

Mariner's Co-operative Homes (Leamington) Inc.

**A BY-LAW ABOUT THE RIGHTS AND OBLIGATIONS
OF THE CO-OP AND THE MEMBERS**

By-law No. 18

OCCUPANCY BY-LAW

MODEL FOR ONTARIO CO-OPS

Use with the Guide to the new Model Occupancy By-law for co-ops.

Passed by the Board of Directors on May 15, 2018.

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Article 1: About this By-Law

1.1 Introduction

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.

1.2 Priority of this By-law

(a) Conflict with other by-laws

This By-law governs over other co-op by-laws if there is a conflict. By-laws passed after this By-law can amend or add to this By-law, but they have to specifically state this.

(b) References to other by-laws

Some parts of this By-law refer to other co-op by-laws. If the co-op does not have the by-law referred to, the board of directors will decide on anything which would have been in the by-law. This does not apply if the co-op has the by-law, but just uses a different name for it.

(c) No unauthorized commitments

No one can commit to anything dealing with occupancy rights on behalf of the co-op unless authorized under this By-law. Any unauthorized commitment is not effective.

1.3 Repeals

(a) By-laws

This By-law repeals, takes the place of or amends all previous by-laws or resolutions that deal with matters covered by this By-law. If there is a conflict, this By-law governs.

- Occupancy By-law No. 17
- Guest By-law No. 7
- Arrears By-law No. 15

1.4 Laws about Occupancy

(a) Main laws

In addition to this By-law certain laws affect occupancy at the co-op. These include the following laws in addition to other government requirements.

- A. The *Co-operative Corporations Act* governs the co-op. Parts of the *Co-operative Corporations Act* have important rules about occupancy that are not in this By-law.
- B. The *Residential Tenancies Act* has rules about co-op evictions that are not in this By-law.
- C. The Ontario *Human Rights Code* has important rules about housing that affect the co-op.
- D. If the co-op received funding under an Ontario government program, it may have to follow rules about occupancy under the *Housing Services Act*. The co-op's service manager may also have rules about occupancy.

(b) Changing by-laws

If any part of this By-law breaks any laws, the board of directors will pass by-law amendments to correct the situation and submit them to the membership for approval. This could happen if there are changes in the laws or new interpretations.

1.5 Occupancy Agreement

(a) Standard form

The Occupancy Agreement, Schedule A, is part of this By-law. All members must sign it when their membership in the co-op begins. The Occupancy Agreement includes Appendixes that have to be signed at the same time or later.

- **Appendix A: Member Charges.** This applies at the time of signing the Occupancy Agreement. It does not have to be updated each year when charges change.
- **Appendix B: Household Members.** This applies at the time of signing the Occupancy Agreement. If there are changes, the member has to notify the co-op as stated in section 9.5 (Reporting Change in Household Size). A new Appendix B should be signed.
- **Appendix C: Housing Charge Subsidy Terms.** This has to be signed at the same time as the member signs the Occupancy Agreement if the member will receive housing charge subsidy. If the member gets housing charge subsidy at a later time, Appendix C has to be signed before the housing charge subsidy starts. Up-to-date Appendixes A and B have to be signed at the same time.
- **Appendix D: Special Needs Unit Terms.** This has to be signed at the same time as the member signs the Occupancy Agreement if the member will occupy

a special needs unit. If the member gets a special needs unit at a later time, Appendix D has to be signed then.

(b) **Who signs**

The Occupancy Agreement must be signed by all co-op members who will occupy the unit.

The Appendixes must be signed by all members and any non-member occupants 16 years old or older.

(c) **Government requirements**

To meet government requirements, the Appendixes to the Occupancy Agreement can be changed by the board of directors without amending this By-law.

(d) **Occupancy Agreement applies**

The co-op and the members must obey this By-law, including the Occupancy Agreement and Appendixes, even if a particular member has not signed an Occupancy Agreement or Appendix or has signed an older version of the Occupancy Agreement or Appendix.

(e) **Special requirements**

Some by-laws and agreements only apply to certain members. Both the co-op and those members must obey them. Examples are performance agreements and by-laws dealing with housing charge subsidy.

1.6 Special Meanings

(a) **Co-op office**

If the co-op does not have an office, the board of directors should designate a place or person that members can use to give things to the co-op or get them from the co-op and make sure all members know about it. If the board does not do this, the person will be the president. When this By-law talks about the "co-op office", members can use that place or go to that person if the co-op doesn't have an office.

(b) **Eviction**

The *Co-operative Corporations Act* and the *Residential Tenancies Act* use words like "terminating membership and occupancy rights" or "terminating occupancy rights." In this By-law these are also referred to using words like "evicting the member" or "eviction."

(c) **Government requirements**

"Government requirements" means the laws, regulations or agreements with government bodies that apply to co-ops. This includes the ones stated in section 1.4 (Laws about Occupancy).

(d) **Housing charge payment day**

The housing charge payment day is the day of the month when payment of housing charges is due for that month or the following month. The board of directors can set a day based on when the office is open or other factors. If the board doesn't do this, the housing charge payment day will be the first day of a month that is not a Saturday, Sunday or public holiday.

(e) **Housing charge subsidy**

"Housing charge subsidy" means geared-to-income subsidy or any other subsidy or reduction in housing charges that is provided by the co-op.

(f) **Housing charges**

In this By-law "housing charges" means all charges that the co-op makes to members or that members owe the co-op.

- "Full monthly housing charges" means the monthly housing charges for a unit before deducting or crediting any housing charge subsidy.
- "Subsidized monthly housing charges" means the regular monthly housing charges after deducting or crediting any housing charge subsidy that a household receives.
- "Regular monthly housing charges" means the full monthly housing charges, after deducting or crediting any housing charge subsidy, plus any parking or other monthly charges.
- "Other housing charges" means non-monthly amounts that a member has to pay under the co-op by-laws. Examples are late payment and NSF charges.

(g) **Legal action**

A "legal action" under this By-law includes an application to the Landlord and Tenant Board or to the courts.

(h) **Manager**

In this By-law the co-op "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.

(i) **Performance agreement**

A "performance agreement" includes an arrears payment agreement.

(j) **Staff**

"Staff" refers to employees of the co-op and to property management companies and other contractors and their employees.

(k) **Business Day**

"Business day" refers to the days the co-op office is open.

(l) **Year**

When this By-law refers to a “year”, it means a consecutive twelve-month period. This is not necessarily a calendar year. The board of directors decides what twelve-month period to use in each case.

1.7 Summary of Time Requirements

Attachment A at the end of this By-law is a summary of the time requirements for some actions by the co-op as required under this By-law and the *Co-operative Corporations Act*. In case of conflict the *Co-operative Corporations Act* and the By-law will govern over Attachment A.

Article 2: Members' Rights

2.1 Use of a Unit and the Co-op's Facilities

The co-op gives members the right to:

- live in their housing unit
- use their parking space if any,
- use the co-op's common facilities, and
- be involved in the governance of the co-op.

Members have to follow co-op by-laws in using these rights.

Article 3: Members' Contributions

3.1 Housing Charges

(a) Monthly housing charges

Each member must pay regular monthly housing charges to the co-op. Regular monthly housing charges are made up of:

- the full monthly housing charges for the member's unit, less any housing charge subsidy
- parking charges, if applicable
- other monthly charges that members must pay under any of the co-op by-laws.

(b) Other housing charges

Each member must pay additional housing charges, if applicable. These include:

- the membership fee of \$ 5.00 per member (once only)
- late payment charges
- bank or financial institution charge for NSF cheques or failed payments
- NSF administration or failed payment charges
- all other amounts that a member has to pay under this By-law or any of the co-op's by-laws.

(c) Not included in housing charges

Housing charges do not include the following costs to a member:

- electricity for a unit
- utilities for a unit (other than electricity)
- cable television charges
- telephone for a unit
- insurance on the member's personal property
- the member's personal liability insurance.

If the co-op has to pay for any of these, the cost will be added to the member's housing charges.

(d) Adjusting items in housing charges

The items that are included in housing charges or not included in housing charges can be changed by a vote of the members at a general meeting. There should normally be a separate motion approving the change even though it is also stated in the budget materials.

3.2 Member Involvement

Members must attend all general members' meetings. Members should take part in the other activities of the co-op.

3.3 Payment of Housing Charges

(a) Time of payment

Housing charges are due each month at the end of the business day on the housing charge payment day. If the first day of the month is a weekend or holiday, the payment should be made by at the end of the day on the next business day.

(b) No cash payments

Housing charges cannot be paid in cash.

(c) Pre-authorized payment

Members can pay housing charges in a pre-authorized way. This is usually more convenient for both members and co-op staff. This includes:

- pre-authorized debit, if available at the co-op
- pre-authorized payment, if available at the co-op
- post-dated cheques.

Arrangements can be made at the co-op office.

(d) Other ways to pay

Members can pay each month by debit card at the co-op office, if debit card payment is available at the co-op.

Members who do not pay in any of the ways stated above have to pay by monthly cheque or money order. These have to be delivered to the co-op office. If no one is in the office, they can be put into the co-op office mail box.

3.4 Other Charges

Members are responsible for and must pay the co-op for any extra costs, charges or expenses caused by:

- the member,
- any member of their household, or
- anyone permitted on co-op property by the co-op member or another member of their household.

This applies even if no co-op by-law has been broken. Examples include debt collection charges and the cost of repairs.

3.5 Member Deposit

(a) **Paying the member deposit**

Members must pay a member deposit to the co-op. This deposit cannot be used as the last month's housing charges. Members must pay this deposit before moving into their unit.

(b) **Amount of the member deposit**

Members must pay a member deposit of \$500.

(c) **Adjusting the member deposit**

The amount of the member deposit can be increased only by a majority vote of the members at a general meeting.

Members must pay the amount of any increase on a date set by the board of directors unless the members' meeting approving the new member deposit decides on a different date.

(d) **Returning the member deposit**

The co-op will return the member deposit when the member and the member's household leave the co-op permanently. Before returning the deposit, the co-op can deduct any amount which the member owes because:

- the member did not give enough notice
- the unit was not left in the condition required under the co-op by-laws
- the member owes money to the co-op, or
- the member did not pay their last month's housing charges.

(e) **Interest on the member deposit**

The co-op will not pay interest on the member deposit.

3.6 Housing Charges Are Per-Unit

Housing charges and member deposits are payable on a per-unit basis. If more than one member occupies a unit, they are each responsible for the total housing charges—not just a share of them. It does not matter if they are members of the same family or what arrangement they have between them. They must make one single monthly payment to the co-op.

If any person moves out of the unit, the remaining members in that unit are still responsible for all the charges which apply to the unit.

3.7 Housing Charge Subsidy

Members who have a housing charge subsidy owe the co-op the full housing charges less the subsidy. If the housing charge subsidy funds are provided by government or other funders and the co-op does not receive the subsidy funds, the members must pay the full housing charges. It does not matter why the funds were not received. It could be because a member was not entitled to the housing charge subsidy, or the funder changed its policies, or for any other reason.

3.8 All Charges are Housing Charges

Housing charges include all amounts that the co-op charges to members or that members owe the co-op. All these amounts can be collected by the co-op in the same way as housing charges.

Article 4: Setting Housing Charges

4.1 The Members Set the Full Monthly Housing Charges

The full monthly housing charges and parking charges can be set only by a vote of the members at a general meeting. Members do this annually or more often as needed. A budget must be presented to the members for approval when they are asked to consider a change in charges. Existing charges continue until the members approve a change. The members may approve charges that are different from those proposed in the budget. There should normally be a separate motion approving the housing and parking charges even though these are also stated in the budget materials.

4.2 Annual Budgets

(a) Operating budget

Each year the board of directors will submit an operating budget for the next fiscal year for approval of the members at a general meeting. The operating budget must contain:

- the total expected cost of operating the co-op
- a breakdown of the total expected cost in detailed categories
- the full monthly housing charges proposed for each unit or kind of unit
- the charges proposed for each service provided to members and charged separately, such as parking spaces.

(b) Capital budget

The board of directors must also prepare a capital budget for approval of the members if it is planning capital expenses. If possible, it should be presented to the members at the same time as the operating budget. A capital budget must contain:

- the proposed capital expenses
- the proposed source of funds
- the effect of the proposed expenses on the co-op's capital reserve
- the effect of the proposed expenses on the co-op's future operating budget
- the estimated timeline for the capital expenses.

(c) Approval by members

Approval of an operating budget or capital budget by the members authorizes the board of directors to spend money as stated in the budget subject to the Spending By-law, if the co-op has one.

4.3 Notice of Proposed Budget

A general meeting can consider a proposed budget and proposed housing charges only if the notice of the general meeting states that a budget will be considered. The notice must be given as required by the *Co-operative Corporations Act* and the by-laws. A copy of the proposed budget must be delivered to each unit at least five days before the budget meeting. This must include the full housing charges for each type of unit if changes are proposed.

4.4 Changes in Housing Charges

(a) Beginning of changed housing charges

Any change in the full monthly housing charges will begin on the first day of the third month after the members decide on the change. The members at a general meeting can decide by a two-thirds vote on a different date for the new charges to begin, including an earlier date.

(b) Notice of change

Notice of a change in the full housing charges must be delivered to each unit within a reasonable time after the meeting. Government requirements may state a time period.

4.5 Mid-year Change in Housing Charges

The board of directors may decide that there should be a change in the budget and/or housing charges during a fiscal year. If so, the board will prepare a budget or statement showing the reason for the change and submit it to a meeting of the members. Section 4.3 of this By-law states how the co-op will give notice of this meeting. Timing and other rules about any change will be as stated in sections 4.1 to 4.4 as applicable.

Article 5: Members' Units

5.1 Maintenance and Repair

(a) **Responsibility of the co-op**

The co-op must keep all units in a good state of repair and fit for habitation. It must make sure that each unit meets all health, safety and housing standards in government requirements. The co-op must keep the co-op property other than the units and all services and facilities of the co-op to the same standard as the units.

(b) **Appliances**

The co-op must provide each unit with a stove and refrigerator in normal working order.

(c) **Responsibility of members**

Members must keep their units reasonably neat and clean. Members must meet the standards of cleanliness and maintenance in government requirements. Members must not do, or fail to do, anything that damages their units or other parts of the co-op property.

(d) **Co-operation with the co-op**

Members must co-operate in all reasonable ways with co-op staff and any tradespeople or contractors who are involved in repair and maintenance. This includes making sure that their unit is ready for access as stated in section 5.2(b) (Notice of entry). It also includes doing anything necessary to prepare their unit for co-op work, such as pest control.

(e) **Reporting problems**

Members must promptly report to the co-op any condition in their unit, the equipment in the unit or their building, if it could cause damage to their unit or co-op property.

(f) **Maintenance and Improvements By-law**

The co-op's Maintenance and Improvements By-law, if there is one, or other co-op by-laws, may have more detail on maintenance and repair responsibilities. The co-op and the members must obey those by-laws.

(g) **Alterations and improvements**

Members cannot make alterations and improvements to their units or co-op property, unless they comply with the terms of the Maintenance and Improvements By-law or any other applicable co-op by-laws. Members must get advance written permission from the board of directors unless those by-laws say something else.

(h) **Changing locks**

Members cannot change their locks without advance written permission from the co-op. They have to give the co-op keys to new locks or cards, fobs or other things needed for access. If they don't, the co-op can change the lock and the member will pay the cost.

(i) **Exterior of unit**

Members cannot install or attach anything to the outside of their unit or the outside of doors and windows without advance written permission from the board of directors. Examples are cameras, satellite dishes and antennas. Members must follow co-op by-laws and board decisions about what can be put in or on exterior parts of a unit, such as balconies, yards, driveways and fences. Permission under this paragraph can be withdrawn by the board.

(j) **Common elements**

Members cannot put or keep anything in the halls, lobbies, corridors, walkways, driveways and any parts of the co-op property other than the interior of their units without advance written permission from the board of directors. Permission under this paragraph can be withdrawn by the board.

(k) **Privacy**

Members cannot install cameras in their units or in vehicles that could record persons in an apartment building corridor or in public or common walkways or other public or common areas or in yards or outdoor areas adjacent to other members' units.

(l) **Neglect of responsibilities**

If members do not fulfill their responsibility under this section, the Maintenance and Improvements By-law or any other applicable co-op by-laws, or if members prevent entry when permitted under section 5.2 (Privacy), the co-op can do what is necessary to correct the situation. Those members have to pay the cost. Examples are higher callback charges or additional costs if pests spread to other units.

(m) **Moving out of the unit**

When members move out of a unit, they have to leave it clean and in good condition. The unit has to be left in the condition required by the Maintenance and Improvements By-law, if there is one, or other applicable co-op by-laws.

5.2 Privacy

(a) **Permission needed**

Members have the right to privacy. The co-op may not enter a unit without permission unless an emergency happens or appears to be happening or proper notice has been given.

(b) **Notice of entry**

After giving a member 48 hours written notice, someone designated by the co-op can enter a unit, at any reasonable time, for:

- maintenance inspections, regular or special
- maintenance, repairs or renovations, or
- any other reason which the board of directors decides.

(c) **Showing unit**

After giving a member 24 hours written notice, the co-op can enter the unit to show it to a prospective occupant at any reasonable time. The co-op can do this if:

- the members have given notice to end their membership and occupancy rights, or
- the co-op has given notice of a board of directors' decision to evict the member.

(d) **Time of entry**

Any entry notice can give a time range and not necessarily a specific time. The time range can be longer than one day and the notice can allow more than one entry into a unit. The member does not have to be present at the time of entry.

(e) **One notice per unit**

Only one notice needs to be given under this section for all members and others in a unit.

5.3 Damage to Units

(a) **Major damage**

If there is major damage affecting a large number of units, the board of directors will examine the situation and propose a solution. The membership will make the final decision at a members' meeting.

(b) **Other damage**

If only one or a small number of units are damaged, the board of directors will consult with the members living in the units to come up with a solution. If those members agree with the board, the board can deal with the situation unless it needs approval from the members for expenses beyond the budget. If the members living in the units do not agree with the board, the membership will make the final decision at

a members' meeting. The board can give these decisions priority over the internal and external waiting lists.

(c) **Things to decide**

The board of directors and members will consider questions such as the following:

- Should the unit be repaired?
- How quickly?
- When will the members be required to move out?
- When will the members be entitled to move back?
- Will there be any charges to the members during the period?
- Are there any available units that the members can occupy until their unit is repaired?
- Should there be any priority on the co-op's internal or external waiting list?

(d) **Limit of co-op responsibility**

The co-op does not have to provide a housing unit, or pay for increased housing charges, or rent to an outside landlord, or any other costs, because of damage unless the costs are covered by the co-op's insurance or are payable by a government or other subsidy provider. The co-op does not have to repair a unit and can terminate membership and occupancy rights because of damage if that is part of the decision under this section.

(e) **What is damage?**

Damage under this section is anything that makes a unit uninhabitable. It could be a specific event, such as a fire, or a condition like mould or insect infestation.

5.4 Members' Insurance

Members must obtain public liability insurance and property insurance for their unit. The co-op, co-op staff, contractors and other members will not have any liability to a member or a person in a member's household for things that would be covered by a normal renter's or co-op member's insurance policy. It does not matter what caused any loss and it does not matter whether the member or anyone in the household had any insurance.

Article 6: Use of Units

6.1 Residences

Units must be used only as private residences for members, their households and other persons allowed by this By-law.

6.2 Principal Residence

Each member must use the member's co-op unit as the member's principal residence and personally occupy it. A member may not be absent from the co-op unit for a total of more than three months in any year without the permission of the board of directors. The unit must remain the member's principal residence while the member is absent. Members will be considered absent from their units even if they visit them for short periods. Government requirements or co-op by-laws may set limits on absence from units for members who receive housing charge subsidy.

6.3 Related Uses

(a) Related uses permitted

"Related uses" are typical home business uses that are related or incidental to the use of a unit as a member's principal residence. Members can have one or more related use, if:

- the use is permitted by government requirements, including zoning by-laws
- the use does not create disturbance beyond what is appropriate in a residential community like the co-op, such as by too much noise or too many visitors
- the use does not involve excessive demands on co-op utilities and services, such as electricity, and
- co-op by-laws are obeyed.

(b) No rooming or boarding houses

Permitted uses do not include using a unit as a rooming house, or boarding house, or providing food or lodging for others or anything similar. Those uses are prohibited.

(c) No rentals

Permitted uses do not include longterm or short term rentals of a unit or part of a unit. Those uses are prohibited except for guests and sub-occupants permitted under Article 8 (Members' Household and Guests). Co-op units may not be listed on