

November 17, 2010

How to adopt a by-law (Ontario co-ops)

By-laws are part of a co-op's governing documents. They are the basic standing rules for the co-op and its members. A by-law can be very broad or it can deal with just one aspect of the co-op's operation. For example, a by-law could set out guiding principles for the community or it could set out the procedure for paying housing charges.

There is a special set of values that applies to co-ops: the international co-operative principles. The second principle is democratic member control. Because co-ops are democratically run by their members, members get to vote on the by-laws and in that way set out the rules the members agree to follow.

A co-op's by-laws must not conflict with rules set out in the laws the co-op must follow or in any agreements the co-op has with government. Some laws or agreements may require a co-op to pass by-laws about certain things.

Other than that the Ontario *Co-operative Corporations Act* (CCA) says 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. CHF Canada has model and sample by-laws that member co-ops are welcome to review and adopt.

Adopting a by-law

To adopt a by-law and make it legal, the CCA sets out that Ontario co-ops must

- first have a by-law passed by the board of directors. Because a by-law must first be passed by the board of directors, under the CCA, ten percent of the members of a co-op can requisition a board meeting to pass a by-law. Usually this is not necessary and the board passes a by-law and then recommends it to the membership for their confirmation.
- second, it must be confirmed by two-thirds of the votes cast at a members' meeting. So when you vote on a by-law, it is not just a simple majority, it is a two-thirds majority.

The actual steps to adopting a by-law are:

- the board of directors passes the by-law

- the board of directors calls a members' meeting to confirm the by-law and
 - members get at least ten days' notice of the meeting
 - members get a copy of the proposed by-law in advance of the meeting
- at the members' meeting
 - there must be quorum
 - the members can confirm the by-law as proposed or as amended
 - the by-law is confirmed by at least two-thirds of the votes cast at the meeting. Abstentions are not counted as votes.
- the minutes of the meeting should note the by-law was confirmed by a two-thirds majority
- a copy of the by-law should be attached to the minutes.

After the by-law has been confirmed, add it to the co-op's book of all the by-laws both current and repealed.

Updating and changing by-laws

All co-ops have to update and change their by-laws from time to time. Laws that affect by-laws change, members of the co-op may want different rules, or maybe there is a decision in court that affects what's in a co-op's by-laws.

Sometimes a co-op needs a new by-law that sets out brand new rules for the co-op. For example, a co-op might adopt a human rights by-law and none of their existing by-laws deals with human rights at all.

Sometimes a co-op needs to change or update a by-law. This is called "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. For example, if a co-op wants to change the investment rules in its organizational by-law, it would adopt By-law No. _____, A By-law to Amend the Investment Rules in the Organizational By-law. An amending by-law can replace either part of a by-law or an entire by-law.

Numbering by-laws

Usually, by-laws are numbered consecutively. The first by-law a co-op ever passed would be by-law number one and all later by-laws (including amending by-laws) would be numbered one higher than the last by-law adopted. For example, a co-op may have By-law No. 3 which is its occupancy by-law. Now the co-op is replacing their occupancy by-law and it will be By-law No. 14 because the last by-law adopted was By-law No. 13.

Sample resolutions (motions) to adopt a by-law

A resolution (motion) to adopt a by-law will be needed at the board meeting where the by-law is passed and at the members' meeting where it is confirmed. The resolutions will need to set out what (if any) by-law or parts of a by-law are being replaced. Here are samples:

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

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.

Giving proper notice

The CCA requires that notice of a members' meeting be given to each member at their address at least ten days before the meeting and not more than 50 days before the meeting. The notice must include the date, time and place of the meeting.

A co-op's by-laws typically require that the notice of the meeting include the agenda or be sent with it. The notice must state the general nature of the items that the members will consider. If proper notice was given, the members can make any decision or pass any version of a by-law even if it is different than the original. Members can discuss any by-law at a members' meeting but if the by-law was not included in the advance agenda for the meeting, they cannot vote on it.

Usually, a co-op's by-laws require that each member be given a copy of the proposed by-law in advance of the members' meeting where it will be discussed. The rules about how delivery is made are often part of a co-op's by-laws. Typically, the proposed by-law does not have to be given with the agenda or notice of the meeting but must be given within 5 days before the meeting.

Below is a sample notice and agenda for a members' meeting where a by-law is being recommended to the membership by the board of directors.

Notice

Please take notice of a meeting of the members of Stationview Co-op to adopt a new organizational by-law to be held on June 13, 2010 at 8:00 pm in the co-op centre at 1115 Station Road, Parry Sound, ON.

Agenda item

6. Confirmation of by-laws
 - a. Organizational by-law
MOTION THAT we confirm By-law No. 14, the new Organizational By-law as adopted by the board of directors of the co-op and repeal By-law No. 3, the old Occupancy By-law.
 - b. SHRA By-law
MOTION THAT we confirm By-Law No. 15, the SHRA By-law as adopted by the board of directors of the co-op.

For more information

For more information, please call **Diane Miles, Judy Shaw** or **Keith Moyer** at the Ontario Region at 1-800-268-2537 (in Toronto, call 416-366-1711). E-mail: dmiles@chfcanda.coop, jshaw@chfcanda.coop or kmoyer@chfcanda.coop. In southwestern Ontario, call **Denise McGahan** at 1-800-644-3949 (1-519-453-0999 in London). E-mail dmcgahan@chfcanda.coop.