The information in this document is provided for informational purposes only and does not constitute legal advice. Please consult a qualified attorney prior to acting upon the information contained in this document.

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I. **Introduction to HDFC Coops & the Compliance Checklist**

A Housing Development Fund Company (“HDFC”) cooperative is a corporation organized under New York State’s Private Housing Finance Law and the Business Corporation Law for the exclusive purpose of “developing a housing project for persons of low-income.” HDFC coops are typically formed through programs created and supervised by New York City’s housing agency, the Department of Housing Preservation and Development (“HPD”).

These coops provide decent, affordable housing to tenants who might otherwise be forced out of rapidly gentrifying neighborhoods. Because the tenant-owners (shareholders) of a low-income coop are responsible for the governance of the buildings they live in, they often develop a keen sense of group identity and become invested not only in their buildings, but also in the improvement of the communities they live in.

In the past, the City took title to buildings that were in tax arrears and had numerous code violations and those buildings would become coops through HPD’s Tenant Interim Lease (“TIL”) program. Today, the City conveys these distressed buildings to a qualified third party following entry of a foreclosure judgment against the landlord. In this Third Party Transfer (“TPT”) program, tenants may petition HPD for ownership of the building. On occasion, buildings become HDFC coops without going through either the TIL or TPT programs.

Tenants that wish to enter the TIL or TPT programs form tenant associations that work closely with the coop sponsor, the architect and the contractor on the development of the project. The sponsor works with the Real Estate Finance Bureau of the New York Attorney General’s office to get an offering plan for coop conversion approved. Provided that a significant percentage of the tenants are involved in the building rehabilitation process, take classes in building management, finance and maintenance, and that the tenant association meets on a regular basis and follows its bylaws, the sponsor and HPD should agree to transfer ownership to the tenants following the completion of building rehabilitation.

We call this document the HDFC Coop Compliance Checklist (the Checklist, for short). The Checklist is intended to keep the board of directors of your coop on track. It encourages coop boards to have regular meetings of shareholders and of the board of directors, to follow best management and maintenance practices, and to keep good books and records in order to maintain a healthy, well-run building. The Checklist also enables shareholders to be informed, to monitor the activities of the board, and to lend timely assistance.

The Checklist provides links to government websites and to the websites of organizations that provide assistance to housing cooperatives. We are not responsible for the accuracy or up-to-date character of the websites that we link to, nor for the information or forms provided by these websites, so use care.

The Checklist is intended to assist HDFC housing cooperatives with information regarding the management of their buildings. *The information provided does not constitute legal advice. Prior to acting on the information provided, please consult with a qualified attorney, accountant or other professional.*

Good luck with the management of your HDFC cooperative apartment building!
II. Roles and Responsibilities of HDFC Board Members

Fiduciary Duties of the Board

Directors and officers of the coop have a fiduciary duty to the building. A fiduciary is a guardian—someone who is charged with taking good care of the corporation; as fiduciaries the directors and officers are expected to put the corporation’s interests before their own. If they breach their fiduciary duties, they may be held *personally liable* for certain claims against the corporation. The fiduciary duties, described below, are the “duty of care”, the “duty of loyalty”, and the “duty of obedience”.

**Duty of Care:** A fiduciary attends and actively participates in board meetings; carefully reviews all financial reports, proposals, contracts and other documents; is familiar with the coop’s legal documents; and secures competent expert advice when required (e.g., accounting, legal, management)

**Duty of Loyalty:** A fiduciary does not use his or her position for personal gain and avoids conflicts of interest. Any personal interest in a corporate issue must be disclosed to the board. Following a conversation with the board regarding the issue, the fiduciary plays no further role in the decision-making or voting on the issue

**Duty of Obedience and Compliance:** A fiduciary ensures that the coop follows its own rules (as set forth in the coop’s legal documents and policies) and is in compliance with local, state and federal law. The overarching goal is the preservation of the coop as a source of affordable, decent and safe housing.

Personal Liability of Officers and Directors

Directors and Officers should take the following steps to avoid personal liability for claims against the corporation.

Ensure that the board complies with laws that may result in personal liability

- Workers compensation: potential fines of $2,000 for every 10 day period without workers compensation coverage.
- Disability insurance: potential fines of $500 plus 0.5% of payroll for each period of noncompliance, up to $2,500 for three violations in five years
Section II: Roles and Responsibilities of HDFC Board Members

- Payment of payroll taxes for any employees
  
  Purchase directors and officers liability insurance, which protects the board against lawsuits from shareholders
  
  Purchase Bonding insurance, which protects the corporation against the loss of money resulting from embezzlement or theft by someone responsible for handling funds

Responsibilities and Duties of the Board of Directors

The Board of Directors has a wide variety of obligations related to the management and maintenance of the building, including financial matters and tax and legal compliance. It usually makes sense to engage a management company to handle many of the tasks listed below. However, ultimate responsibility rests with the board of directors, which must monitor the management company to ensure that all matters are properly attended to.

**Done** **Need** **Help**

General Responsibilities of the Board[^1]

- Prepare annual budget
- Maintain financial and corporate records and pay bills
- Maintain and repair common spaces, building systems (plumbing, heating, electrical), and building structure
- Approve apartment alterations and sub-leases
- Supervise the sale of apartments and approve new members of the coop
- Ensure compliance with income limitations, resale provisions, and other documents of the coop
- Enforce the shareholders’ obligations under the proprietary lease
- Mediate disputes between shareholders
- Handle any litigation involving the coop
- Ensure that regular meetings of the shareholders take place
- Provide access to the books and records of the corporation including annual reports and financial statements

Duties of Individual Board Members

At least three board members are necessary (President, Treasurer, and Secretary); others are determined by the bylaws (some boards have five or more members). Typically, officers hold no more than one position at a time, and no two members who live in the same apartment can be officers at the same time. In addition to the duties listed below, your by-laws may describe other requirements; review these duties to ensure that you fulfill them.  

### President
- Preside at meetings of the board of directors and of shareholders and set meeting agendas
- Oversee committees of the board
- Represent the tenant association when necessary and act on behalf of its interests; sign documents on behalf of the association

### Treasurer
- Maintain the accounts of the corporation; ensure that all checks are signed by two officers
- Maintain all financial records and create financial reports
- Create a monthly financial report for HPD; assist with creation of annual report
- Collect rent and maintenance and issue receipts
- Hire and supervise bookkeeper or accountant

### Secretary
- Take minutes at board meetings and distribute minutes for approval
- Keep all non-financial records of the tenants association, including records of notices issued and of meeting attendance
- Certify corporate documents and policies

### Vice-President (optional position)
- Perform duties of President when he or she is unavailable
- Assist other board members as necessary; know how to perform other officers’ duties

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III. Holding Meetings and Elections

Holding Meetings

Done  Need  Help

Hold regular meetings of the shareholders and of the board of directors

Create a relevant and effective meeting agenda: the agenda should follow the order of the meeting as described in the by-laws

• Discussion of old business (from previous meetings)
• Reports from each committee
• Financial report from the treasurer
• New business
• Questions and comments from the meeting attendees

Give proper notice of the meeting

• Time, location and purpose of the meeting
• President or secretary signs the notice

Hold the meeting

• Take attendance and confirm that a quorum is present
• The chairperson or president presides at the meeting and the secretary takes the minutes
• Go through agenda items
• Adjourn meeting
Section III: Holding Meetings and Elections

### Holding Annual Elections

<table>
<thead>
<tr>
<th>Election Planning and Nomination before Annual Meeting</th>
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<tbody>
<tr>
<td>• Inform monitor (if any) that an election will be held</td>
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<tr>
<td>• Ensure that all shareholders are familiar with by-laws and election procedures</td>
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<tr>
<td>• Two months before election: hold shareholder meeting to review election rules and procedures</td>
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<tr>
<td>• One month before election: hold shareholder meeting to announce candidates selected by the Nominating Committee and solicit additional nominations</td>
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<tr>
<td>• Post nominations and list of candidates with a sign announcing election meeting and provide written notice to tenants at least 10 days before the election</td>
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<tr>
<th>Voting at Annual Meeting</th>
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<tr>
<td>• Prior to the meeting, confirm shareholder eligibility to vote (eligibility is described in the bylaws)</td>
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<tr>
<td>• Give candidates an opportunity to speak</td>
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<tr>
<td>• Distribute ballots, one to each eligible apartment</td>
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<td>• Collect ballots once everyone has finished voting and count them</td>
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<tr>
<th>Transition after the Annual Meeting</th>
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<tr>
<td>• Notify all tenants of the new board members and officers as soon as possible after the meeting</td>
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<tr>
<td>• Hold training sessions for new board members</td>
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<tr>
<td>• Schedule a board meeting as soon as possible after the new board members are selected</td>
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<tr>
<th>Timing of Elections</th>
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<tr>
<td>• Held annually on a date usually stated in the by-laws</td>
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Section IV: Forming and Operating Board Committees

IV. Forming and Operating Board Committees

Primary Committees

Done  Need  Help

Executive Committee: made up of officers of the board; elected by the board
  • At least three members of the board who take on responsibilities of the board and may also act when the board is not available to meet

Repair and Maintenance Committee
  • Conduct apartment and building surveys
  • Receive and respond to written repair complaints
  • Prioritize repairs
  • Receive bids for repairs and maintenance; select and supervise contractors
  • Supervise the building superintendent
  • Maintain maintenance records

Shareholder Selection Committee
  • Prepare shareholder selection guidelines
  • Prepare a re-sale policy

Other Possible Committees

Done  Need  Help

Governance committee: oversee management of the board, selection of new officers and directors

By-laws committee: ensure adherence to by-laws; periodically review and revise by-laws, as necessary

Rent committee: assist treasurer with collecting rents, negotiate payment of rent arrears, recommend eviction proceedings to the board when necessary

Social activities committee: recommend to the board potential social events and activities and coordinate these activities

Nominations committee: recommend potential board members and seek their

Section IV: Forming and Operating Board Committees

agreement to be placed on the ballot for elections

- Security committee: recommend a security plan to the board of directors and implement that plan
- Committee of floor captains: communicate with residents of each floor and encourage participating in the affairs of the coop

Steps to Take when Creating a Committee:

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- Prepare a description of committee policies and duties
- Determine how often the committee will meet
V. Relationships with Shareholders and Tenants

Repair and Maintenance

Done  Need Help

The shareholder’s responsibility:
- Repairs to the interior of the apartment (e.g., paint, plaster, sink, stoves)
- Appropriate Board approval and City permits for interior alterations

The coop’s responsibility
- Repairs to common areas
- Repairs to building structure
- Maintain reasonable level of services (e.g., hot water, heating, electricity)
- NOTE: May overlap with "Policies" subunder “Management” (VII)

Mediating Disputes Between Shareholders and the Board

Done  Need Help

Encourage shareholders to air their grievances
Make all books and records of the corporation accessible to shareholders
If the internal procedure fails, consider seeking mediation from a mediation organization, from an HDFC coop technical assistance organization, or from the Real Estate Finance Bureau of the Attorney General’s Office

Resale and Succession

Done  Need Help

Obligations of shareholders regarding resale/succession
- Notification of sale
- Set the resale price
- Find new members
- Close the deal

Rights of shareholders regarding resale/succession
- May receive increased equity for improvements made to unit (depending on terms of resale policy)
- Resale restrictions must be observed upon the sale of an HDFC coop apartment:
Section V: Relationships with Shareholders and Tenants

- Rules regarding the resale price of the apartment, the income of the person who wishes to purchase the apartment, may be imposed by the terms of the certificate of incorporation, bylaws, proprietary lease, regulatory agreement, or coop resale policy.
- Typically, the coop and the shareholder split the profit realized by the sale of the apartment.
- Consult an attorney or coop specialist to draft a resale policy that is in compliance with the terms of the coop’s legal documents.

Violations by Shareholders/Tenants
- Violations of terms of proprietary lease or landlord-tenant lease
- Violations of resale/succession policies
- Violation of maintenance policy
- Violation of other agreements (e.g., modifications or renovations to apartment without approval)
- Violations of law (e.g., drug-dealing, prostitution, overcrowding) and nuisance (e.g., excessive noise, destruction of property, etc.)

Special Programs for Senior Citizens and Disabled Persons
- Senior Citizens Rent Increase Exemption (SCRIE)\(^5\)
  - Must be 62 years or older and limited income; limits prospective increases to rent or maintenance.
  - Apply through the New York City Department of Housing Preservation and Development (HPD).
- Disabled Rent Increase Exemption (DRIE)\(^6\)
  - Disabled low-income shareholders may apply for the exemption through HPD

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VI. Bookkeeping and Recordkeeping

Corporate finance and recordkeeping

Several steps must be taken to establish a financial system for the coop.

Done  Need  Help

Determine whether to use a bookkeeper or management company to keep track of finances

Hire an accountant

Create financial reports:
- Cash flow statement (trace the flow of cash in and out the coop)
- Income statement (shows how much money is made or lost during a period)
- Balance sheet (a statement of all of the assets and liabilities of the coop)

Set up bank accounts:
- Primary checking account for the coop
- Reserve accounts for additional expenses
  - Vacancy reserve to cover loss of income due to vacant units
  - Contingency reserve for emergency expenses
  - Replacement or capital improvement reserve for anticipated expenses
- Security deposit account for any continuing rental tenants; this account must accumulate interest for the tenant\(^7\)

Manage the coop’s mortgage
- Determine which requirements will be handled by the coop and which will be handled by the bank or lender
- Create a loan compliance checklist that states the obligations of the lender and borrower, including the monthly payment, the need to maintain insurance, and the requirement to provide the lender with certain information regarding the building

Review the coop’s budget annually

Organize and maintain the coop’s books and records
- Legal documents: the deed; certificate of incorporation; proprietary leases; bylaws; regulatory and monitoring agreements (if any)

\(^7\) For more information on security deposits, see the Department of Community and Housing Renewal fact sheet at [http://www.dhcr.state.ny.us/rent/factsheets/orafac9.htm](http://www.dhcr.state.ny.us/rent/factsheets/orafac9.htm).
Section VI: Bookkeeping and Recordkeeping

- Financial and tax records
- Corporate governance records: all notices, agendas, minutes and resolutions related to coop meetings and actions of the board or shareholders
- Contracts with outside companies and individuals
- Files for each tenant or shareholder including leases, stock certificates, maintenance records and correspondence

Compliance issues relating to Regulatory Agreement
- Filing Requirements
- Low-Income housing preservation
- Restriction on resale prices
- Requirement to produce financial reports
- Monitoring Agreement

Creating a Budget

When creating a budget, consider all expenses and sources of income. The budget should be reviewed and updated annually.

Done Need Help

Expenses to include:
- Insurance policy premiums
- Management and accounting fees
- Maintenance contracts for elevators or boilers
- Exterminating costs
- Contributions to reserve accounts, which should be planned for each year
- Debt service on any loans owed by your cooperative
- Salary, wages, taxes, and fringe benefit costs for employees
- Real estate taxes, water and sewer charges
- Corporate taxes
- Legal fees and costs related to Housing Court and other legal matters
- Repair and maintenance expenses
- Maintenance services by independent contractors
- Building supplies
- Fuel oil or gas for heating
- Electricity
- Capital improvements
- Bank charges (e.g., for bounced checks)
- Administrative costs and office supplies

Sources of income
- Rent for apartments occupied by tenants
Section VI: Bookkeeping and Recordkeeping

- Rents for commercial space (if any)
- Interest income earned on invested reserves of the coop
- Assessments charged to shareholders to pay for capital improvements or unanticipated expenses
- Maintenance fees, the “rent” for coop shareholders
  - Subtract anticipated income from anticipated expenses (both predictable and estimates for less predictable expenses) to determine how much maintenance should be charged
  - If maintenance seems too high or will be a burden on shareholders, review other areas of the budget to see if income can be increased or expenses can be decreased
  - Usually maintenance charges are calculated by each apartment’s shares. Divide the total by the number of shares; each apartment pays the maintenance for their total number of shares (if the total amount is $2,000 and the total number of shares is 20, each share pays $100. An apartment with 15 shares pays $1,500, and one with 5 shares pays $500)

Taxes

The coop may be responsible for real estate tax, corporate tax, and payroll tax. In addition, there may be tax abatements and refunds available to the coop. TPT coops are exempt from the payment of real estate taxes for 40 years provided that they remain in compliance with their regulatory agreements.

Done Need Help

File and pay real estate taxes **quarterly (if applicable)**

- January 1 (for third quarter of previous year)
- April 1 (for fourth quarter of previous year)
- July 1 (for first quarter of the year)
- October 1 (for second quarter of the year)

File and pay corporate taxes **annually**

Apply for appropriate tax exemptions and abatements

- J-51 real estate tax abatement and/or exemption for the cost of certain capital improvements; eligibility is determined by HPD

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Section VI: Bookkeeping and Recordkeeping

Relevant New York City Requirements

New York City has a wide variety of laws that are applicable to residential apartment buildings.\(^{11}\)

### Done  Need Help

- Inspect elevators annually and file inspection by **September 15**\(^{12}\)
  - Elevators must be inspected five times every two years:
    - Three times by the Department of Buildings
    - Two times by a private inspection agency licensed by the Department of Buildings and employed by the building owner
  - Source: Local Law 10 of 1981\(^{13}\)

- File annual multiple dwelling registration (MDR) by:
  - **April 1**, for buildings of more than 6 apartments
  - **October 1**, for buildings of less than 6 apartments

- Pay water bill by **July 31**\(^{14}\)

- Inspect apartments with children under 6 years for lead paint before **December 31**

- File certificate of installation for carbon monoxide and smoke detectors in all apartments in **June-July**

- Deliver to all tenants:
  - Annual window guard and lead paint survey and notice by **January 16**
    - where applicable
  - Fire safety plan by **January 16**

- Notify HPD of tenants who do not return window guard and lead paint notices by the **February 15** deadline

- File façade inspection report with Department of Buildings **once every 5 years**

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Section VII: Management

New York City Registration and Notice Requirements

Done

Need

Help

Lead paint notice – “Local Law 1”

• Local Law 1 does not apply when the shareholder of record (titleholder) or his or her family occupies the coop unit.

• The law does apply to coop units occupied by a tenant or subtenant – those who did NOT buy into the coop or do not hold title and is not a family member of the shareholder.\(^\text{15}\)

• The law covers all pre-1960 multiple dwellings AND in post-1960 to pre-1978 buildings where the owner knows there is lead based paint.

• The owner shall conduct an investigation for peeling paint, chewable surfaces, deteriorated subsurfaces, friction surfaces and impact surfaces at least once a year.

  o Such investigations should be carried out more often if necessary. *Examples: When in the exercise of reasonable care, an owner knows or should have known of a condition that is reasonably foreseeable to cause a lead-based paint hazard, or an occupant makes a complaint concerning a condition that is likely to cause a lead-based paint hazard or requests an inspection, or the Department of Health and Mental Hygiene issues a notice of violation or orders the correction of a violation that is likely to cause a lead-based paint hazard.*\(^\text{16}\)

• **Every year**, coop shall present to each unit occupied by tenants (NOT shareholders or shareholders’ family member) a notice asking whether a *child of six (6) years or younger* resides there. Such notice, the form and content of which shall be approved by the department of health and mental hygiene, shall be presented in **English and Spanish**. Form can be found at: [http://www.nyc.gov/html/hpd/downloads/pdf/lead-annual-notice.pdf](http://www.nyc.gov/html/hpd/downloads/pdf/lead-annual-notice.pdf).

• The owner may present the notice by delivering it by any one of the following methods:

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Section VII: Management

- By first class mail, addressed to the occupant of the unit;
- By hand delivery to the occupant of the unit;
- By enclosing it with the January rent bill, if that rent bill is delivered after December 15 but before January 16; or
- By delivering the notice with the annual notice required by the rules for the installation of child window guards.

Annual Multiple Dwelling Registration (MDR)\(^\text{17}\)

Annual reports filed with HPD (see also the filing requirements discussed in "Bookkeeping and Recordkeeping," above)
- HDFCs with Regulatory Agreements: Prepare report for HPD – May
- Carbon Monoxide and Smoke Detectors are now required in all units. File Certificate of Installation with HPD – **Deadline: June - July**\(^\text{18}\)

Policies

- Maintenance and resale policies (see also the "Relationship with Tenants/Shareholders" section)

- Procedures for changing, amending, or implementing policies
  - Carefully test both your proposed change and the existing policy:
    - Does the proposed policy comply with your certificate of incorporation, bylaws, proprietary lease and regulatory agreement (if any)?
    - Is the proposed change discriminatory in any way?
    - When would the change take effect?
    - Would the proposed change benefit the entire cooperative?
    - What are the drawbacks to the proposed change?
  - Supply the shareholders with copies of all new policies. If the shares, bylaws, proprietary leases, or house rules have been amended distribute the new documents to the shareholders.
  - Put the proposal on the agenda of a properly scheduled meeting and follow the voting rules. If there are super majority requirements for certain policy changes, note them. Ask for a vote from the shareholders on the proposal.
  - Ensure that all policies and amendments are filed with the records of the corporation.


Section VII: Management

Relationship with Management Company

- How to select a management company. Use an attorney or other professional to negotiate the management agreement, if feasible.
  - Make sure candidates you interview understand that you are a cooperative corporation, and understand what is expected of them. Put it in writing.
  - Ask other cooperatives for referrals.
  - Ask for references from the agents you interview, and check into the references you are given.

Terms of management agreement. You may decide to have the management agent handle all or only some of the following items, but you should make that determination before hiring an agent.

- Supervision of any maintenance or management personnel hired by the corporation, including the superintendent and any tradespeople.
- Bookkeeping, budgeting, and management of the cooperative's income and expenses.
- Purchasing supplies needed for the building's regular operation.
- Upkeep and maintenance of the building and grounds.
- Ensuring that the board's prior written approval is issued for any preventative maintenance and replacement of physical plant items occurs, only with.
- Regular reporting to the board of directors, including up-to-date records of the building's operations and projections of future needs.
- May also want to decide the following:
  - What decisions may the manager make without consulting the board?
  - What spending powers will the agent have?
  - What role will the agent have in hiring and firing employees?
  - What process for consulting board before taking a management decision?
  - How often and in what manner must the agent report to the board?

Monitoring management company performance

Set up clear and regular communication between the board and the building's manager to prevent problems before they occur.

Commercial Leases. Engage an attorney or real estate professional to negotiate the terms of the lease.
Section VII: Management

- If the ground floor has commercial space
  - It is good policy to require commercial tenants to provide a security deposit equal to at least one month’s rent.
  - All security deposits must be kept in a separate bank account that pays interest. The interest earned by the deposit must be paid to the tenant. Your coop may keep as an administrative fee an amount equal to one percent (1%) of the interest earned by the security deposit.
  - Each commercial tenant must have its own water meter and must pay directly for water usage.

- Reporting requirements

  Violations

- Building, environmental, conditions

- Housing Maintenance Code Violations:
  - Class A violations ("non-hazardous") must be corrected within 90 days;
  - Class B violations ("hazardous") must be corrected within 60 days; and
  - Class C violations ("most hazardous") must be corrected immediately (within 24 hours) or at most within 30 days, depending on the nature of the violation.

- All buildings with fuel consumption ratings of 350,000 BTU per hour or more must be registered every three years with the Division of Air Resources.

- There are different registration requirements depending on the type of fuel used and the BTU rating of your boiler. The registration certificate must be displayed in the vicinity of the boiler. There is also a registration fee, which must be paid at the time of registration.

- Each year, the boiler and heating plant must be inspected and certified. Non-compliance will result in a violation being placed on your building, and could also result in a fine as high as $25.00 per day until the violation is corrected (the fine is set by the Housing Court).

Obtaining assistance to deal with these issues

- Hire a lawyer

19 If any.
Section VII: Management

- Hire an accountant

**Insurance:** check with the monitoring agent (if applicable) and the coop’s insurance broker to ensure that adequate coverage is in place.

**Required**
- Fire Insurance
- Boiler Insurance - should be insured for the *full* replacement value of your boiler

**Recommended**
- Liability Insurance - $300,000 for bodily injury and $50,000 for property damage
- Board of Directors Insurance - approximately $100,000 worth of coverage per year
- Bonding Insurance - consider purchasing bonding insurance at an annual level equal to three (3) times your normal monthly income\(^{21}\)

**Utilities**

- Boiler inspection and operating certificate requirements
  - Each year, the boiler and heating plant must be inspected and certified. Non-compliance will result in a violation being placed on your building, and could also result in a fine as high as $25.00 per day until the violation is corrected
- Water bill payments
- Options for lowering utility costs
- CITGO Oil Assistance Program
  - Complete and send application to Urban Homesteading Assistance Board *every year*. Information can be found at: [http://www.uhab.coop/co-op-members/member-services/uhab-fuel/oil-assistance-program](http://www.uhab.coop/co-op-members/member-services/uhab-fuel/oil-assistance-program)
  - Distribution is as follows:
    - 62.5% back to the tenants of each unit\(^{22}\)
      - Must be returned in the form of rental credits, arrears or oil surcharges and fees
      - Must be made to tenants no later than 60 days from the final payment of the grant

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\(^{21}\) Check to see that contractors have insurance covering negligence - to protect building from liability.  
\(^{22}\) CITGO program application. [http://www.citgoheatingoil.com/how_to_apply.html](http://www.citgoheatingoil.com/how_to_apply.html).
Section VII: Management

- 32.5% to be used by the building for capital expenses for energy conservation and efficiency measures

- Reports showing distribution are due:
  - Must submit NO LATER than 60 days from the receipt of the final payment of the grant:
    - A rent credit or similar documentation demonstrating the use of the 62.5% distribution for the tenants
    - A proposal of the expected capital expenditures demonstrating the use of the 32.5% toward energy conservation and efficiency measures for the building

- Must also submit NO LATER than **October 31, 2010**:23
  - Copies of invoices and cancelled checks for all weatherization work completed
  - This report is required in order for a building to be eligible for participation in the next program year.

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23 Must verify whether the materials are due on October 31 of every year. Call 1-877-JOE-4-OIL (1-877-563-4645) for more information.
VIII. Contracts and Employment Relationships

Independent Contractors and Employees

To determine if a person you are paying is an independent contractor an employee, evaluate the degree of control that you exercise over that person using the following factors.²⁴

An EMPLOYEE is often one who:

☐ Receives extensive instructions on how, when, or where to do work
☐ Is trained about required procedures and methods
☐ Is reimbursed for some or all business expenses
☐ Uses equipment and/or materials provided by the employer
☐ May receive benefits such as insurance, pension, or paid leave
☐ May have a written contract indicating status as an employee
☐ Often hired and paid on an ongoing basis (hourly, daily, weekly, monthly)

An INDEPENDENT CONTRACTOR is often one who:

☐ Has his or her own business and/or a significant investment in his or her work
☐ Receives instructions about what should be done, but not how it should be done
☐ Is generally not reimbursed for business expenses
☐ Performs work for more than one business
☐ Provides all supplies and equipment to perform the work
☐ Can realize a profit or experience a loss, or is in business by himself or herself
☐ Does not receive benefits such as pension, insurance, or paid leave
☐ May have a written contract indicating status as an independent contractor
☐ May be hired on a one-time basis or ongoing basis

²⁴ Additional lists of characteristics that differentiate employees and independent contractors can be found at the following websites:  http://www.wcb.state.ny.us/content/main/Employers/Coverage_wc/emp_empDefinition.jsp (for workers compensation); http://www.irs.gov/pub/irs-pdf/p1779.pdf (for federal taxes).
Withholding and Payment of Taxes

For independent contractors:

Done   Need Help

- Report all income for people paid $600 or more during the year on form 1099-MISC by February for the previous year
- Do not withhold taxes; the contractor is considered self-employed and is required to pay his or her own taxes

For employees:

Done   Need Help

- Withhold income taxes from each employee’s paycheck
- Withhold required Social Security, Medicare, and unemployment taxes
- Provide a form W-2 to each employee in January, showing the amount of taxes withheld from his or her pay in the previous year
- File payroll reports on a quarterly basis with the IRS and with the state of New York
  - January 31
  - April 31
  - July 31
  - October 31
- Provide disability and workers compensation insurance (discussed below)

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25 To calculate the amount of each paycheck that should be withheld, you can ask your accountant or bookkeeper for help, use the IRS payroll calculator at www.irs.gov, or call 1-800-829-4933 for assistance in English from the IRS.
Workers Compensation Insurance

Workers compensation covers employees who suffer an illness or injury in the course of their employment. It is mandatory for all employers. Officers of the board can be held personally liable if the company fails to provide workers compensation coverage, and penalties are $2,000 for every 10 day period without workers compensation coverage.26

- Insure with the New York State Insurance Fund (NYSIF)
- Use a private insurance carrier.

Post form C105 Notice of Compliance, where employees will be able to see it (this form may be obtained from your insurance carrier or from the state Workers Compensation Board)

Keep records of the following information for four years:
- Number of employees
- Classification of the employees
- Employee wages
- Number of accidents

Report any injuries or illness occurred by employee in the course of business to the state Workers Compensation Board within 10 days of occurrence, using Form C-227

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26 Officers’ personal liability is discussed in Section II, Roles and Responsibilities of the Board of Directors.
27 Form C-2 can be obtained from the Workers Compensation Board website at http://www.wcb.state.ny.us/content/main/forms/c2.pdf or https://www.wcb.state.ny.us/onlineforms/interface/index_C2.htm?SMSESSION=NO
Disability Insurance

All employers that employee at least one employee for at least 30 days over the course of one year are required to offer disability insurance. Penalties for failure to offer disabilities insurance are a fine of $500 plus 0.5% of payroll for each period of noncompliance. Multiple violations result in larger fines, up to $2,500 for three violations within five years.

Obtain disability insurance through one of two means:
- Purchase directly from an insurance carrier, such as the State Insurance Fund
- Apply to the chair of the Workers Compensation Board for permission to be a self-insurer

Post a Notice of Compliance where employees will be able to see it (this form can be obtained from your insurance carrier)

If an employee is absent from work due to disability for more than 7 days, provide him or her with form DB-271, Statement of Rights Under the Disability Benefits Law, within 5 days (this form may be obtained from your insurance carrier)

You may obtain payment for disability coverage by deducting up to 0.5% of wages up to 60 cents per week.\(^{28}\)

IX.  Additional Resources

The list below provides links to government agencies and non-governmental organizations that may contain additional information or assistance for housing cooperatives.\(^{29}\)

Federal Agencies


- Payroll withholding calculator:  [http://www.irs.gov/individuals/article/0,,id=96196,00.html](http://www.irs.gov/individuals/article/0,,id=96196,00.html)

New York City and State Agencies


- Real Estate Finance Bureau:  [http://www.ag.ny.gov/bureaus/real_estate_finance/about.html](http://www.ag.ny.gov/bureaus/real_estate_finance/about.html)


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\(^{29}\) We are not responsible for the accuracy or up-to-date character of the websites that we link to or for the information or forms provided by these websites, so use care.
Section IX: Additional Resources

New York State Department of Taxation and Finance:  http://www.tax.state.ny.us

New York State Workers Comp Board:  http://www.wcb.state.ny.us

Non-Government Groups and Publications

Brooklyn Legal Services Corporation A:  http://www.bka.org

The Cooperator Coop & Condo Monthly:  http://www.cooperator.com

Council of New York Coops and Condos:  http://www.cnyc.com


Lower East Side People’s Credit Union:  www.lespeople.org

Urban Homesteading Assistance Board (UHAB)  www.uhab.org

- 2010 Management Calendar:  

- CITGO Oil Assistance Program Information:  http://www.uhab.coop/co-op-members/member-services/uhab-fuel/oil-assistance-program

- Limited Equity Cooperatives: A Legal Handbook  
  http://www.uhab.coop/sites/default/files/doc_library/Limited_Equity_Cooperatives_A_Legal_Handbook_0.pdf

- A Guide to Organization and Governance:  

- Improving Your Cooperative Board of Directors:  

Urban Justice Center:  www.urbanjustice.org