An innovation guide under More Homes, More Choice: Ontario's Housing Supply Action Plan

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Co-owning a home

Practical information about co-owning a home

Ontario

Introduction

Co-ownership housing is a shared living arrangement where two or more people own and live in a home together. Co-owners may share living spaces like kitchens and living rooms, or the home may be divided into separate units.

Responsibilities for care and upkeep of the home are usually shared, as well as some amenities and services.

For people who want to take advantage of co-ownership housing, this guide provides practical information to help you:

- explore co-ownership options
- learn the steps you need to know to protect yourself in co-ownership arrangements

Benefits

Co-ownership housing expands the options available to individuals and families and provides a range of benefits, including:

- **affordability:** people can pool resources to buy a house, making home ownership more affordable. It also provides a way to build equity and the security that comes with owning your home
- **access to more neighbourhoods:** people have more housing location options within their budget (for example, residential communities with predominantly single detached homes)
- **more efficient use of housing stock:** smaller households can maximize the space available in larger houses and heritage properties by co-owning them with others
- **community:** enables groups of people to voluntarily create a community environment with facilities, indoor and outdoor common spaces and services that meet their needs

How we developed the guide

More Homes, More Choice: Ontario's Housing Supply Action Plan recognizes that fresh approaches will give people more options and access to housing that is affordable.

Stakeholder roundtables were conducted to support the development of the co-ownership guide. Those attending these discussions included:

- co-ownership housing residents
- representatives who assist co-ownership groups
- professional service providers and sector organizations
- municipalities and municipal associations

The roundtables provided valuable input into the content of this guide. The ministry thanks the participants for sharing their insights.

Co-ownership arrangements

There are different ways to co-own a home. For example, you can do it as a group of individuals or by setting up a corporation (which can take different forms).

Co-owners either have:

- equal shares of the property and equal decision-making power
- different levels of shares and decision-making power

Ownership as a group of individuals

Every co-owner is on the property's ownership title, either as "tenants-in-common" or as "joint tenants."

If a **tenants-in-common** co-owner dies, the ownership does not automatically go to other owners. Their share of property becomes part of their estate.

If a **joint tenant** co-owner dies, surviving co-owners inherit the deceased's share of the property.

Ownership through a corporation

The home's title would be held by the corporation or a co-operative corporation created by the co-owners.

Corporation ownership may make it easier for co-owners to sell or transfer their share without requiring the owners' names on property title to change.

Condominium corporations

In homes that are divided into separate units, co-owners can also establish a condominium corporation where each co-owner owns their own unit and a share of common amenities.

A condominium is not a certain type of building (such as a high rise) but a form of ownership that may apply to smaller housing types such as units within a single house. Condominium owners may be involved in the board of directors and would be subject to the by-laws and rules of the condominium.

Each unit's owner has the right to sell or transfer their unit to anyone they choose, and to obtain their own individual mortgage.

There are several steps involved in creating a condominium corporation including a requirement for municipal planning approvals.

More information about condominiums and how to create a condominium corporation is available on the website of the Condominium Authority of Ontario.

Ownership shares and decision-making power

A common type of co-ownership structure is when all co-owners have equal ownership shares and decision-making powers. There may be situations where co-owners agree to different levels of ownership shares and decision-making powers.

For example, one co-owner could contribute more towards the house purchase than another co-owner. The two co-owners may agree that the person contributing the most has more say in the decision-making.

In cases where co-owners contributed different amounts towards the purchase price based on unit size, decision-making could be based on the percentage amounts each have paid.

Examples of co-ownership

The following case studies show different home co-ownership models that address different objectives and needs.

Example 1: Build a caring community

A group of seniors wants to age in a caring community rather than live alone. They use the savings or profit from the sale of their homes to purchase a home together.

They renovate the house to include accessible features. The house includes a shared kitchen and living room, and together, the residents buy and prepare food, as well as arrange cleaning services.

The group also decides to create some private amenities, including an ensuite bathroom for each bedroom.

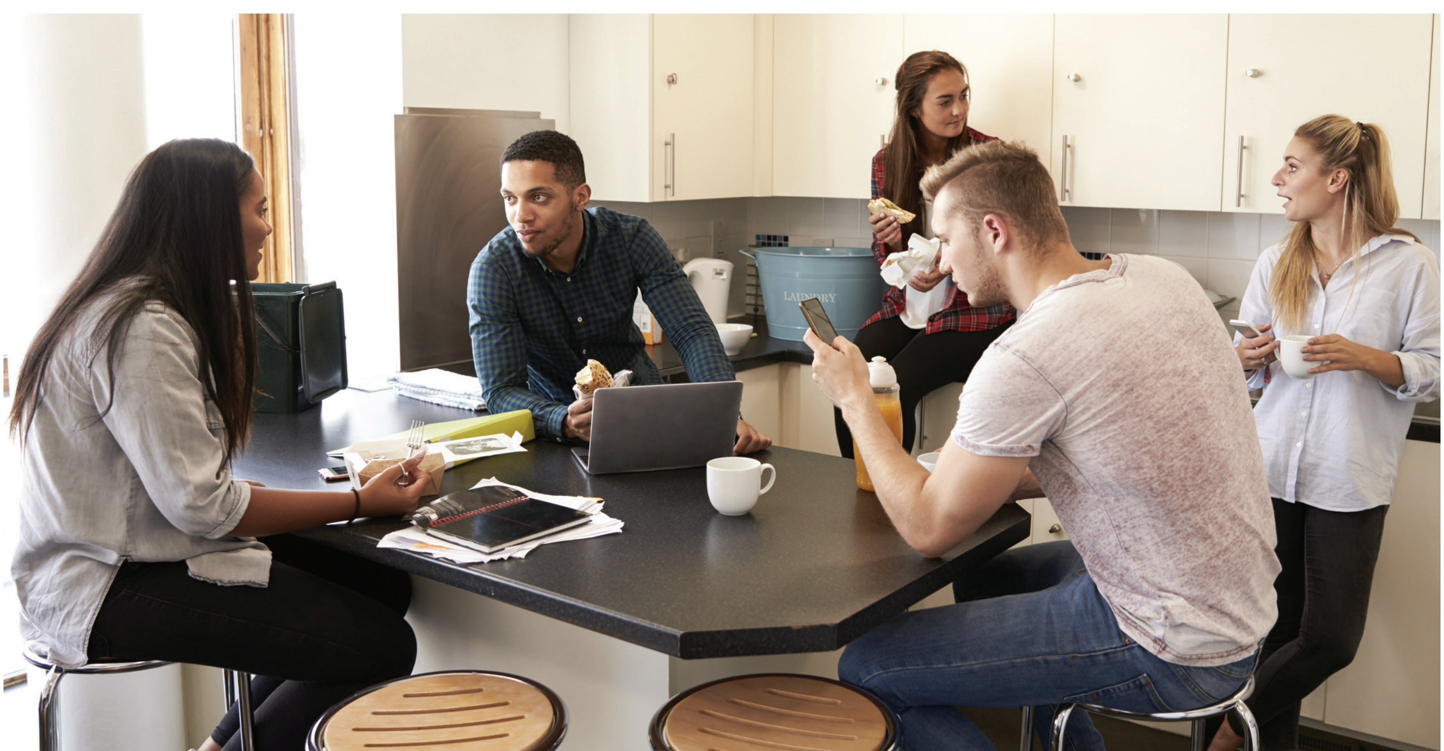
Example 2: Access to homeownership

A group of young adults buy a house in a community of single detached homes.

By pooling their resources, they can make a 20% down payment on the house allowing them to avoid mortgage insurance. The co-owners contributed different amounts towards the purchase price, so the percentage of the house each owns varies.

This co-ownership arrangement will allow each person to build equity and eventually buy houses of their own.

If major renovations are made to the house, the costs will be split based on the percentage of ownership. Ongoing operating costs are shared equally, as are basic responsibilities for the care and upkeep of the house.

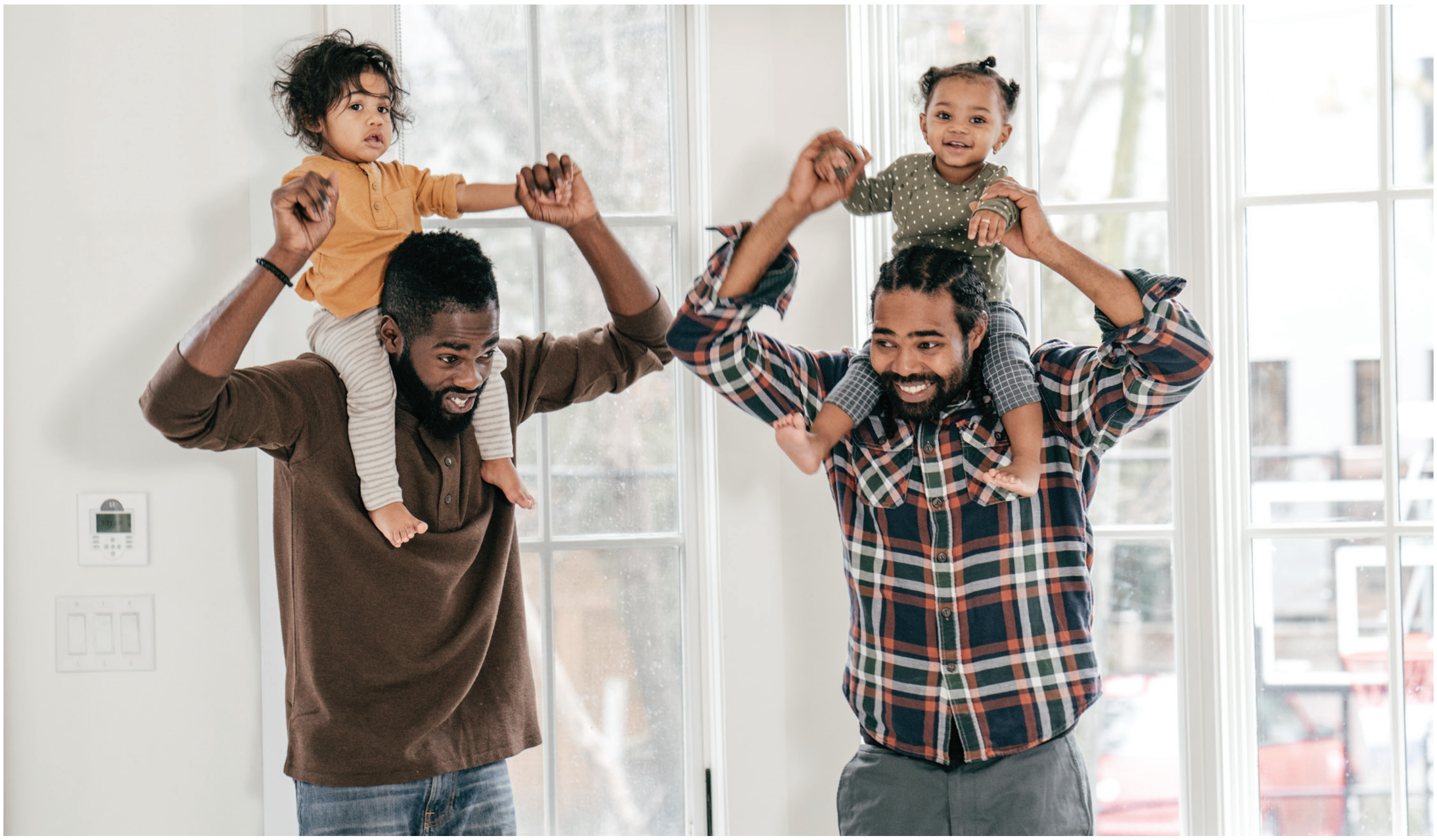


Example 3: Meet the needs of two families

Two families with children want to live in a neighbourhood where they can't afford to buy a house of their own. They decide to buy a house together that will have private units for each family and a shared yard for the children to play in.

Sharing babysitting and having potential friends for their children while living in the same house are further advantages to co-ownership.

Their plan is to co-own the house for about five years or until they are both able to buy their own houses.



Co-housing

There is another form of ownership which may be confused with co-ownership housing, called "co-housing."

Under co-housing, residents both:

- own their individual homes or condo units
- share ownership of a "common house" with shared amenities

This is different from the focus of this guide, which is on the co-ownership of a single house.

Develop a legal contract (co-ownership agreement)

This section covers what you should include in a co-ownership agreement. Buying a home with other people is a big commitment – both financially and in the ways you will live together. You will be making decisions and sharing responsibilities to care for the property.

Establishing a legal agreement between the co-owners provides clarity about the rights and obligations of co-owners and protects everyone in the case of disputes. This type of agreement is called a **co-ownership agreement**.

Co-ownership agreements may support your application to a financial institution for mortgage financing. To make sure that the agreement is properly prepared, you should get professional legal advice.

Ownership structure and decision-making process

Ownership can include tenants-in-common, joint tenants and ownership through a corporation. There are additional steps to set up a corporation, co-operative corporation or condominium corporation.

In the agreement, co-owners set out the decision-making process everyone will follow, which can include:

- consensus
- voting based on equal shares or varying percentage shares

Use of the property

This determines how indoor and outdoor common spaces are used, including designating common areas and each co-owners' private space.

You can also include rules that address:

- occupancy
- use of the property by guests
- use of property by potential new residents (for example, if a co-owner forms a new relationship)

Financial and insurance arrangements

This includes:

- mortgage and property tax payments
- sharing and paying operating expenses
- funding major repairs and renovations
- how co-owners will maintain needed insurance

Home operation and upkeep

This includes clarification of responsibilities for:

- financial contributions
- work and time commitments

Co-owner negligence or misconduct

This could include rules allowing co-owner(s) to seek compensation if there is negligence or misconduct by another co-owner, such as:

- breach of the co-ownership agreement
- misuse of money held in a common account for home operating expenses

Dispute resolution

These provisions cover alternative dispute resolution (for example, mediation or arbitration) as a way to avoid lengthy and costly court cases.

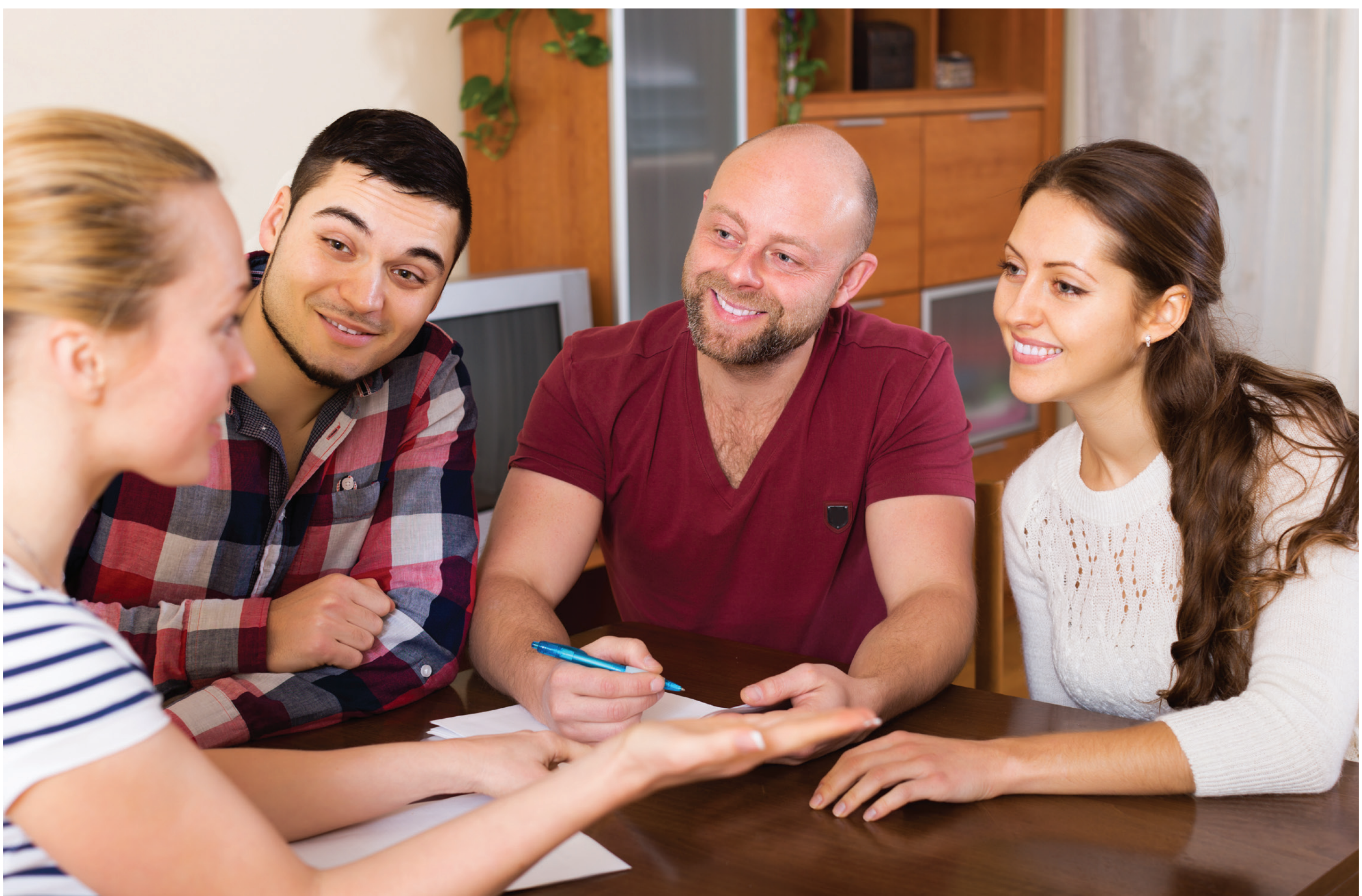
Exit/entry provisions

Clear procedures must be in place when a co-owner leaves the co-ownership arrangement and when new people enter. Rules for people entering the arrangement could include the role of other co-owners in approving a potential new co-owner.

These provisions can provide a process for:

- new individuals or families to enter
- how to leave the co-ownership arrangement
- what to do in the event of the death of a co-owner
- determining fair market value for a co-owner's share and/or house

This also includes rules about what to do about an existing co-owner's share of the house. For example, the share may be purchased by remaining co-owners or a third party, or you may want to sell the house and end the co-ownership arrangement.



Buy or sell a home

When buying or selling a house, co-owners follow the same steps that other home purchasers and sellers follow.

In a joint purchase or sale, it is important to clearly understand what is important to you and to your co-owners.

Flexibility on all sides may be needed to find a house that meets the expectations of all buyers.

Costs

Co-owners need to consider the type of house they want and how much they can afford to pay for it. Costs to be considered include:

- down payment
- mortgage payments
- renovation costs
- ongoing operation and upkeep expenses such as maintenance, property insurance, utilities and property taxes
- costs of real estate transactions such as legal and realtor fees, land transfer tax

Mortgage

If a mortgage is needed, co-owners will need to work together with a financial institution to obtain one.

It is important to note co-owners will have to share information on income, assets, debt and credit history with each other.

Co-owners may want to get a pre-approved mortgage or ensure that a condition of obtaining financing is included in any purchase offer(s).

Get professional services

Co-owners will need to work together to find a house that suits everyone. We recommend co-owners work with a real estate professional who will help them through the buying and selling process.

Prior to the sale, you should hire a home inspector to verify that the house is in good condition. If you are buying a house that has already divided into separate units, make sure that the units were created legally and comply with zoning, building and any other applicable requirements.

Co-owners should obtain professional legal services for the purchase agreement, as well as for registration of the co-owners on title or obtaining title insurance.

Co-owners should also get sufficient property insurance to protect themselves and meet mortgage financing requirements.

Finance a co-ownership home

A key advantage of co-ownership housing is that co-owners can draw on their collective financial resources to help afford a home.

Sharing costs

These resources include the portion of their savings that co-owners can contribute to a down payment and any immediate repairs and renovations that need to be done on the house.

If the co-owners can provide a down payment of 20% or more toward the purchase price, they don't have to pay for mortgage insurance costs.

Depending on what the co-owners have agreed to, they may contribute to the down payment, mortgage and ongoing costs equally or contribute in varying percentage amounts. The agreed-upon contributions may depend on the savings and income available to each co-owner.

To arrange for mortgage financing, the financial institution will need information from each of the co-owners, including:

- income
- existing assets and debts
- credit history

Joint and several liability

Unless a corporate ownership structure is established, the co-owners hold a single mortgage with "joint and several liability."

With "joint and several liability," the financial institution can make a full claim against any one person, and then that person would seek compensation from the other people who participated in the mortgage.

As with other homeowners, the financial institution's primary way of addressing any default on the mortgage by co-owners is to take possession of the home.

To protect yourselves, a best practice is for co-owners to maintain a joint bank account with an amount of money equal to the next three months' worth of mortgage payments. If a problem arises, there is time to address it before there is a default with the financial institution.

Corporate ownership

In the case of a corporate ownership structure, the corporation holds the mortgage.

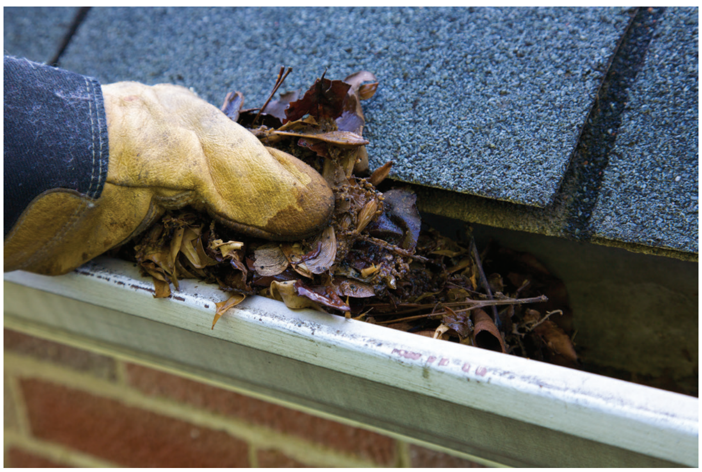
A corporate ownership structure could make it easier for co-owners to exit their share of the home and new co-owners to join without requiring refinancing of the home (which can be difficult for a group of individual co-owners to obtain).

A corporate mortgage is often more complex to establish and is charged a higher interest rate.

Home operation and upkeep

Once a house has been purchased, the co-owners will have:

- ongoing maintenance work
- shared costs for home operation and upkeep
- other house-related responsibilities



These responsibilities and costs need to be clearly laid out, mutually agreed to and shared fairly among the co-owners.

Co-owners may also consider how contributions of time and work by each co-owner will be valued, and if this will impact how the ongoing costs are shared among the co-owners.

Ongoing house costs

- **mortgage payments:** a best practice is for co-owners to keep a reserve fund with the next three months' worth of mortgage payments
- **municipal and education property taxes:** the municipal billing cycle for property taxes may not be evenly spread through the year
- **utilities:** these may include electricity, water, gas/oil, internet service, cable and/or lease payments for hot water tank
- **house operations and minor repairs:** these may include cleaning supplies, light bulbs, hardware supplies and equipment for indoor and outdoor maintenance
- **major repairs and renovations:** large expenditures such as roof and/or heating and ventilation system replacement may be needed during the course of co-owning the house
- **home insurance premiums:** insurance provides protection for homeowners against damage or loss and personal liability. It is often required by financial institutions in order to obtain a mortgage

Contribute to a bank account

For managing common finances, a best practice is for co-owners to create a separate bank account.

Each co-owner contributes regularly based on expected ongoing costs, including a "cushion" or reserve amount to allow for unexpected costs.

Regulatory considerations

Ontario Human Rights Code

Under the Ontario Human Rights Code, every person has a right to equal treatment with respect to occupancy of accommodation, without discrimination because of protected grounds such as age.

The Ontario Provincial Policy Statement requires planning decisions in Ontario to be implemented in a manner that is consistent with the Human Rights Code and the Canadian Charter of Rights and Freedoms.

Building Code

Building Code requirements apply when there is construction, renovation, demolition and change of use for buildings in Ontario. These requirements are a comprehensive set of minimum building and construction standards.

There are several important factors you need to consider when doing renovation or construction work to your co-owned house, including:

- designing the renovation or construction work to comply with the Building Code
- obtaining necessary building permit(s)
- obtaining a licensed contractor to do the work
- fulfilling required building inspections during the work

Before issuing a building permit, the municipal building department must confirm that the proposed work complies with the Building Code requirements, municipal zoning and other local by-laws. See the Municipal zoning requirements section.

In Ontario, municipalities administer Building Code regulations and zoning by-law requirements.

You should speak with your local building and/or planning departments if you have questions about building regulations, zoning by-law provisions and any other by-law requirements that may apply to ensure that your co-ownership home is a legal, safe and healthy place to live.

Building regulations apply to your co-owned house if you are planning for renovations or construction work, such as:

- adding ensuite bathroom(s)
- renovating common spaces
- subdividing an existing home to create additional individual dwellings

To help you through the sometimes-complex approval and building process, we recommend you hire at least one of the following:

- Building Code designer registered with the Ontario government
- architect
- engineer

These professionals and your builder can help you get all necessary approvals, building permits and arrange construction inspections.

Building permits

To get a building permit, you must submit the following to your local building department:

- a completed application form
- any forms and supporting documents requested by the municipality
- construction drawings (most municipalities require at least two sets of drawings)
- payment of the building permit fee

Once you have submitted your completed application, you will hear back within 10 business days if it has been approved or not.

Incomplete applications or improper design may mean your permit will be delayed or rejected.

After you receive a permit

Once your building permit has been issued, building inspectors from the municipality must review work at various stages during construction.

You or your agent are responsible for informing your building department when different stages of construction are ready for inspection.

Zoning by-laws

Zoning by-laws are established and administered by municipalities under the *Planning Act*. Local zoning by-laws control how land may be used and regulate the physical form of communities, such as:

- where buildings can be located
- types of buildings permitted
- how buildings can be used
- lot sizes and dimensions
- parking requirements
- building heights and setbacks from the street

Municipal zoning requirements

As noted in the Building Code construction standards section, when co-owners apply for a building permit for renovation or construction work for their home, the building department reviews and determines that the proposed work complies with:

- the Building Code
- other regulatory requirements such as municipal zoning by-laws for the lands that are the subject of the application

To verify compliance with zoning requirements, the building department may request that the planning department examine the application to ensure compliance with zoning for the property.

Consult your municipality

Co-owners who are planning to make changes to their home (for example, create new separate self-contained units) should consult with their municipal planning departments to determine if this may be considered a change in use and what zoning requirements would apply.

It is important that you first check with your local municipality before making changes to the use of your property. **If in doubt, ask**.

Zoning by-laws and ownership type

Municipal zoning requirements do not include the authority to distinguish between persons who are related or unrelated in respect of their occupancy or use of a building. In other words, zoning by-laws cannot be different for a house that is owned by a family and a house that is owned by unrelated co-owners.

Municipalities may create specific zoning by-laws for other land uses that may appear similar in structure and facilities to a co-ownership home, such as a single dwelling house that is used as a rooming house, a small student residence, or a small care home. Municipalities are responsible for applying the zoning requirements that they create and ensuring that their zoning by-laws do not distinguish between persons who are unrelated or related for living in and using a building.

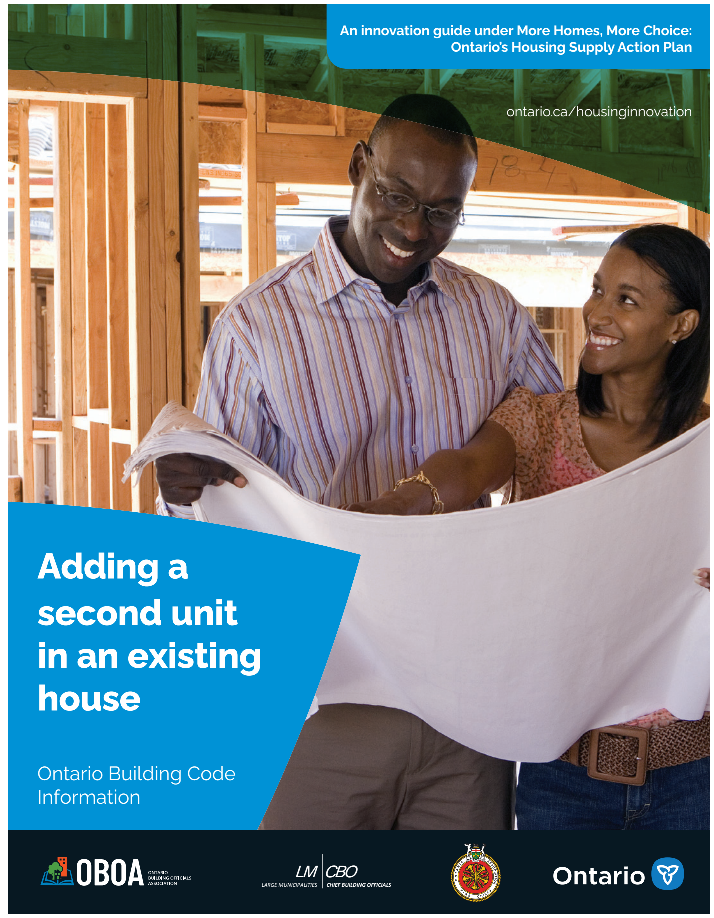
Adding a second unit

For co-owners who are creating new separate units with their own kitchens and bathrooms, the Building Code sets out minimum construction standards for how to build a second unit in a house. More information about this is in the guide "Adding a second unit in an existing house."

Development charges are not required to be paid for the construction of a second unit in an existing house (subject to rules set out in regulation).

If co-owners are planning to subdivide a house to create three or more units, we recommend you hire a qualified professional such as an architect, professional engineer or designer registered with the Ontario government to assist with:

- any local zoning requirements
- the complexities of design and Building Code requirements



Shared living spaces

For co-owners who plan to share living spaces like kitchens and bathrooms, it may be useful to know that there are specific requirements in the Building Code and Fire Code that apply to boarding, lodging or rooming houses.

Boarding, lodging and rooming houses may have similar structures and facilities to a co-ownership shared home, but these specific rules only apply when the residents provide renumeration (for example, rent) or services in return for lodging. Therefore, they do not apply to co-ownership housing.

Change your co-ownership arrangement

Circumstances can change, and you may decide that you would like to make changes to your co-ownership arrangement or your home.

Depending on the changes that you are considering, it is important to understand the legal and regulatory requirements for different uses such as rental, boarding, and care homes. These requirements may be very different than those for the co-ownership housing described in this guide.

Your home may be subject to additional or different rules if you make changes to your co-ownership arrangement in the future, such as:

- renting out rooms (for short or long term)
- bringing in investors who will not live with you
- renovating
- creating new suites or units
- providing services in return for payment

You may be required to meet different standards, get licenses or undergo inspections. There is also a chance that the new use may not be allowed in your area.

Check with your local municipality before making changes to your property or its use. **When in doubt, ask**.

Cover photo (left to right): Beverly Brown, Martha Casson, Louise Bardswich and Sandy McCully.

Ministry of Municipal Affairs and Housing

ISBN 978-1-4868-3991-9 (Print)
ISBN 978-1-4868-3992-6 (HTML)
ISBN 978-1-4868-3993-3 (PDF)

12/19

Disponible en français

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