

CHF BC Sample – Arrears policy (remove header when adapting for use)

[Full name of housing co-op or letterhead]

Arrears policy

Purpose of the policy

To protect the financial viability of the Co-op by:

- collecting housing charges and other debts on time
- dealing with arrears promptly, and
- setting out what happens when members do not pay.

Definitions

Arrears: Arrears are unpaid and overdue debts. If any housing charge, share instalment or other debt due to the Co-op is not paid by the due date, the member is in arrears. Arrears for which the Co-op and the member have arranged an agreed schedule of payments are called scheduled arrears. A returned cheque/failed pre-authorized payment is unpaid and in arrears.

Returned cheque/failed pre-authorized payment: A cheque or payment that didn't clear the member's bank/credit union due to non-sufficient funds (NSF) or other reasons.

Policy

1. Members are responsible for paying their housing charges, share instalments and any other amounts due to the Co-op on time. The Co-op has zero tolerance for arrears.
2. Housing charges are due in full on the ***[first day of each month]***, the "due date". Other amounts are due on the date specified by the Co-op.
3. If a member has not paid an amount owing, submitted a written request for, or signed a payment agreement, then immediately after the due date the Co-op will send the member a 5-day notice demanding payment.
4. If the member has not paid an amount owing or signed a payment agreement within five days of the member's receipt of the notice, then the Co-op will send a notice (at least seven days) to the member of a meeting of the Board of Directors to consider a resolution of termination of membership (reference Rule 5 Termination of membership), and other appropriate steps.
5. The Co-op ***[will]*** charge a late fee ***[of \$50]*** for any housing charges not paid in full by the due date ***[unless the member has submitted a written request for an arrears payment agreement before the due date]***.

Payment agreement

6. Members may submit a written request for an arrears payment agreement in which they explain:
 - a) the special circumstances for requesting the agreement, and
 - b) the steps they have taken to obtain funds from other sources.
7. A member may use a payment agreement to repay an amount of arrears no greater than **[one month's]** housing charges, plus any fees.
8. The Co-op may authorize payment agreements to a maximum of **[three months]**, meaning all arrears must be paid in full within a **[three month]** term, with minimum monthly payments of not less than **[1/3]** of the arrears balance.
9. The Board may authorize payment agreements for a longer term and on different conditions than those set out in paragraph 8 above only in cases of genuine hardship or extraordinary circumstances and if the term is no longer than **[six]** months.
10. The Board may authorize payment agreements for directors only for amounts other than housing charges. Directors may not be in arrears for housing charges other than the amount due in the current month.
11. While an arrears payment agreement is in effect:
 - a) the member must pay all housing and other charges in full and on time, and
 - b) at the discretion of the Board the member may be required to make all payments, including housing charge payments, by bank draft or money order only.
12. The Board may waive any or all fees (late fees or NSF fees). The Board may not waive housing charge arrears.

Consequences of a breach of the payment agreement

13. The payment agreement will set out the consequences of a breach of the agreement, including consideration of termination of membership under the Rules.

Method of payment

14. Members must pay housing charges and any other monthly charges with **[post-dated cheques]**, submitted **[annually]**. The Co-op **[will not]** accept cash for any payment.
15. New members **[must]** pay their share purchase by bank draft or money order when the Co-op accepts them as members.

Returned cheque/failed pre-authorized payment

16. The Co-op will charge an NSF fee **[of \$25]** for any returned cheque/failed pre-authorized payment.
17. Members with a returned cheque/failed pre-authorized payment must make future payments by bank draft or money order, unless excused in writing by the Board (reference Occupancy Agreement 4.08 Payment by bank draft).

Collection of small amounts

18. **The Board may, in its discretion but at all times consistent with the Co-op's Rules and Occupancy Agreement, waive or amend the application of this policy in the collection of amounts that are less than [\$100].**

Note: This policy must not be in conflict with our Co-op's Rules and Occupancy Agreement. Rules 5, 8 and 17.5 (Termination of membership, Payment for shares and Persons disqualified to act as Directors) and Section 4 of the Occupancy Agreement (Housing Charge) cover a number of issues related to this policy. The Co-op will not change anything in the policy before checking its own Rules and Occupancy Agreement.

Policy approved: **[enter date]**

Replaces policy/policies: **[enter date]**

Note: Where there is a reference to the Rules or Occupancy Agreement, the numbering is that found in CHF BC's Model Rules 2.0. Check your own Rules.

Procedures needed to carry out this policy

1. Who sends the notices in #3 and 4, and who authorizes payment agreements in #8: office co-ordinator, bookkeeper, board or other, where appropriate. Note: The person responsible has to be available to send notices and authorize payment agreements consistently and when needed.
2. Communication about a member's maintenance costs, parking or other charges to management staff (office co-ordinator or bookkeeper) or other person responsible so that the arrears policy and procedures are followed for all amounts owing.
3. Number and date requirements for post-dated cheques and/or pre-authorized payments, including new member requirements.
4. Form notices:
 - a) 5-day demand for payment at the beginning of the month – see sample
 - b) notice of Board meeting to consider termination of membership – see sample
 - c) notice of termination after Board meeting
 - d) **[other notices]**.
5. Arrears payment agreement – see sample
6. Monitoring system for arrears payments.
7. Monthly reports to Board: units should be identified (do not use a blind code). The report must include names of any directors in arrears [reference Rule 17.5 Persons disqualified to act as Directors] – see sample
8. Refer to the Co-op Act, *Guide to the Co-op Act* and your own co-op's Rules and Occupancy Agreement, and obtain legal counsel as needed for termination of membership.
9. Notice period required for changes in annual housing charge.
10. For share purchase:
 - a) information about loans from outside sources, and/or
 - b) guidelines for acceptable instalment plans.

Options

Delete this section once you have reviewed the options and adapted the sample policy to suit your co-op.

Option: Point #2

Change “first day of each month” to “day before the first day of the month” or whatever day is in Section 4.01 of your Occupancy Agreement.

Note: Housing charges are not late until the end of the day they are due. If the due date is the first of the month, then payment isn't late until after 11:59 p.m. on the first. But consider that the mortgage payment may come out of your co-op's bank account in the wee hours of the first of every month. If your co-op has a cash flow problem and has not deposited all housing charges on the first of the month, there may not be enough money in the account to cover the mortgage payment or other bills. But a co-op that carries only enough cash to make the current mortgage payment is not operating in a sound financial position. A well-managed co-op should never have less than twice the monthly mortgage payment on hand at any given time. Except in the most unusual circumstances, if there's not enough cash flow to meet that test, it's usually a sign that the co-op's housing charges are too low to sustain it over the long haul.

Options: Point #5

If you choose to charge a late fee, you can change “of \$50” to another amount. If you choose to charge all members, including those who have requested an arrears payment agreement before the due date, delete Point #5 and substitute the following:

5. The Co-op will charge a late fee [of \$50] for any housing charges not paid in full by the due date.

If you choose not to charge a late fee, delete Point #5 and substitute the following: “The Co-op will not charge a late fee.”

Note: It is suggested to make the late fee high enough to act as a deterrent for members.

Option: Point #7

Choose another time period for your limit.

Option: Point #8

Change “three months” to any number of months, and then change “1/3” of the arrears balance to another portion or percentage.

Option: Point #9

Change “six” months” to any number of months.

Note: Examples of genuine hardship or extraordinary circumstances include a member who is temporarily without income due to delays in receiving payments such as overdue wages, Employment Insurance, WorkSafeBC benefits, income assistance or the like, or where there are other special compassionate reasons.

Options: Point #14

Change “[**post-dated cheques**] submitted [**annually**]” to “pre-authorized payment” or to “post-dated cheques submitted [**annually**], or money order submitted monthly or pre-authorized payment”.

Change “annually” to “semi-annually”.

In the second sentence, change “will not” to “may” if you want to let the Board and management staff use their discretion about accepting cash.

Note: For some members who struggle with finances, payment in cash may be the best way to make sure they pay. However, it puts both the member and office staff at risk. If your co-op chooses to accept cash payments, Board and management staff should decide on a case-by-case basis. Generally the use of cash should be discouraged.

Options: Point #15

Change “must” to “may” if you want to let Board and management staff use their discretion about share purchase payments.

Add “They can pay in accordance with an instalment plan agreed to by the Co-op.”

Note: Under BC Housing agreements, your co-op must allow members moving into subsidized units to pay shares in 12 equal payments.

Option: Point #16

Change “of \$25” to any other amount.

Option: Point #18

Without #18, the Co-op must send a 5-day demand letter and initiate the termination of membership process for any amount of money owed. Keep this option if you would like to be able to waive the whole process for very small amounts of money. Change “less than \$100” to any other amount.