the new unit will meet the obligations to pay the housing charges for the unit and at the time the housing charges are due;

5.8 Arrears

A household on the internal waiting list will not be eligible to be allocated a unit that becomes available if the household is in arrears, with the exception of:

- a rent- geared-to-income household that is required to move due to government requirements
- a household that wishes to transfer and has signed a Performance Agreement and is meeting the terms of the Performance Agreement.

5.9 Serious Damage

Despite anything in the co-op's By-laws, if the board determines that a household is required to move because of fire or other serious damage to their unit, or contamination of their unit or any other reasons that require the unit to be vacant, the board can offer any vacant unit to that household. When the household's original unit is repaired, the household can move back to that unit. The board can decide to give the household the new unit.

5.10 No Trading of Units

No trading of units directly between members will be permitted, unless approved by the Board.

5.11 Role of Staff in Making Offers

- (a) Co-op staff is authorized to make offers to households that are on the internal waiting list.
- (b) Co-op staff will keep the board up to date on information they may have regarding potential move-outs and internal moves. This is to permit offers to be made quickly.

5.12 Priority if Member is Unavailable

If the co-op is unable to contact the member with priority on the internal waiting list within three business days, the unit will be offered to the next eligible member on the internal waiting list. The original member will retain their position on the internal waiting list but the household will be considered to have refused the unit. The co-op will maintain written records of the contacts made with each household including date and time of contact.

5.13 Effect of Refusals

The effect of refusals for households on the internal waiting list is as follows:

- Households that are not required to move that have requested a transfer, may refuse up to two units that have been offered and retain their position on the internal waiting list. If they refuse three units that meet the criteria, they will be removed from the internal waiting list.
- Households that have requested a transfer and been given priority status as defined in Article 5.4, may refuse up to two units that have been offered and retain their priority position on the internal waiting list. If they refuse three units that meet the criteria, they will be removed from the special priority status list. These households can apply to be placed on the internal waiting list with normal priority and the priority for their application will be based on the date their application for normal priority was received.
- For households that are required to move under the co-op's Occupancy By-law because they don't meet the occupancy standards, rules about refusals are in the Occupancy By-law.

5.14 Notification of Acceptance by Applicant

- (a) For all households on the internal waiting list that have been offered a unit for which they are eligible, members must notify the co-op in writing (email is acceptable) within 48 hours whether they wish to accept the unit. If they fail to do so, they will be considered to have refused the unit.
- (b) Once a member on the internal waiting list has accepted a unit, the member must vacate their unit and move into the new unit on the date specified when the unit was offered. Acceptance of the unit may not be withdrawn without the consent of the board. Members of the household cannot appeal the board's decision.

Article 6: External Waiting List

6.1 Maintaining the External Waiting List

- (a) The external waiting list will be comprised of applicants who have attended an information session, and have completed the co-op application form.
- (b) After applicants have attended an information session, completed the application form, and conducted interviews, their names will be placed into a draw to determine the order on the external waiting list.

6.2 Offer of Units to Applicants on the External Waiting List

- (a) Co-op staff will be authorized to make offers to households that are on the external waiting list.
- (b) A unit will be considered available to an applicant on the external waiting list if no member who has requested an internal transfer is eligible or no such member has accepted the unit.
- (c) When a unit becomes available on the external waiting list, it will be offered to the first household on the external waiting list provided that the household:
 - has completed the co-op's membership process (Schedule B);
 - has been accepted for membership;
 - is eligible for that size and type of unit, and
 - the applicant has indicated they want the unit
- (d) If a household on the external waiting list accepts a unit that has been offered to them, they will not be required to take occupancy and commence payment of the housing charges until the **first day of the third month following the offer**. If the unit is vacant earlier, the household must make all reasonable efforts to move in and commence paying the housing charges earlier, if it can be done without financial loss to them.

6.3 Withdrawal of Membership Approval

Where new information about an approved applicant comes to the attention of the co-op prior to the offer of a unit, the co-op may make any appropriate change to its waiting list or may withdraw its approval of the application for membership without liability. If approval of the application is withdrawn, the application will be treated as if originally refused and the applicant will be entitled to request an appeal as described in Article 3.4 of this By-law.

6.4 Priority if Applicant is Unavailable

If the co-op is unable to contact the first household on the external waiting list within two business days, the unit will be offered to the next eligible household. The original household will retain its priority on the waiting list. In order to avoid vacancy losses, the co-op can contact several households (in order of priority) within the time frame. The co-op will maintain written records of the contacts made with each household including date and time of contact.

6.5 Priority if Offer is Refused

- (a) A household on the external waiting list may refuse a unit because the date of occupancy is less than the 60 days from the date the unit is offered without losing priority on the waiting list.
- (b) A household on the external waiting list may refuse two units that have been offered and still retain their priority on the waiting list. Subject to 6.6 (a) of this section, if the household refuses a third unit, the household will lose their priority on the waiting list with the record date for their application being changed to the day the household turned down the third unit.

6.6 Notification of Acceptance by Applicant

- (a) A household offered a unit will be given two business days to decide whether to accept the unit and sign the Occupancy Agreement.
- (b) If the household does not within two business days, inform the co-op office that it accepts the unit and signs the Occupancy Agreement, it will be considered to have refused the unit.

- (c) Once an applicant has accepted a unit under this Article, the acceptance may not be withdrawn without the consent of the board. The board will not be obligated to permit the withdrawal of an acceptance and the decision of the board in this regard is final and will not be subject to an appeal.

6.7 Deposits and Charges

- (a) The co-op's Occupancy By-law sets out the charges including a member deposit that are required from members.
- (b) The applicant must pay the monthly housing charge beginning on the date specified in the Occupancy Agreement or on the date the member gets the keys to the unit, whichever is earlier.

Article 7: Appeal of Waiting List Decisions

7.1 Right to Appeal

All members and applicants can request an appeal of decisions regarding their priority on the waiting lists, acceptance of a unit or any other decision regarding the waiting lists. The appeal will be conducted by the board.

7.2 No Appeals to the Members

Decisions of the board under this By-Law cannot be appealed to the members.

Article 8: No Liability

8.1 No Liability

- (a) Anything in the co-op's By-laws, or any commitment made by anyone that is not authorized by the board will not create any liability for the co-op. The co-op will not be liable to anyone for:
- any error or omission, or mistake concerning the waiting lists
 - the allocation of units
 - the failure to allocate units
- (b) The provisions of the co-op By-laws are for the benefit of the co-op and its members. They do not create any rights in favour of non-members. Anyone who is accepted for membership will have no right to make any claim respecting any breach of this By-law or any other co-op By-laws.
- (c) The co-op will in no case have any liability if a unit is not available for occupancy on a date notified or agreed to with anyone because of failure of the prior occupant to vacate or need for repairs or maintenance work.

8.2 Matters not addressed in this By-law

The board will decide anything relating to membership approval and waiting lists not set out in this By-law or the co-op's other By-laws.

CERTIFIED to be a true copy of By-law No. , passed by the board of directors at a meeting held on the ____ day of _____, 20__ and confirmed by a two-thirds vote at a meeting of members held on the ____ day of _____, 20__.

_____/s
Secretary