

Information Bulletin for Owner Builders

Constructing an Owner-built Home

An owner builder is an individual authorized by the Homeowner Protection Office (HPO) to build a new home for their personal use. An owner builder is not required to be licensed by the HPO to build the new home or arrange for third-party home warranty insurance on that home.

As of November 19, 2007, individuals wanting to be an owner builder of a new home are required to obtain an Owner Builder Authorization from the HPO and to pay a fee, prior to commencing construction of that new home. This requirement is in effect for all areas of British Columbia, regardless of whether building permits are required. These changes are in keeping with amendments to the *Homeowner Protection Act* and regulation.

Before You Start...

Owner builders must build or directly manage the construction of their new home themselves. If an owner builder engages a builder, construction manager, project manager, or any third party to perform these functions, both the owner builder and the hired construction manager/builder are committing offence(s) under the *Homeowner Protection Act* and could face monetary penalties of up to \$25,000 and/or prosecution. Unlike homeowners who hire an HPO Licensed Residential Builder to construct their new home, an owner builder usually does not have home warranty insurance to rely on should construction defects occur, nor would any subsequent purchaser. Although an owner builder may be able to look to tradespersons to deal with some problems that occur, it is the owner builder who is ultimately responsible for the overall construction of the home for a period of 10 years.

This is particularly important should an owner builder sell their new home within 10 years of first occupancy. The owner builder must provide a disclosure notice obtained from the HPO to any prospective purchasers. The disclosure notice will inform the purchaser that the home was built by the owner builder and whether or not there is a policy of home warranty insurance in place for the home. In addition, unless they have arranged for home warranty insurance coverage, owner builders are personally liable for construction defects in the new home during this 10-year period to any and all subsequent purchasers during this same period.

The statutory protection provision of the *Homeowner Protection Act* (the *Act*) outlines the specific obligations of the owner builder during this period. These obligations are similar to the protection from defects under a policy of home warranty insurance. That is, two years against defects in material and labour, five years against defects in the building envelope, and ten years against structural defects. Please refer to section 23 of the *Act* for details.

Statutory protection enables subsequent purchasers to take legal action against an owner builder to correct defects as set out in the provision and is a liability that cannot be waived by agreement or contract. Owner builders who opt to arrange for a voluntary policy of home warranty insurance, however, are not subject to the statutory protection provision of the legislation.

Regulatory Bulletins are a series of publications developed by the Homeowner Protection Office (HPO), a branch of BC Housing, to provide information on and interpretation of the *Homeowner Protection Act* and regulations. All current regulatory bulletins can be viewed on the HPO website.

This bulletin and the website copy are for convenience only and do not constitute legal advice. For complete details consult the Act and its regulations. For more information, contact the HPO at:

Homeowner
Protection Office,
Branch of BC Housing

Phone: 604-646-7050
Toll-free: 1-800-407-7757
Fax: 604-646-7051

licensinginfo@hpo.bc.ca
www.hpo.bc.ca



Step-By-Step Guide

STEP 1 – Pre-Screening

Complete the Application for an Owner Builder Authorization online at www.hpo.bc.ca. (Individuals who do not have access to the HPO website should contact the HPO for an application.) Applicants will be pre-screened online with a series of questions to determine their eligibility for an Owner Builder Authorization.

STEP 2 – Completing the Application

If pre-screening is successful, you will be invited to create a unique log-in ID. Next, complete your personal contact information, details of the proposed site of the new home, information about any previous owner-built homes you have been involved with, and then submit your payment online. The Application for an Owner Builder Authorization will be created for you to download, print, sign and send (by mail, courier or by person) to the HPO for final review and approval. The \$425 fee must accompany the application, \$50 of which is non-refundable should the application be rejected or withdrawn prior to the issuance of a building permit.

STEP 3 – Approval

Your application will receive further review by the HPO. If it is approved, the HPO will provide you with a New Home Registration Form, sealed by the HPO to confirm the Owner Builder Authorization (see sample form). You will need this document prior to commencing construction of your new home and before applying for a building permit.

STEP 4 – Obtaining a Building Permit

As the owner builder, you then take the New Home Registration Form to the municipality or regional district responsible for the area where your new home will be located in order to obtain a building permit and commence construction. If there are no building permits required, you will need to have the New Home Registration Form in your possession before commencing construction.

STEP 5 – Completion of Construction

When the new home is complete and first occupied, you (the owner builder) MUST supply the HPO with the occupancy date and a list of the tradespersons used in the construction of the new home. The easiest way to do this is to log-in to your HPO website account and complete the information online.

STEP 6 – Sale of Owner-built Homes

An owner builder who wishes to sell their home within 10 years after first occupancy must obtain a disclosure notice for their home from the HPO and provide it to any prospective purchasers. An owner-built home may not be offered for sale, sold or rented any earlier than one year after the new home has been built, except in special circumstances and only when pre-approved by the Registrar.

Eligibility Checklist for Owner Builder Authorization

An individual who wishes to build a new home as an owner builder must apply for an Owner Builder Authorization and meet the following criteria:

- Must be an individual (not a company, except a director of a family farm corporation) with a registered interest (fee simple, life interest or long-term lease of at least 15 years) in the land upon which the new home is to be built
- Must intend to build a single dwelling unit which is either a detached home, attached to a pre-existing building older than 10 years, or attached to a new non-residential building
- Must not offer to sell, or sell, or otherwise transfer their interest in the land either during construction or for at least one year after the new home has been built
- Must intend to use the home for personal use for at least one year after first occupancy
- Must not have previously been issued an Owner Builder Authorization for a period of at least 18 months from first occupancy of last owner-built home (period increases for repeat owner builders)



- ✓ Must not be ordinarily resident with an individual who was issued an Owner Builder Authorization for a period of at least 18 months (or increased period for repeat owner builders)
- ✓ Must intend to build, or directly manage the construction of, all or substantially all of the new home
- ✓ Must not have been in non-compliance with previous owner builder requirements
- ✓ Must pay the \$425 Owner Builder Authorization fee (including a \$50 non-refundable application fee)
- ✓ Must include original signature and signature of a witness

Important Note About Occupancy Permits

If you build your new home in a jurisdiction that issues occupancy permits, it is the occupancy permit that is used to determine the start of the:

- 10-year statutory protection liability
- minimum one-year personal use of the home requirement
- waiting period for future Owner Builder Authorizations

For this reason, we encourage owner builders not to delay in obtaining an occupancy permit for the new home.

Frequently Asked Questions

Q: What kind of dwelling unit can I build as an owner builder?

A: Most owner builders build a single detached home under a single title. However, there are two other types of single dwelling units a person may apply to build under an Owner Builder Authorization as long as all other eligibility criteria are met, including personal use:

- one single dwelling unit in or attached to a pre-existing building older than 10 years (includes addition of a unit to convert a detached home to a duplex, or conversion of a duplex to triplex, or conversion of non-residential space to a dwelling unit.)
- one single dwelling unit in or attached to a new non-residential building (one only per building, e.g., a caretaker suite or home built above a family-run store.)

Owner Builder Authorizations are not available for single dwelling units in or attached to a new multi-unit residential building.

Q: What if I don't want to complete an application online or don't have access to the Internet?

A: Individuals who are not able to complete the application for an Owner Builder Authorization using the HPO online application may contact the HPO for a printed application form. Completing the paper-based version of the application will result in a slower processing time since we will have to mail you your Authorization once approved, instead of providing an online document for you to download and print for the building department.

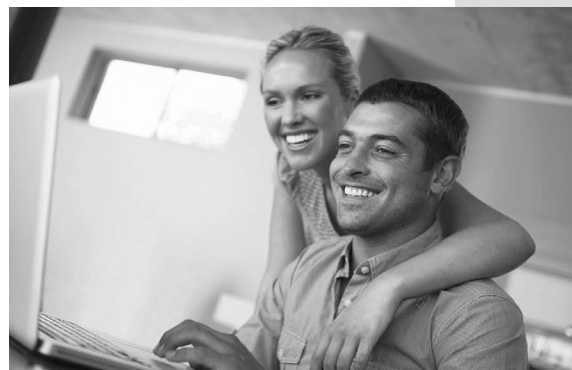
We strongly encourage use of free library facilities and free Internet accounts if possible, so you can apply for the Owner Builder Authorization online. Online access offers a number of other benefits:

- check the status of your application online
- update information online, including tradespersons used and occupancy date
- downloadable disclosure notice should you choose to sell your home later

Q: What happens if my application for an Owner Builder Authorization is rejected?

A: Your application could be rejected for failing to meet any of the eligibility criteria. If you complete the pre-screening and appear to be ineligible, you may choose to proceed with the application anyway and provide information to the Registrar explaining why your circumstances are exceptional. The \$425 fee must accompany the application, \$50 of which is non-refundable should the application be rejected by the Registrar.

Decisions by the Registrar to refuse an Owner Builder Authorization may be appealed.



We encourage owner builders not to delay in obtaining an occupancy permit for the new home.

Q: What if I want to sell my owner-built home?

A: An owner builder is not permitted to offer to sell or sell the new home during construction or until at least one year after their home is built (which will be based on the occupancy permit or actual occupancy date if there is no permit). In cases of undue hardships this period may be waived upon application, including payment of a fee, to the Registrar. An owner builder who sells the new home earlier than permitted is committing an offence under the *Homeowner Protection Act* and could face monetary penalties and/or prosecution.

If an owner builder offers to sell the home, they must provide a disclosure notice provided by the HPO to any prospective purchasers. Owner builders can log-in to their online account and apply for the notice. The disclosure notice will state that the home was built by the owner builder and whether or not there is a policy of home warranty insurance in place for the home. "Prospective Purchasers", refers to all persons expressing a serious interest in purchasing the home. An owner builder must provide the disclosure notice to a person, prior to that person signing an Agreement of Purchase and Sale. Failure to provide a disclosure notice to prospective purchasers is an offence under the *Homeowner Protection Act* and may also be subject to monetary penalties and/or prosecution.

Q: What information will be publicly available about owner builders and owner-built homes?

A: A searchable registry of new homes is available on the HPO website at www.hpo.bc.ca. Members of the public can access the online registry to search for homes they are considering buying by civic address or legal description. An owner-built home will be identified as such on the online registry. The name of the owner-builder will not be displayed on the website, however, a person may request that information from the HPO.

In addition, if an owner builder is convicted of an offence under the *Homeowner Protection Act*, or is subject to a Compliance Order or a monetary penalty, the details of the conviction, Compliance Order and/or penalty will be published on the HPO website. The name of the owner builder and details of the contravention and penalty will also be made public on the website.

Q: If I built a home as an owner builder before, when can I build another home under an Owner Builder Authorization?

A: If you built a home as an owner builder before, you will be eligible to build another home under an Owner Builder Authorization no earlier than 18 months from the date of first occupancy of the

previous home. After that you will have to wait three (3) years from the date of first occupancy of the next home. Waiting periods for all subsequent owner-built homes thereafter will be five (5) years.

Transition from Previous Owner Builder Declaration and Disclosure Notice

The Owner Builder Authorization replaces the previous Owner Builder Declaration and Disclosure Notice. Owner builders who have obtained or applied for an Owner Builder Declaration and Disclosure Notice prior to November 19, 2007 were able to use that document to obtain a building permit or commence construction in regions without building permits up until February 19, 2008.

Owner builders who used an Owner Builder Declaration and Disclosure Notice prior to February 19, 2008, should provide that document to any prospective purchasers of their home within the first 10 years from occupancy.

Terminology

"Registered interest in land": includes an interest in fee simple, a life interest, or a lease of at least 15 years, all of which must be registered with the Land Title Office in the applicant's name.

"Persons ordinarily resident": A person is ordinarily resident if they are normally residing in the home (apart from temporary or occasional absences), and their residence has been adopted voluntarily and for settled purposes as part of the regular order of their life for the time being. Decisions about whether a person is ordinarily resident will need to be based on all the circumstances of the particular case. In homes containing a suite, the residents of the suite are considered to be ordinarily resident for the purpose of the *Homeowner Protection Act*.

"First occupancy" means:

- (a) the date an occupancy permit has been issued with respect to the new home, or
- (b) if no occupancy permit has been issued with respect to the new home, the date the new home was first occupied.

"Personal use" in relation to an owner builder, means residential occupancy by the owner builder and does not include rental use.

