

POLICY GUIDELINES

IN PLAIN LANGUAGE FOR

SECTION 95 HOUSING
CO-OPERATIVES

(PRE-1986)

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FOREWORD

The Agency for Co-operative Housing (“the Agency”) has drawn up these easy-to-read guidelines for co-op members and managers. The guidelines explain

- how the Pre-1986 S95 (formerly S56.1) Co-operative Housing Program works
- a co-op’s duties under its operating agreement with Canada Mortgage and Housing Corporation (CMHC)
- other CMHC policies that apply to the co-op.

There is text in brackets next to many of the titles in the guidelines. This shows the related clause in the operating agreement. If there is no text in brackets, it means that the rule is not in the operating agreement. Instead it comes from a CMHC policy.

Definitions for many terms may be found at the end of the guidelines. Click on the hot link in the text to go straight to the definition.

These guidelines interpret but do *not* replace CMHC’s policies. CMHC’s policies govern wherever they conflict with these guidelines.

The operating agreement is the legal contract between the co-op and CMHC. If it conflicts in any place with these guidelines, it governs. Note that a co-op with a workout agreement with CMHC will have other duties it must meet. Those may take priority over the operating agreement.

The Agency oversees the S95 Program on CMHC’s behalf in British Columbia, Alberta, Ontario and Prince Edward Island. Where these guidelines refer to the Agency, they mean “the Agency, on CMHC’s behalf.”

PURPOSE OF THE GUIDELINES

These guidelines were written to help co-operatives understand the Operating Agreement they signed with CMHC and related CMHC policies.

GENERAL

1.1 Purpose of the Operating Agreement *[Introductory Paragraph]*

The operating agreement is a legal contract between the co-operative and CMHC. It sets out what the co-op must do to receive financial assistance from the federal government. CMHC can end its financial assistance if the co-op does not follow the terms of the agreement.

Among other things, the agreement requires the co-op to remain non-profit, to be occupied mostly by members and to fill a certain number of its units with people who qualify for [Income-Tested Assistance](#).

1.2 Changing Incorporating Documents *[Paragraph 8]*

The co-op's Articles of Incorporation set out its non-profit nature. The *National Housing Act* (NHA) defines non-profit.¹ The co-op may not change its Articles of Incorporation in any way that affects its non-profit status under the Act unless it has the Agency's written consent.

1.3 Membership Majority *[Paragraph 3(1)]*

A majority (50% plus one) of the units must house members of the co-op.

If there are fewer member households, the Agency may ask the co-op for a plan to increase the number of members over a reasonable period of time. The co-op must do this to keep its assistance from CMHC. This rule applies whatever the form of management at the co-op. It applies even if the co-op is in receivership, with a receiver-manager in place.

1.4 No Income Limits

Occupancy in the co-op is not limited to low-income households. The co-op is not required to set or to follow income limits for new or existing occupants.

¹ The definition in the NHA is: " 'Non-profit corporation' means a corporation, no part of the income of which is payable to or is otherwise available for the personal benefit of any proprietor, member or shareholder thereof"

MANAGEMENT AND MAINTENANCE

2.1 Good Management *[Paragraph 5]*

The co-op must provide efficient management of the property and keep it in good repair. It can hire its own staff or a property-management company. It must let the Agency know before signing a contract with a property-management company.

2.2 Property Inspections *[Paragraph 5]*

The Agency has the right to inspect the co-op's property on reasonable notice.

- The Agency's normal practice is to inspect co-ops deemed to be at risk every two years.
- A normal inspection is limited to a visual study of the building exterior, any vacant units, grounds and building common areas.
- The inspector looks at the property's overall upkeep. This includes standards of cleanliness, maintenance and repair. The inspector brings any health or safety concerns to the co-op's attention right away. Later on, the Agency sends the co-op a report with other findings.
- If it has other concerns, the Agency may decide to inspect occupied units or carry out a full physical inspection of the property.

2.3 Loan Repayment *[Paragraph 10]*

The co-op must make its monthly mortgage payment on time.

FEDERAL ASSISTANCE

3.1 Two Types of Federal Assistance *[Paragraphs 1(12), 1(16)]*

There are two types of Federal Assistance under this program:

- **Predetermined Assistance** helps the co-op with its monthly mortgage payments in the earlier years. Very few co-ops receive this assistance today.
- **Income-Tested Assistance (ITA)** bridges the gap between the co-op's full housing charge and the amount that low-income occupants pay. The operating agreement uses the term "subsidy pool" to refer to funds paid by CMHC in the co-op's current fiscal year for Income-Tested Assistance. Income-Tested Assistance may be used only to lower the monthly housing charges for low-income occupants whose income has been verified.

3.2 Assistance Paid over the Mortgage Amortization Period [Paragraph 2(3)]

The Federal Assistance is paid over the amortization period of the co-op's mortgage loan(s), up to a maximum of 35 years. (The amortization period is the number of years it takes to repay the loan.)

3.3 Assistance if no Loan [Paragraph 2(3)]

If there is no loan, the assistance is paid over a 35-year period or over the useful life of the buildings, if shorter.

3.4 Assistance Applies Only to the Shelter Component [Paragraph 6]

The Federal Assistance applies only to the [shelter component](#) of the co-op.

3.5 Maximum Federal Assistance [Paragraphs 2(1), 2(13)]

The Maximum Federal Assistance is based on the original cost of the co-op's property. To set the amount, CMHC looks at

- (a) the mortgage payment needed to repay this cost at the mortgage interest rate, and
- (b) the mortgage payment needed at an interest rate of two per cent.

The Maximum Federal Assistance is the difference between (a) and (b).

CMHC assumes that the project cost will be repaid over

- 35 years or
- the life of the buildings, if shorter.

The mortgage interest rate used in (a) is the rate CMHC charges on the co-op's loan. If the co-op chooses a lender charging a higher rate, CMHC will use its own, lower interest rate to set the amount of the assistance.

When it sets the assistance amount, CMHC only looks at the cost of the [Shelter Component](#) of the project.

CMHC resets the assistance amount each time the mortgage is renewed ("rolls over") at a new rate. The amount of assistance goes up when the rate rises. It goes down when it falls.

3.6 Grants and Equity Do not Affect Maximum Assistance [Paragraph 2(12)]

When it sets the assistance level, CMHC assumes that the whole project cost was borrowed. The amount does not go down even if the co-op borrowed less money because it owned its land or had grants from any source.

3.7 Agreement to Adjust Maximum Federal Assistance (“Subsidy Fix”)

In June of 2005 CMHC made a change to how it resets the assistance on mortgage rollovers. The change took effect from January 1, 2005. It is widely known as “the subsidy fix.” Where the co-op accepts the fix, the change in the subsidy will equal, dollar for dollar, the change up or down in the mortgage payment.

To get the fix, the co-op must sign an addendum to its CMHC operating agreement (called an “Agreement to Adjust Maximum Federal Assistance”). The fix will apply to all future renewals.

A co-op that did not sign the addendum at the first chance can still receive the subsidy fix for future mortgage renewals. All it has to do is sign the addendum at a future renewal.

3.8 Actual Federal Assistance [Paragraph 2(5)]

The actual Federal Assistance earned in any year is *the lower of*

- the Maximum Federal Assistance, or
- the Predetermined Assistance plus the [Income-Tested Assistance](#) given in that year to eligible households.

3.9 Step-out of Predetermined Assistance [Paragraphs 1(13), 3(5), 3(7)]

Predetermined Assistance helps the co-op meet its monthly mortgage payments. It goes down over time. The co-op’s full mortgage payment less the Predetermined Assistance is known as the Reduced Principal and Interest Payment.

For the first three years of a co-op’s life, the Predetermined Assistance was constant. It was equal to the co-op’s full mortgage payment, less the difference between

- (a) the total approved [Economic Occupancy Charge](#) for the first year of operation, and
- (b) the total approved [Low-End-of-Market Rent](#) for the first year.

Each year after year three, the Reduced Principal and Interest Payment goes up by five per cent, compounded. The Predetermined Assistance goes down by the same dollar amount. It stops going down when the Reduced Principal and Interest Payment reaches the full mortgage payment. This slow fall in Predetermined Assistance is called “step-out.”

3.10 Additional Financial Contribution

Some co-ops were granted an Additional Financial Contribution (AFC). Such co-ops

- had a mortgage renewal after August 1, 1993 and before January 1, 2005,
- saw their [Income-Tested Assistance](#) fall when the mortgage interest rate went down, and
- were in financial difficulty as a result.

No new AFC was given after mid-2005 (see 3.7). CMHC respects the terms and conditions of signed AFC agreements until they expire.

FREQUENCY AND TIMING OF ASSISTANCE PAYMENTS [PARAGRAPHS 2(6), 2(7)]

4.1 Payable from Interest Adjustment Date

Federal Assistance is payable from the [Interest Adjustment Date \(IAD\)](#) on the co-op's mortgage loan.

4.2 Payment Coincides with Mortgage Payments

The Federal Assistance is paid in arrears. The payment is made on the same day as the co-op makes its monthly mortgage payment. The first payment was made one month following the IAD and was for the previous month. Future payments are also for the previous month. For example, assistance received on April 1 is for the month of March.

INCOME-TESTED ASSISTANCE

5.1 Income-Tested Assistance (ITA) Available [Paragraph 1(16)]

[Income-Tested Assistance](#) is the difference between the Maximum Federal Assistance and the Predetermined Assistance. After the step-out under 3.9 ends, all the Federal Assistance is Income-Tested Assistance. Income-Tested Assistance is used to lower the housing charges of eligible households. Households paying a reduced, or subsidized, charge are known as "income-tested" households.

5.2 Co-op May Seek Other Assistance [Paragraphs 2(8), 2(14), 2(15)]

The co-op may look for help under other programs to allow it to house more [income-tested occupants](#). The following conditions apply:

- The co-op must tell the Agency right away if it gets any extra help.

- The receipt of extra funds will not change how much Federal Assistance the co-op gets.
- The co-op must use the extra funds only to house more income-tested households.

5.3 Minimum Number of Income-Tested Units *[Paragraphs 3(2), 3(3)]*

The operating agreement sets out the lowest number of [Income-Tested Occupants](#) the co-op can have. In some agreements, this is 15 per cent of the units. In others, it is 25 per cent. The co-op does not have to meet the minimum if it is already using all the current [Income-tested Assistance](#) coming in from CMHC.

If the co-op is

- not meeting the minimum (15% or 25%)
- but is getting enough assistance in the current year to do so

it must rent all vacant units to [income-tested occupants](#) until it meets the minimum.

A co-op that is

- not meeting the minimum and
- regularly fails to rent vacant units to income-tested households

is in breach of the operating agreement. It will have to seek Agency approval before renting a unit to a non-income-tested household. The Agency can also recommend that CMHC suspend the Federal Assistance.

5.4 Occupancy of Income-Tested Units *[Paragraphs 3(8)(a), 3(11)]*

Only the people named in the occupancy agreement or lease may occupy an income-tested unit. This means that the [income-tested assistance](#) must end if the unit is sublet.

At least one adult in each household must sign the occupancy agreement or lease. If the household is a family, at least one spouse must sign. All other adults must sign.

The co-op can consult model occupancy by-laws, rules and agreements for advice on this and other matters. These model documents are available from CHF Canada and regional co-operative housing federations.

5.5 Income Verification *[Paragraphs 3(8)(b), 3(8)(c)]*

The co-op must verify the incomes of [income-tested occupants](#) at least once a year. It may choose to verify incomes more often, but it does not have to.

The co-op must also verify the income of any non-income-tested household that is applying to pay a reduced occupancy charge.

The co-op no longer has to verify a household's income once it is paying the [Regular Occupancy Charge](#).

OCCUPANCY CHARGES

6.1 Regular Occupancy Charges *[Paragraphs 1(14), 3(7)]*

The [Regular Occupancy Charge](#) is the amount the co-op charges a non-income-tested occupant each month for housing. CMHC set the co-op's first-year Regular Occupancy Charges at the low end of the market for similar rental housing. After the first year, the Regular Occupancy Charge must be high enough to cover each unit's share of the co-op's total costs. These costs include

- operating costs (see 9.1)
- payments to the capital replacement reserve (see 11.1)
- the mortgage payment.

6.2 Occupancy Charges for Non-Income-Tested Members *[Paragraph 3(6)(a)]*

Members not receiving [Income-Tested Assistance](#) must pay at least the [Regular Occupancy Charge](#). The co-op may not set a lower full housing charge for non-income-tested units than it sets for similar income-tested units.

6.3 Occupancy Charges for Non-Income-Tested Tenants *[Paragraph 3(6)(b)]*

Tenants not receiving [Income-Tested Assistance](#) must pay at least the [Regular Occupancy Charge](#).

6.4 Occupancy Charges for Income-Tested Households *[Paragraph 3(6)(c), 3(8)(a), Schedule B]*

Income-tested households must not pay less than the amount set out in the [Graduated Occupancy Charge](#) (GOC) scale. The scale is attached to the operating agreement. The co-op may choose to charge a higher amount, up to the [Regular Occupancy Charge](#). If it charges more, it must use the same approach for all households in like circumstances.

6.5 Occupancy Charges for Occupants Receiving Social Assistance *[Schedule B, last paragraph]*

Occupants on social assistance must pay the greater of

- the maximum [shelter component](#) of their benefit payment, or

- an occupancy charge based on the [GOC](#) scale.

The maximum [shelter component](#) is the highest amount payable to a person on social assistance renting in the private market. It is often more than the amount people on social assistance pay to live in public housing or provincial social housing.

6.6 Adjustment to Subsidized Occupancy Charge for Services [Schedule B and Paragraph 3(10)]

The subsidized charges in the [GOC](#) scale are for fully serviced units. A “fully serviced” unit has heat, water, hot water, and a stove and refrigerator provided and paid for by the co-op.

The co-op can lower the subsidized charge where any of these services is not included. It does not have to lower the charge.

The co-op must set one rule about reducing or not reducing the charges and apply it to all income-tested units.

If the co-op provides and pays for services not listed above, it must add the value of the service to the subsidized housing charge. Examples of such services are light and power, cable or satellite TV, and parking in a lot or garage. The co-op must apply the extra charge to all [income-tested occupants](#) who receive the extra service.

CMHC publishes utility allowances for different parts of the country. These are available from the Agency.

6.7 Mid-year Occupancy-Charge Increases for Income-Tested Households [Paragraph 3(8)(d)]

The co-op may raise the subsidized housing charge between annual income reviews if a household’s income goes up. It does not have to. It must set one rule about this and apply it to all income-tested units.

6.8 Occupancy-Charge Decreases when Income Goes Down [Paragraph 3(8)(e)]

The co-op may lower a household’s occupancy charge right away if

- the household’s income drops between annual reviews and
- the co-op has [Income-Tested Assistance](#) available.

The charge must go back up if the household’s income returns to its earlier level before the next annual review.

SUBSIDY-SURPLUS RESERVE

7.1 Subsidy-Surplus Reserve [Paragraphs 2(7), 2(8), 2(9), 2(11)]

The co-op may keep unused [Income-Tested Assistance](#) in a subsidy-surplus reserve. The maximum reserve is the sum of

- \$500 per unit, and
- earnings from the investment of the reserve.

The co-op must return any unused [Income-Tested Assistance](#) above that amount to CMHC. The amount due is fixed at the end of the fiscal year. It is payable when the co-op files its Annual Information Return. CMHC can reduce or suspend future payments if the co-op does not send back the excess assistance on time.

The co-op may use the money in the subsidy-surplus reserve only for [Income-Tested Assistance](#). Any interest earned on the reserve funds must be added to the reserve.

CMHC policy requires that the co-op first draw on the interest earned to date on the reserve if the co-op spends more [Income-Tested Assistance](#) than CMHC gives it for any year.

A subsidy-surplus reserve is *not* allowed if

- the co-op gets provincial or municipal subsidies (except for grants towards capital costs), unless the donor agrees that the co-op can hold a reserve
- the money from the province or municipality exceeds the Maximum Federal Assistance amount and the province and CMHC are giving the co-op more money under Section 82 of the NHA, or
- the co-op is in Ontario and receives rent supplements from CMHC or a municipality.

7.2 Investing and Accounting for the Subsidy-Surplus Reserve [Paragraph 2(10)]

The co-op must

- show the subsidy-surplus reserve and interest earned in a separate account in its books
- keep the money at the bank, credit union or caisse populaire or place it in government bonds or other investments approved by CMHC.

CMHC allows the co-op to keep the reserve with its other funds. The co-op must allocate a fair share of interest earnings to the reserve.

7.3 Under-Used Assistance

Some co-ops use less Income-Tested Assistance than CMHC gives them. CMHC may decide to pay the co-op less assistance in future years if the co-op often has to send money back. The co-op can ask for the money CMHC has held back, if it finds that it needs the funds. It can ask ahead of time or after the fact, until it files its Annual Information Return for the year concerned.

7.4 Subsidy-Surplus Reserve At End of Operating Agreement

The operating agreement does not say what happens to the money in the subsidy-surplus reserve when the operating agreement ends. CMHC has agreed that co-ops can keep the money and use it to lower the monthly charge for low-income households.

OPERATING BUDGET

8.1 Annual Budget

Co-ops with financial workouts need Agency and CMHC approval before they adopt their annual operating budget. Other co-ops under the S95 Program do not need Agency or CMHC approval of their budget.

EXPENSES

9.1 Normal Operating Expenses

The normal operating expenses of housing co-ops under this program include

- property taxes
- insurance
- maintenance and repairs (including cleaning services)
- utilities and services (e.g., water, electricity, gas, oil, cable TV)
- security services
- interest on mortgages and loans
- amortization of capital assets (usually, but not always, equal to the principal portion of the co-op's mortgage payments)
- ground rent, if the co-op is on leased land and pays an annual rent
- marketing and advertising
- administration (including management and bookkeeping fees)*
- professional fees (e.g., legal, audit)

- governance (including dues to co-operative housing associations and modest social expenses that encourage member involvement)*
- collections and bad-debt expense
- GST/HST
- allocations to the co-op's capital-replacement reserve

The cost of the co-op's meeting room and office space are allowable operating costs.

* CMHC considers six per cent of a co-op's total operating budget to be a proper amount for administrative and governance costs together.

9.2 Ineligible Expenses

The co-op may not treat the expenses below as operating costs of the housing project:

- the cost of running any non-shelter areas of the property (e.g., a daycare centre)
- the share of common operating expenses (e.g., taxes) for the non-shelter areas
[Paragraph 6]
- the cost of non-housing benefits, e.g., vocational training resources
- costs that belong to another phase of the co-op developed under a different program*
- gifts and donations, except for small ones
- the cost of extra housing-related services (e.g., cable TV) for income-tested households (see 6.6) *[Paragraph 1(5)]*

* Where there is more than one phase, the co-op should divide co-op-wide expenses, such as administration costs, among all phases.

The co-op can cover ineligible expenses through

- surcharges added to the occupancy charges
- revenue from non-subsidized sources, such as
 - earnings from the investment of member loans, deposits and shares
 - funds raised through social events
- non-shelter revenue, such as laundry and parking income.

NON-SHELTER COMPONENT

10.1 Rental of Non-residential or Commercial Space [Paragraph 6]

CMHC does not pay Federal Assistance on any non-shelter or commercial space. The co-op must rent this space at market rates approved by the Agency. The co-op can charge the economic or break-even rent if there is no market rate.

Space leased to a non-profit group must operate on a break-even basis.

The co-op may not cover a loss on non-residential space with income from residential space. Any surplus from non-shelter space must go to offset the costs of the shelter space.

CAPITAL-REPLACEMENT RESERVE

11.1 Annual Contribution to the Capital-Replacement Reserve [Paragraphs 9(d), 11]

The co-op must keep a capital-replacement reserve and add to it each year. Schedule F of the operating agreement sets out the initial amount to be put in the reserve each year. The Agency can tell the co-op to change the amount set aside each year. It must consult with the co-op. Schedule F also sets the total the co-op can keep in the reserve. This rule is no longer enforced.

Co-ops normally add interest earned on the reserve to the reserve. They do not have to.

11.2 Purpose of the Capital-Replacement Reserve [Schedule F]

The capital-replacement reserve is used pay for the replacement of worn-out capital items. Capital items are more expensive things that last longer than one year (see 11.4 and 11.5). The reserve is not meant for normal maintenance or minor repairs to the buildings and grounds.

11.3 Accounting for and Investing the Capital-Replacement Reserve [Paragraph 11]

The co-op must

- show the capital-replacement reserve in a separate account in its books
- keep the money at the bank, credit union or caisse populaire or place it in government bonds or other investments approved by CMHC.

CMHC allows the co-op to keep the reserve with its other funds. The co-op should allocate a fair share of interest earnings to the reserve (see 11.1)

11.4 Spending on Pre-approved Items [Schedule F]

The co-op can use capital-reserve funds to replace the items below:

- stoves and refrigerators
- laundry equipment
- roofing, including coating, flashing, eaves-troughs and downspouts
- plumbing
- heating equipment, such as boilers (hot water or steam), forced-air furnaces, radiant-heating components, solid-fuel-burning systems, chimneys and related equipment.

Advance approval is not needed.

11.5 Other Eligible Spending

With the Agency's advance approval the co-op can also spend capital-reserve funds on the items below:

- **Capital-replacement reserve plans**
- **Major building components**
 - outside wall finishes with a shorter life than the rest of the building, including exterior painting and stucco
 - outside doors and windows
 - outside caulking that is hard to reach and hard to replace
 - above-ground waterproofing, including vapour barriers
- **Major building services**
 - domestic hot-water tanks, booster pumps, circulating pumps and sump pumps found in multiple-unit buildings
 - septic tanks and tile beds
 - air-handling systems
- **Basic facilities**
 - kitchen facilities, such as sink and faucet installations, counter tops and cabinets
 - bathroom facilities, such as toilets, sinks, vanities, tubs and fixtures
- **Safety systems**
 - fire-alarm systems, such as hardwired smoke alarms, and smoke and heat detectors linked to a central alarm

- required fire-fighting or prevention equipment
- emergency lighting
- intercom systems in multiple-unit buildings
- other safety items
- **Other major facilities, equipment and features**
 - parking lots, enclosed garages, and driveway and walkway surfaces, including multiple-unit garage surfaces and concrete slabs
 - garbage-disposal systems in multiple-unit buildings, such as compactors and disposers
 - inside floor coverings, including those in common areas and suites
 - outdoor fences
 - water softeners, where the local water is very hard
- **Regulated changes**
 - building changes required by the law within a fixed period of time.
- **Other items**

The items below are meant to last for the life of the building. Replacements can be paid for from the reserve where they fail:

 - foundations or significant sections of foundations
 - other structural components, such as walls, floors and roof framings
 - brickwork and pre-cast concrete panels
 - retaining walls
 - electrical installations, including transformers and emergency generators
 - balconies.

11.6 Approved Capital-Replacement Reserve Plans

Co-ops should draw up a [Capital-Replacement Plan](#). With a good plan in place, a co-op knows how much to put in its reserve each year and when it will need to spend money.

The Agency will approve a capital-replacement plan for up to five years. Before the five years are up, the co-op should update the plan and seek approval for the next five years in the plan.

A co-op can spend reserve funds on any item listed in its plan as long as

- CMHC or the Agency has approved the plan

- the plan
 - is a long-term plan (at least ten years)
 - has a complete schedule for replacing capital items
 - includes estimates of how much each item will cost
- the item falls within the current approved five-year period of the plan, and
- the co-op is setting aside at least the annual amount required under the plan.

New technical studies may or may not be needed when the co-op updates its plan. The update must include a refreshed schedule of replacements and a new cash-flow forecast.

Co-ops can contact the Agency or any co-operative housing federation for more advice on capital-reserve plans.

11.7 Emergency Expenditures

Emergency replacements are repairs to capital items that must be done quickly to remove or avoid a health or safety hazard. Examples are replacing a furnace in the winter or fixing a structural failure that threatens the members' safety.

The co-op should complete such repairs right away, letting the Agency know as soon as possible. The co-op can pay the cost of emergency replacements from the capital-replacement reserve.

NET OPERATING REVENUE

12.1 Net Operating Revenue Policy

A co-op has a net operating revenue when it earns more in a year than it spends or puts aside in its capital-replacement reserve.

Net operating revenue stays with the co-op. It offsets any operating losses from the past.

If there are no losses from the past, the co-op can use the net operating revenue to add to

- the subsidy-surplus reserve, where
 - the reserve is not at the maximum allowed (see 7.1) and
 - there is a clear need for extra funding
- any special reserve approved by the Agency
- the capital-replacement reserve.

The Agency may ask the co-op to lower the amount it puts into the capital-replacement reserve in the future if a transfer of net revenue brings the reserve balance to more than the co-op needs.

If the co-op loses money in a later year, it can offset the loss by drawing from the capital-replacement reserve. It cannot transfer more out of the reserve than the amount it added earlier from net operating revenues. The Agency will ask the co-op to make up the amount later if a transfer out leaves the reserve balance short of the co-op's needs.

The co-op can use any funds it adds to its subsidy-surplus reserve from its net operating revenues to make up for a shortage of [Income-tested Assistance](#) (ITA) in the future.

INSURANCE

13.1 Required Level of Coverage

The co-op's mortgage contract requires the co-op to carry enough insurance to protect the mortgage lender.

The co-op should have at least the following:

- fire insurance to cover the full cost of replacing the building(s) and equipment
- insurance for such risks as wind storms, hail, lightning and floods
- insurance with a "loss-payable" clause stating that the holder of the first mortgage is entitled to the first claims to be paid out.

Enough insurance must be in place at all times to pay out the balance left on the mortgage, plus all interest owing, if there is a total loss.

PROPERTY TAXES

14.1 Approved Lender or Conventional Loans

The lender must make sure the co-op pays its property taxes. If the co-op often fails to pay its property taxes when due, the lender can require the co-op to add the taxes to its monthly mortgage payment. The lender will then pay the taxes on the co-op's behalf.

14.2 CMHC Direct Loans

CMHC does not usually pay property taxes on behalf of co-ops with CMHC direct loans.

LENDING FUNDS AND ENCUMBERING PROPERTIES

15.1 Encumbering the Property [Paragraph 7(1)]

The co-op may not add any other mortgage or obligation (in legal terms, a charge or encumbrance) to any part of its property without CMHC's written approval. The co-op must also get its current lender's permission, if its lender is not CMHC.

15.2 Lending or Giving Away Co-op Funds [Paragraph 7(2)]

Except for small gifts and donations and as said below (15.3), the co-op may not lend or give away any co-op funds, unless the Agency approves in writing. The co-op also needs the Agency's written permission to guarantee or underwrite the repayment of any obligation by a third party, such as a loan.

15.3 Co-op Control of Shares and Loans [Paragraph 7(2)]

The co-op controls members' shares and loans. It also controls any other non-housing money, such as interest earned on the shares and loans. Co-operative principles and, in some provinces, the provincial co-op statute, govern the use of these funds.

MORTGAGE RENEWAL AND AMORTIZATION PERIOD

16.1 Change in Amortization Period at Mortgage Roll-over

Where the co-op took out a mortgage for less than 35 years, it may ask CMHC to extend the repayment period to a full 35 years. An extension may be granted where a co-op

- is in financial difficulty and
- will be able to repay the loan and remain in operation for the rest of the new repayment period.

The extension will be granted only if

- the useful life of the building(s) is as long as the new repayment period
- the co-op pays any early prepayment costs
- the land lease, if there is one, runs at least five years longer than the extended repayment period.

CMHC may grant longer extensions as an exception to policy. It has sole discretion to decide whether to allow an extension. It will not pay any Federal Assistance past 35 years from the IAD on the original loan. This is the maximum subsidy period the program allows.

Co-ops may not refinance their mortgages with CMHC after the federal-assistance period ends. They will need to find a new lender. Where the current lender is not CMHC, the co-op may renew the loan with the lender's approval.

16.2 Approval of Changes in the Amortization Period

The co-op must obtain Agency approval for any change in the amortization period.

16.3 Changes in the Terms of the Mortgage [Paragraphs 15, 16]

The co-op must tell the Agency if it makes any changes to its mortgage on renewal. This includes changes to the interest rate, the monthly mortgage payment and any prepayment of the mortgage.

SALE

17.1 Sale of Property [Paragraph 4]

The co-op must have CMHC's permission before selling all or part of its property. CMHC must have approved the details of the sale in advance. A co-op wishing to sell any property must apply to the Agency.

17.2 Sale within the Co-op Sector or Non-profit Sector

CMHC will allow the sale of a co-op's property to another co-op or non-profit housing provider in special circumstances. These include:

- The co-op is merging or combining with another co-op or non-profit housing provider.
- The co-op is transferring some units to another co-op or non-profit.

The sale may take place only if it is in the best interests of the co-op and in keeping with program purposes. The property will be sold for \$1 and the buyer will take over the outstanding mortgage. The buyer must operate the property within the program and follow the operating agreement with CMHC.

17.3 Sale on the Open Market

To ensure its survival, a co-op might need to sell a portion of its property outside of the co-op or non-profit sector. Any such sale must be at fair market value.

CMHC might consider such a sale if, for example,

- the condition of the building makes the property unsafe or inadequate as shelter and the repairs needed are too costly

- needs have changed and the units cannot be filled and
- the units cannot be sold to another non-profit housing provider.

FINANCIAL RECORDS AND REPORTING

18.1 Financial Records *[Paragraph 9(1)]*

The co-op is required to keep financial records in a form acceptable to the Agency. The Agency has the right to inspect the co-op's books and records at any reasonable time, with reasonable notice.

18.2 Reporting Requirements *[Paragraph 9(4)]*

The co-op must file its audited financial statements and Annual Information Return with the Agency within four months of its fiscal year end.

18.3 Choice of Auditor *[Paragraph 9(2)]*

The co-op must appoint an accredited auditor or one approved by the Agency. An "accredited auditor" is a licensed public accountant.

18.4 Audited Financial Statements

Audited financial statements normally include

- the auditor's report
- a statement of financial position, also called a balance sheet
- a statement of revenue and expenses (separately for shelter and non-shelter components, if applicable)
- a statement of funded reserves
- a cash flow statement
- a statement of changes in fund balance(s)
- notes to the financial statements, and
- the confirmations required below.

18.5 Duties of the Auditor *[Paragraph 9(3)]*

The auditor must confirm

- that the audit has been conducted according to generally accepted auditing standards

- that the statements have been prepared according to Canadian generally accepted accounting principles (GAAP)²
- whether or not the financial statements present fairly the co-op's financial position and the results of its operations and cash flows during the year
- that the replacement-reserve fund is in place at the level required*
- that the subsidy-surplus fund is in place and that interest earned on the fund has been added to the fund*
- that the co-op has verified the incomes of all [income-tested occupants](#)*
- that the co-op has a housing charge-to-income ratio allowed by the operating agreement*
- that the co-op has properly calculated the housing charges paid by [income-tested occupants](#)*

* The information on these subjects in the Annual Information Return filed by the auditor will serve as the auditor's confirmation.

18.6 Separate Reporting for Multiple Phases

If the co-op has operations under more than one federal program, it must record operating revenues and expenses separately for each program.

ANNUAL INFORMATION RETURN

19.1 Annual Information Return (AIR) [Paragraph 9(4)]

The Annual Information Return (AIR) has replaced the Annual Project Data Report. The co-op must complete the AIR and send it to the Agency within four months of its fiscal year end.

This return must confirm that a majority of units are occupied by members of the co-op.

The return must also list the names and addresses of the co-op's current officers.

19.2 Additional Information [Paragraph 9(5)]

The Agency may require the co-op to explain information in the Annual Information Return.

19.3 Agency Reports

The Agency will review the AIR and then provide the co-op with three reports:

² In practice, CMHC encourages co-ops to account for the cost of assets funded by the mortgage at the same rate as the mortgage principal is repaid.

- a risk-assessment report that gives the co-op a “risk rating”; the rating is based largely on whether the co-op will be able to meet its future financial obligations on time
- a compliance-review report; this lists any areas where the co-op is not following the operating agreement and says what the co-op must do
- a co-op data report; this shows how the co-op and its peers have done in key areas over the past three years.

RETENTION OF DOCUMENTS

20.1 Retention of Documents

The co-op must keep all documents, vouchers, records and accounts relating to the business as long as the *Income Tax Act* requires.

DISCRIMINATION

21.1 No Discrimination [Paragraph 12]

The operating agreement sets out grounds on which a co-op may not discriminate. Provincial human-rights laws include these grounds and others. The co-op must follow the human-rights law in its province.

21.2 Occupancy and Other Charges [Paragraphs 18, 3(6)(a) and (b)]

The co-op may not set different charges for the same services for member and non-member occupants. However, if the [Regular Occupancy Charges](#) are lower than the [low-end-of-market rents](#), the co-op may set the rent for non-member occupants at the low end of market.

21.3 Housing for Special Groups

It is not discrimination if the co-op reserves housing for seniors or gives preferential treatment to disadvantaged individuals or groups.

ON-SITE REVIEWS [PARAGRAPH 5]

22.1 Triggers for On-Site Reviews

The Agency will initiate an on-site review if a risk assessment, annual compliance review or something else suggests that the co-op may not be managing its property well or following the terms of the operating agreement.

22.2 On-Site Review

During an on-site review the Agency may

- review the co-op's books and records [*Paragraph 9(1)*]
- meet with the board, manager, or committees
- inspect the property.

Following the on-site review, the Agency will complete a report. The report will say what the co-op needs to do to improve. The Agency will share the report with the co-op's board of directors. It will follow up as needed to make sure the co-op takes care of the problems set out in the report.

GOVERNANCE

23.1 Governance

The co-op should ensure its good governance by electing and training a committed board of directors.

In keeping with the co-op's non-profit nature, members of the board of directors must not receive any payment for their services as directors of the co-op.

If the Agency believes that the co-op is not well governed, it may ask the co-op to

- get training for board members
- ask directors to resign if they are in breach of their duty
- hold elections for new directors to fill vacancies on the board
- consider naming temporary directors from outside of the co-op.

23.2 Conflict of Interest

A conflict of interest occurs when a director, officer, employee or committee member takes part in co-op decisions that could give that person, or their relative or business associate, some benefit the rest of the co-op would not have.

Any board member or employee with a conflict of interest must disclose the conflict to the board and withdraw from discussions and decision-making about the matter.

BREACH OF AGREEMENT

24.1 CMHC's Right to End the Federal Assistance [Paragraph 13]

If a co-op

- does not follow the terms of its operating agreement or
- is in default of its loan

the Agency will advise CMHC to seek a remedy. CMHC may

- discontinue the Federal Assistance
- send the assistance directly to the municipality, if there are unpaid property taxes
- require the co-op to repay to CMHC the whole of the subsidy-surplus reserve.

This may happen if the co-op

- misses mortgage payments
- fails to pay its property taxes
- does not file its audited financial statements and AIR
- does not return unused [Income-Tested Assistance](#) above the permitted reserve, or
- breaches the operating agreement in another serious way.

If the co-op owes unused [Income-Tested Assistance](#) to CMHC but cannot repay it right away, the Agency will work with the co-op to make a plan to pay back the assistance.

24.2 Conditions under which the Assistance May Continue

CMHC may choose not to discontinue the Federal Assistance when a co-op is in breach of its operating agreement if it believes this to be in its best interest. The Agency will not advise to suspend the assistance if

- the co-op is taking action to resolve the breach, or
- due to problems beyond its control, the co-op cannot resolve the breach without outside help.

24.3 Other Actions CMHC May Take [Paragraph 14]

If the co-op has received a forgivable [RRAP](#) loan and breaches the operating agreement, CMHC may require the co-op to repay the unearned balance of the forgivable loan.

24.4 Conditions for Reinstatement of the Assistance

CMHC will not reinstate the Federal Assistance until the co-op

- is no longer in breach or
- has in place an action plan acceptable to the Agency.

Where the problem is a failure to make a mortgage or workout-loan payment,

- the mortgage arrears must first be paid in full or
- the co-op must have in place a plan acceptable to CMHC to pay the arrears.

APPENDIX A: DEFINITIONS

Capital-Replacement Plan

A capital-replacement plan

- lists all parts of the building that will need replacing over time (e.g., roof, heating system, etc.)
- shows how long each part should last (“life expectancy”)
- predicts when that part of the building will need replacing.

It also estimates the cost of replacing each building part. The plan allows the co-op to see the amount of money that it needs to set aside in a reserve to ensure that it will have the money when major replacements or repairs are needed.

Economic Occupancy Charge

The economic occupancy charge is the amount that each unit in the co-op would have to pay in order for the co-op to break even, without any government assistance, after paying

- all of the operating expenses for the [shelter component](#) of the property
- an allocation to the capital-replacement reserve, and
- the full mortgage payment.

Graduated Occupancy Charge (GOC)

The graduated occupancy charge is the monthly amount that [income-tested occupants](#) must pay based on their household income. The actual amount of the charge is shown on the GOC scale in Schedule B of the operating agreement.

Income-Tested Assistance

Income-tested Assistance is the part of the Federal Assistance available each year to make up the difference between

- the total actual occupancy charges based on the [Graduated Occupancy Charge \(GOC\) scale](#), and
- the total of the [regular occupancy charges](#) for the units occupied by [income-tested occupants](#).

Income-tested assistance paid by CMHC for the co-op’s current fiscal year is called “subsidy pool” in the operating agreement.

Income-Tested Occupants

[Income-tested occupants](#) are co-op members or tenants who qualify to pay less than the regular occupancy charge based on their household income. The co-op must verify the household income of income-tested occupants at least once each year.

Interest Adjustment Date (IAD)

The IAD is one month before the date on which the co-op's first mortgage payment was due.

Low-End-of-Market Rent

The low-end-of-market rent is an amount equal to the low end of a range of private market rents for similar accommodation in the same area as the co-op. It is set by CMHC or the Agency.

Regular Occupancy Charge

The regular occupancy charge is the monthly amount that non-income-tested occupants must pay as their share of the expenses for the [shelter component](#) of the property, including operating costs, an allocation to the capital-replacement reserve and the monthly mortgage payment, less any pre-determined assistance.

RRAP Loan

RRAP stands for Residential Rehabilitation Assistance Program. Co-ops whose buildings required rehab work were able to access a forgivable loan through this program.

RRAP Forgiveness

When a co-op received a RRAP loan, the loan amount appeared as a debt in the co-op's books. However, the co-op did not have to make payments on the loan. One tenth of the loan was written off (forgiven) each year over a ten-year period until the debt was gone.

Shelter Component

The shelter component of the property includes all parts of the co-op where people are living, as well as any amenity space (e.g., laundry facilities, party/events room) shared by the residents. It also includes space for the co-op's office and meeting room(s).

It does not include spaces rented by groups offering services (e.g., a daycare) or running businesses.