

CARDIFF HOUSING CO-OPERATIVE INC.

BY-LAW NO. 27

A BY-LAW TO AMEND BY-LAW NO. 15,  
THE OCCUPANCY BY-LAW

BE IT ENACTED as By-law No. 27 of CARDIFF HOUSING CO-OPERATIVE INC., that Article 10 (Termination of Occupancy by Co-op) and Article 12 (Miscellaneous) of the Occupancy By-law, By-law No. 15 of the Co-op, be repealed and replaced by this By-law 27 as Articles 10 and 12, respectively.

ARTICLE 10  
THE CO-OP EVICTS A MEMBER

10.1 TERMS USED IN THIS BY-LAW

The Act uses the terms "terminating membership and occupancy rights" when referring to members, and "terminating occupancy rights" when referring to non-members. In this By-law these acts of the co-op are referred to as "evict the member" or "eviction". A copy of the rules in the Act that apply to ending the membership and occupancy rights of a member are contained in Schedule I.

10.2 When the Co-op Can Evict a Member

a) The Board can evict a member if the member:

- i) owes housing charges to the Co-op at the time of the Board meeting
- ii) has been repeatedly late in paying housing charges
- iii) has broken the by-laws in a way the Board considers serious, or
- iv) has repeatedly broken the by-laws in a way the Board considers serious, even if the member has corrected the situation when given notice.

The Board can also evict a member if someone the member is responsible for, under the by-laws, has done any of the above.

(b) The Board can evict a member under 6.02 (Occupancy Standards, By-law No. 25), 6.03 (Living Independently, By-law No. 25) and a decision on membership referred to in 6.04 (Damage by Fire, By-law No. 25).

Note: Words in bold print and underlined indicate change from previous By-law.

10.3 How the Co-op Can Evict a Member

- a) The Board must pass a resolution by majority vote to evict a member.

The Board can base its resolution on the model in Schedule E of this By-law.

- b) Before passing a resolution to end membership and occupancy rights, the Board must give written notice to the member of a meeting held to consider the eviction of the member. This notice must be given to the member at least ten days before the meeting.

The notice must be signed by two directors or any two persons appointed by a resolution of the Board.

- c) The notice must state:

i) the time and place of the Board meeting. It may also state a time when the Board will discuss the member's membership and occupancy rights during that meeting.

ii) the reasons for the proposed eviction

iii) the member's unit

iv) the proposed eviction date, and

v) the fact that the member need not vacate the unit, but that the Co-op may obtain a writ of possession after it ends the member's membership and occupancy rights.

- d) The Board can choose a later date to continue the discussion about eviction. If the meeting is continued at another time, the Board does not have to give notice of the continued meeting as long as the time and place is announced at the original meeting.

- e) The notice must state the proposed eviction date. The figure to be inserted in the notice will be the following number of days after the board meeting:

i) **ten\*** days if the member owes charges to the co-op

ii) **one\*** day in the case of domestic violence (see Arts. 5.02 c) and d), By-law No. 26).

\* to be decided by the Board.

- iii) thirty\* days if the member is unable to live independently, as in Art. 6.03 of By-law No. 25.
- iv) ninety\* (same as 6.02 (e) and (f) of By-law No. 25) days if the member's household size breaks the Co-op's Occupancy Standards
- v) thirty\* days for all other reasons.

The Board can decide that the eviction will be later than the date given in the notice.

- f) The notice must state that the member has the right to attend and speak or present written material at the meeting, or have a representative speak. The representative can be a lawyer or any other person. It must also state that the member has the right to appeal the Board's decision to the members.

The notice must contain the information in the model notice in Schedule D of this By-law.

- g) If the Board decides to evict a member, it must give the member a written eviction notice. The notice must be delivered within five days of the meeting. The notice must be signed by two directors or any two persons appointed by resolution of the Board.

The decision may be in the form attached as Schedule E of this By-law.

The eviction notice may be in the form attached as Schedule F of this By-law.

#### 10.4 Right of Appeal

- a) A member can appeal the Board's decision. The decision is not effective until the appeal is decided or dropped.
- b) A member who wants to appeal must give a notice of appeal to the Co-op office within seven days of the date on which the eviction notice was given.

\* to be decided by the Board

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- c) When the Co-op receives a member's notice of appeal, the Co-op must:
  - i) call a Meeting of the Members, giving proper notice (Art. 3.07 a) of By-law No. 6), or
  - ii) put the matter on the agenda for another Members' Meeting.

However, there must be at least fourteen days between the time the notice of appeal is received and the Members' Meeting to discuss the appeal.

- d) Everyone who receives notice of the Members' Meeting should also receive copies of any written statements that the member included with the notice of appeal. This right is limited by the Act (refer to Schedule I).
- e) The member appealing the decision has the right to attend and speak at the Members' Meeting, or have a representative speak. The representative can be a lawyer or any other person.
- f) The Members' Meeting can confirm the Board's decision, or replace it with any other decision which the Board could have made.
- g) The Board's decision is confirmed if:
  - i) the Members' Meeting does not pass a resolution to change the decision, or
  - ii) a quorum is not present at the Members' Meeting or at the time of the vote.
- h) If the appeal is unsuccessful, the member will be evicted two\* days after the meeting, or on the date stated in the notice to vacate, whichever is later. However, the Members' Meeting can set a later date for eviction.

#### 10.5 Legal Action

- a) The Board can decide to take legal action as a result of decisions under previous sections.

The Board does not have to wait until the eviction date to start legal action.

\* to be decided by the Board

- b) The Board can choose two directors or 2 persons appointed by resolution of the Board to deal with legal actions for the Co-op. These persons can:
  - i) give all necessary instructions to the Co-op's lawyers, and
  - ii) make a settlement or other agreement after consulting with the Co-op's lawyers.

For example, there could be a Performance Agreement or similar agreement worked out. The Board can limit these persons' authority by a Board resolution.

#### 10.6 Performance Agreements

- a) The Co-op can sign a Performance Agreement with the member. When a member and the Co-op sign a Performance Agreement, any outstanding resolution evicting the member will be cancelled.
- b) The Performance Agreement may state how the member will:
  - i) carry out obligations in the future
  - ii) correct any past problem, and
  - iii) compensate the Co-op for any losses.

The Board can authorize two directors or any two persons appointed by resolution of the Board to work out the details of the Performance Agreement. However, the Board must authorize and sign every Performance Agreement.

- c) The Board can use the Performance Agreements in Schedules G and H of this By-law.
- d) If the member breaks the Performance Agreement, then the Board must start the procedure to evict the member over again. Breaking the Performance Agreement does not itself give the co-op the right to evict the member. However, any statements in the agreement, and the fact that the member broke the agreement, may be taken into consideration by the board, the members or a judge.
- e) When signing a Performance Agreement, the Board can decide that a resolution of eviction will not be effective if the member:
  - i) pays the amounts owed, or
  - ii) carries out any acts that the Board states in the resolution within the time period stated in the resolution.

10.7 Non-members in a Member Unit

In dealing with non-members who are occupying a member unit, the Co-op may take any procedure permitted by law as long as it does not break this By-law.

ARTICLE 12  
MISCELLANEOUS

12.1 Personal Information of a Member

- a) If members appeal a Board decision, or bring up a discussion at a Members' Meeting involving personal information about themselves, the Board can disclose other relevant personal information about the members.
- b) If members appeal a Board decision about another member, or bring up a discussion at a Members' Meeting involving personal information about another member, they must get the other member's written approval first. Then the Board can allow members to discuss that personal information about the other person concerned and the Board can disclose relevant personal information about the member concerned. If that person does not give approval, the discussion is out of order.

12.2 References to Other By-laws

Some terms in this By-law contain references to other by-laws of the Co-op. If those other by-laws have not been passed by the Co-op, the Board will decide any matters which would have been included in any by-law.

12.3 Serving Documents

When the Co-op serves documents to members in connection with an eviction, it must follow this procedure:

- . a separate notice will be given to each member being evicted, and to any member who has left the unit
- . if a member is absent or evading notice, the notice can be given by:
  - .handing it to any apparently adult person (a person 16 years of age or older) at the unit
  - .posting it in a conspicuous place on some part of the unit (for example, taping it to the door), or
  - .sending it by registered mail to the person at the unit.

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12.4 Errors or Omissions in Procedures or Notices

A minor error or omission in any action taken or notice given will not affect any decision made by the Board and/or Members. A member can accept any minor defect in the Co-op's procedures. The member can do this in writing, orally or by not objecting at the appropriate time.

PASSED by the Board of Directors and sealed with the corporate seal of the Co-operative this 4th day of February , 1999.

Patrick J Newman  
Secretary

Louise Valois c/s  
President

CONFIRMED by at least two-thirds majority of votes cast at a General Meeting of Members this 23rd day of February , 1999.

Patrick J Newman  
Secretary

Louise Valois c/s  
President

# Schedule D Notice to Appear

*Insert full name of  
Co-op (or use  
letterhead)*

Please print or type. Add additional pages if necessary.

To Members:

List each  
Member in the  
Member Unit:

1.
2.
3.
4.

Address of  
Member Unit:

Unit # & Street:
City:

The board of directors is going to consider ending your membership and occupancy rights at a board meeting.

*Fill in the date of  
the meeting; the  
room or location,  
the street address  
and the  
municipality; the  
start time and the  
time the member  
should arrive. If the  
member has to  
arrive at the  
beginning of the  
meeting, put a line  
through the words  
"but you do not  
have to arrive  
before \_\_\_\_\_  
p.m."*

This meeting will be on \_\_\_\_\_, 19\_\_\_\_, in the  
\_\_\_\_\_ at \_\_\_\_\_, Ontario.  
The board meeting will start at \_\_\_\_\_ p.m., but you do not have to arrive  
before \_\_\_\_\_ p.m.

*Earliest possible  
date, based on  
meeting date and  
by-laws.*

The proposed date for ending your membership and occupancy rights is  
\_\_\_\_\_, 19\_\_\_\_. The board may set a later date.

You may appear and speak at the meeting. You may present written material.  
You may have a lawyer or other representative speak for you.

You may appeal the board decision to a general meeting of the members.



You do not have to vacate your unit, but the Co-operative may obtain a Writ of Possession (eviction order) from a court after your membership and occupancy rights are ended. If you do not vacate your unit, the Co-operative will also seek a court order that you pay its legal costs.

The Grounds for ending your membership and occupancy rights are:

Check one or both (if appropriate).

Fill in the amount and date. Fill in the paragraph of the by-law and its name and number.

Fill in the paragraph of the by-law and its name and number.

Fill in as many as necessary, whether or not arrears is checked.

Paragraph(s) that the member has broken.

Paragraph that provides for eviction.

Describe the details of what the member did wrong, including dates if appropriate.

**Arrears:**

1. You owe the co-op \$\_\_\_\_\_ of housing charges as of \_\_\_\_\_, 19\_\_\_\_. This is contrary to paragraph \_\_\_\_\_ of the \_\_\_\_\_ By-law (By-law No. \_\_\_\_\_).

2. You have repeatedly paid your monthly housing charges late. This is contrary to paragraph \_\_\_\_\_ of the \_\_\_\_\_ By-law (By-law No. \_\_\_\_\_).

**Other:**

3. Specific:

General:

Details:

Signature for the Co-op:

Co-op

by:

Date:

# Schedule E Board of Directors Eviction Decision

Insert full name of  
Co-op (or use  
letterhead)

Please print or type. Add additional pages if necessary.

## Members:

List each  
Member in the  
Member Unit:

1.
2.
3.
4.

Address of  
Member Unit:

Unit # & Street:
City:

## Background:

Fill in the paragraph  
of the by-law and  
its name and  
number.

1. The Co-operative gave the member(s) a Notice to Appear as required by paragraph \_\_\_\_\_ of the \_\_\_\_\_ By-law (By-law No. \_\_\_\_\_) and section 171.8 of the *Co-operative Corporations Act* (as amended by Bill 166).

Put a line through  
the incorrect  
phrases.

2. The member(s) (attended/did not attend) the board meeting. A representative of the member(s) (attended/did not attend) the board meeting.

3. This decision was made by a majority of the directors at a proper meeting.

## Decision:

Fill in the date,  
which cannot be  
any sooner than the  
proposed date in  
the Notice to  
Appear.

4. The occupancy rights of the member(s) in the above unit are ended on \_\_\_\_\_, 19 \_\_\_\_\_. The membership of the member(s) in the Co-operative is ended on the above date.

**Reasons:**

*Include as a reason each ground in the Notice to Appear used by the board to make its decision (which may not be all of them). Not all of the details are necessary.*

5. The board of directors made its decision because:

**Arrears:**

*Fill in the amount and date. Fill in the paragraph of the by-law and its name and number.*

1. The member(s) owe(s) the co-op \$\_\_\_\_\_ of housing charges as of \_\_\_\_\_, 19\_\_\_\_. This is contrary to paragraph \_\_\_\_\_ of the \_\_\_\_\_ By-law (By-law No. \_\_\_\_\_).

*Fill in the paragraph of the by-law and its name and number.*

2. The member(s) has/have repeatedly paid monthly housing charges late. This is contrary to paragraph \_\_\_\_\_ of the \_\_\_\_\_ By-law (By-law No. \_\_\_\_\_).

**Other:**

*Repeat for each additional reason.*

*Paragraph(s) that the member has broken.*

3. Specific:

*Paragraph that provides for eviction.*

General:

*Describe the details of what the member did wrong, including dates if appropriate.*

Details:

**Further Decision:**

*Complete if there are conditions the member can meet to stop the eviction. Fill in "The membership and occupancy rights of the member will not end if" and the condition such as signing a Performance Agreement or making payments at certain times.*

*Insert full name of  
Co-op and date of  
board meeting.*

Resolution of the board of directors of \_\_\_\_\_, passed \_\_\_\_\_,  
19\_\_\_\_ at a proper meeting, which resolution is still in effect and has not been  
amended.

Signature for  
the Co-op:

Co-op	
by:	Date:

# Schedule F Notice of Board of Directors Eviction Decision

*Insert full name of  
Co-op (or use  
letterhead)*

Please print or type. Add additional pages if necessary.

To Members:

List each  
Member in the  
Member unit:

1.
2.
3.
4.

Address of  
Member Unit:

Unit # & Street:
City:

*Fill in the date of  
the board meeting  
and the date the  
member is to move  
out.*

A meeting of the board of directors was held on \_\_\_\_\_,  
19\_\_\_\_. You were given a Notice to Appear to be considered at that meeting.  
The board of directors decided to end your occupancy rights in the above unit  
on \_\_\_\_\_, 19\_\_\_\_, and decided to end your membership in  
the

*Attach a copy of  
the Board Eviction  
Decision to this  
Notice.*

Co-operative on that date. (See the attached Board of Directors Eviction  
Decision.)

*Repeat the date the  
member is to move  
out.*

Leave your unit by \_\_\_\_\_, 19\_\_\_\_. If you do not, the Co-  
operative will start a court proceeding against you.

*If your by-laws  
allow for an appeal,  
fill in the paragraph  
of the by-law and  
its name and  
number; otherwise,  
leave it blank.*

To find out how you may appeal this decision see paragraph \_\_\_\_ of the  
\_\_\_\_\_ By-law (By-law No.\_\_\_\_) and section 171.8 of the *Co-operative  
Corporations Act* (as amended by Bill 166).

Signature for  
the Co-op:

Co-op
by: _____ Date: _____

# Schedule G Performance Agreement Arrears and Late Payment

Insert full name of  
Co-op (or use  
letterhead)

Please print or type. Add additional pages if necessary.

List each  
Member in the  
Member Unit:

1.
2.
3.
4.

Address of  
Member Unit:

Unit # & Street:
City:

Include this  
paragraph only if  
the board of  
directors has  
decided to end  
membership and  
occupancy rights.

The board of directors decided to end your membership and occupancy rights  
at a meeting on \_\_\_\_\_, 19\_\_\_\_.

You admit that the following is true:

Fill in one of these.

1. You owe the co-op \$\_\_\_\_\_ of housing charges as  
of \_\_\_\_\_, 19\_\_\_\_. This is contrary to  
paragraph \_\_\_\_\_ of the \_\_\_\_\_ By-law (By-  
law No. \_\_\_\_\_).
2. You have repeatedly paid your monthly housing  
charges late. This is contrary to paragraph \_\_\_\_\_ of  
the \_\_\_\_\_ By-law (By-law No. \_\_\_\_\_).

Any outstanding resolution to evict you is cancelled. The co-op agrees not to end your membership and occupancy rights as long as you do the following:

G2

*Change and/or add to this list depending on the payment terms.*

1. You agree to pay your entire debt on the following schedule:
  - (a) \$\_\_\_\_\_ when you sign this Agreement.
  - (b) \$\_\_\_\_\_ on or before \_\_\_\_\_, 19\_\_\_\_\_.
  - (c) \$\_\_\_\_\_ a month from then on.

In addition, you will be responsible for paying interest as stated in the co-op's by-laws.

2. You agree to pay your monthly housing charges on or before the first day of each month from the date this agreement is signed.
3. You agree to make the above payments by certified cheque or money order. You agree to make these payments to the co-op office by 4 p.m. on or before the agreed dates. If any of the agreed dates is a weekend or holiday, you can make the payment on the next business day.
4. You acknowledge that you understand the terms of this Agreement and have had the opportunity to get legal advice.
5. You must meet all the deadlines in this Agreement. You must not miss any of them unless you have authorization from the co-op.

Signature(s) of Member(s):

Member 1:	Date:
Member 2:	Date:
Member 3:	Date:
Member 4:	Date:

Signature for the Co-op:

Co-op	
by:	Date:

# Schedule H Performance Agreement

*Insert full name of  
Co-op (or use  
letterhead)*

Please print or type. Add additional page if necessary.

List each  
Member in the  
Member Unit:

1.
2.
3.
4.

Address of  
Member Unit:

Unit # & Street:
City:

*Include this  
paragraph only if  
the board of  
directors has  
decided to end  
membership and  
occupancy rights.*

The board of directors decided to end your membership and occupancy rights at a meeting on \_\_\_\_\_, 19\_\_\_\_.

You admit that the following is true:

*Describe line details  
of what the member  
did wrong, including  
dates if appropriate.*

Any outstanding resolution to evict you is cancelled. The co-op agrees not to end your membership and occupancy rights as long as you agree that for \_\_\_\_\_ months you:

*Fill in what the  
member agrees to  
do or not to do.*

Signature(s) of  
Member(s):

Member 1:	Date:
Member 2:	Date:
Member 3:	Date:
Member 4:	Date:

Signature for  
the Co-op:

Co-op
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by:	Date:
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## Schedule I

Rules that apply to ending the membership and occupancy rights of a member of a non-profit housing co-operative.

(An extract from the *Co-operative Corporations Act*.)

### 171.8

Procedure for terminating membership, etc.

- (2) The following rules apply:
  1. Membership and occupancy rights may be terminated only by a majority of the board of directors at a meeting of the board.
  2. Membership and occupancy rights may be terminated only if the member ceases to occupy a member unit or on a ground set out in the by-laws. Membership and occupancy rights may not be terminated on a ground in the by-laws that is unreasonable or arbitrary.
  3. The member shall be given written notice that the board of directors will consider terminating the member's membership and occupancy rights. The notice must be given at least ten days before the meeting of the board of directors at which the matter will be considered.
  4. The notice must be signed by a director of the co-operative or by any other person authorized by the by-laws for the purpose and must,
    - i. set out the time and place of the board's meeting,
    - ii. set out the grounds for the proposed termination,
    - iii. identify the member unit to which the member has occupancy rights,
    - iv. specify the date of the proposed termination,
    - v. advise the member that he or she need not vacate the member unit but that the co-operative may obtain possession of the unit by obtaining a writ of possession following the termination of the member's membership and occupancy rights,
    - vi. advise the member he or she may appear and make submissions at the board's meeting, and
    - vii. advise the member that he or she may appeal the board's decision to the members.
  5. If a meeting is adjourned no new notice is required if the time and place of the continuation of the meeting is announced at the original meeting.
  6. The member has a right to appear, either personally or by agent or counsel, and to make submissions at the meeting of the board of directors.
  7. In a decision to terminate the member's membership and occupancy rights, the board of directors may specify a date for the termination that is later than the proposed date that was specified in the notice to the member.

- 8. The member shall be given written notice of the decision of the board of directors within five days after the board's meeting. The notice must be signed either by the secretary of the co-operative or by a person authorized by the by-laws for the purpose.
- 9. The member may appeal the board's decision to the members. The effect of the decision is suspended until the appeal is disposed of or abandoned.
- 10. To appeal, a member must give written notice to the co-operative within seven days, or such longer period as the by-laws provide, after the notice of the board's decision has been given to the member under paragraph 8.
- 11. The appeal shall be considered at a meeting of the members held at least fourteen days after the notice to appeal is received.
- 12. If the co-operative receives written representations with the member's notice of appeal, the board of directors shall, subject to subsection (4), ensure that a copy of the representations is given, before the meeting at which the appeal will be considered, to each member entitled to receive notice of the meeting. The distribution of the representations shall be at the co-operative's expense. This paragraph does not apply if the representations exceed 5,000 words.
- 13. The member has a right to appear, either personally or by agent or counsel, and to make submissions at the meeting of the members.
- 14. The appeal shall be decided by a majority vote of the members and the members may confirm, vary or set aside the board's decision. If no decision is made by the members or if there is no quorum at the meeting or if there is no longer a quorum when the vote is to be taken, the board's decision shall be deemed to have been confirmed.

Idem

(3) Subject to the rules in subsection (2), the board of directors may by by-law determine procedures for the termination of the membership and occupancy rights of members but the procedures must be procedurally fair.

Refusal to distribute

(4) The board of directors is not bound under paragraph 12 of subsection (2) with respect to a member's representations if it clearly appears that the right of the member to have his or her representations distributed is being abused to secure needless publicity for matters that,

- (a) are not related to the appeal; and
- (b) are not related, in a significant way, to the business or affairs of the co-operative.

Notice of refusal

(5) If the board of directors refuses to distribute copies of a member's representations, the board shall ensure that written notice of its refusal together with written reasons for it are given to the member within ten days after the representations were received by the co-operative.

Application to court

(6) Upon application by a member whose representations the co-operative has refused to distribute, the Ontario Court (General Division) may restrain the holding of the meeting at which the appeal will be considered and may make any further order it thinks fit.

Advance determination

(7) The board of directors or any other person aggrieved by the member's representations may apply to the Ontario Court (General Division) for an order permitting the board of directors to refuse to distribute the representations and the court, if it is satisfied that subsection (4) applies, may make any such order it thinks fit.

1-3

Liability for representations

(8) If copies of a member's representations are distributed under paragraph 12 of subsection (2), the co-operative, the directors, officers and employees of the co-operative and persons acting on behalf of the co-operative, other than the member who makes the representations, do not incur any liability only by reason of distributing copies of the representations.