

*Last reviewed by Zach Stevens & Steve Peters January 2019.  
Includes changes voted and approved on at the June 2018 annual meeting.*

## **Article I Organization**

**Section 1.1 – Name.** The name of the organization is Rutland Area Food Co-op (referred to in these by-laws as “the Co-op”.)

**Section 1.2 – Purpose and mission.** As more fully stated in its Articles of Incorporation, the purpose of the Co-op is to operate a retail food store on a cooperative ~~and nonprofit~~ basis. The mission of the Co-op is:

- (a) to provide affordable access to natural, whole and minimally processed and packaged food items and other products that form the basis for healthy and ecological lifestyles;
- (b) to provide a market for local, regional and other cooperative producers of food and other household and personal products;
- (c) to provide a community building and educational center where owners and other patrons can work, shop and learn together and empower each other;
- (d) and to support and work cooperatively with other individuals and organizations whose purposes are similar to those of the Co-op.

**Section 1.3 – Nondiscrimination.** The Co-op shall not discriminate on the basis of race, nationality, religion, age, sex, sexual preference or other arbitrary basis.

**Section 1.4 – Principal office.** The principal office of the Co-op shall be located in the City of Rutland.

## **Article II Ownership**

**Section 2.1 – Admission.** Ownership in the Co-op shall be voluntary and open to any individual who is in accord with its purpose and mission, will use its services and is willing to accept the responsibilities of ownership. Applicants will be admitted to ownership upon submitting required information, paying an application fee, if any, and purchasing or subscribing to purchase one common share at a price determined by the Board of Directors. In case of doubtful eligibility, ownership shall be subject to approval by the Board.

**Section 2.2 – Rights.** Each owner shall be entitled to make purchases from the Co-op on terms generally available to owners, to participate in the governance of the Co-op as set forth in these

by-laws and to receive a copy of these by-laws. Owners may also contribute labor or services and thereby be entitled to receive discounts as determined by the Board.

**Section 2.3 – Responsibilities.** Each owner shall keep reasonably current in payment of the share purchase requirement and shall notify the Co-op of any change to his or her name or address. An owner who becomes delinquent in meeting his or her share purchase obligation to an extent determined by the Board shall, no sooner than thirty days after delivery of written notification, be placed into inactive status. His or her participation rights shall then be suspended. An owner in inactive status may attain good standing only upon full payment of all arrearages. References herein to the rights and entitlements of owners shall be understood to refer only to owners in good standing.

**Section 2.4 – Access to information.** Owners shall be provided reasonably adequate and timely information as to the organizational and financial affairs of the Co-op. Owners shall be provided access to the books and records of the Co-op at all reasonable times and for any proper purpose.

**Section 2.5 – Settlement of disputes.** In any dispute between the Co-op and any of its owners or former owners which cannot be resolved through informal negotiation, it shall be the policy of the Co-op to prefer the use of mediation whereby an impartial mediator may facilitate negotiations between the parties and assist them in developing a mutually agreeable settlement. No party with a grievance against the other shall have recourse to litigation until the matter is submitted to mediation and attempted to be resolved in good faith.

**Section 2.6 – Nontransferability.** Ownership rights and interests may not be transferred except under unusual circumstances with the express prior approval of the Board of Directors. Any attempted transfer contrary to this section shall be wholly void and shall confer no rights on the intended transferee.

**Section 2.7 – Termination.** Ownership may be terminated voluntarily by an owner at any time upon notice to the Co-op. Ownership may be terminated involuntarily only for cause by the Board after a fair hearing at which the owner is given the opportunity to speak and present evidence. Upon termination of ownership, all rights and interests in the Co-op shall cease except for rights to redemption of capital pursuant to Article VIII of these by-laws.

### **Article III**

#### **Meetings of Owners**

**Section 3.1 – Regular meetings.** An annual meeting of owners shall be held after the close of each fiscal year to review the operations, needs and directions of the Co-op, to select directors and to conduct such other business as may properly come before the meeting.

**Section 3.2 – Special meetings.** Special meetings of owners may be called by the Board and shall be called by the Clerk as soon as practicable upon receipt of petitions signed by twenty

owners or five percent of all owners, whichever is lesser, such petitions stating the business to be brought before the meeting. No business may be conducted at a special meeting other than that specified in the notice of the meeting.

**Section 3.3 – Time and place.** The time and place of all meetings of owners shall be determined by the Board or, in the event that the Board fails to so act, by the Clerk. Meetings shall be held at a time and place convenient to owners.

**Section 3.4 – Notice.** Written notice of the time and place of any meeting of owners and, in the case of a special meeting, the purposes of such meeting shall be delivered to each owner not less than ten days nor more than sixty days before the date of the meeting. Notice shall also be posted prominently in the Co-op's store. Any notice required under these by-laws shall be deemed delivered when deposited in the United States Mail, first class postage prepaid, or emailed, with names and addresses as they appear in the records of the Co-op.

**Section 3.5 – Quorum.** The presence in person at the opening of the meeting of twenty owners or five percent of all owners, whichever is lesser, shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of owners.

**Section 3.6 – Decision making.** Decisions at meetings of owners shall normally be made by consensus, attempting to reconcile differing points of view based upon the purpose, mission and best interests of the Co-op. Any decision made by consensus shall be deemed to be inclusive of a vote in any required percentage. If, in the opinion of a two-thirds majority of owners present, consensus cannot be reached through diligent efforts within a reasonable period of time and the issue requires immediate action, then such issue may be decided by a two-thirds majority.

## **Article IV**

### **Board of Directors**

**Section 4.1 – Powers and duties.** Except as to matters reserved to owners by law or by these by-laws, the business and affairs of the Co-op shall be directed and controlled in the interests of owners by the Board of Directors (sometimes referred to in these by-laws as "the Board"). The powers and duties of the Board shall include, but not be limited to, assuring that the purpose and mission of the Co-op are properly carried out, engaging one or more managers, monitoring and evaluating their performance and creating a job description for said manager(s), overseeing the long-range operations and finances of the Co-op, securing good conditions of employment and maintaining communications with owners.

**Section 4.2 – Number and qualifications.** The Board shall consist of not fewer than five nor more than twelve members, subject to the right of owners to increase such number at a meeting of the owners. All directors shall be owners and shall not have an overriding conflict of interest with the Co-op. While staff representation is encouraged at all meetings of the Board,

as well as on Board committees (as appropriate), in order to avoid conflicts of interest salaried employees are not eligible to serve as directors.

**Section 4.3 – Nominations, selection and terms.** Directors may be nominated by the Board, by a nominating committee selected by the Board or from the floor at the annual meeting. Directors shall be selected by owners at the annual meeting. The terms of directors shall be staggered so that one-half shall expire in each year. At the first annual meeting and periodically thereafter as may be necessary, directors shall be selected for specific one or two year terms in order to accomplish this result. At other times directors shall be selected for terms of two years. Directors may serve no more than three consecutive full two-year terms. Directors shall hold office until their successors are selected or until their offices are sooner terminated in accordance with these by-laws.

**Section 4.4 – Standards of conduct.** Directors shall be responsible at all times for discharging their duties in good faith, in a manner that they reasonably believe to be in the best interests of the Co-op and with the care that an ordinarily prudent person in a like position would use under similar circumstances.

**Section 4.5 – Contracts for profit.** During her or his term of office, a director shall not be a party to a contract for profit with the Co-op differing in any way from the business relations accorded each owner or upon terms differing from those generally current among owners.

**Section 4.6 – Conflicts of interest.** Directors shall be under an affirmative duty to disclose their actual or potential conflicts of interest in any matter under consideration by the Board. Directors having such an interest may not participate in the decision of the matter nor, unless the Board otherwise directs, in the discussion of the matter.

**Section 4.7 – Termination.** The term of office of a director may be terminated prior to its expiration in any of the following ways:

- (i) voluntarily by a director upon notice to the Co-op;
- (ii) automatically upon termination of ownership in the Co-op;
- (iii) by action at a meeting of owners whenever the best interests of the Co-op would thereby be served; and
- (iv) for cause by the Board after a fair hearing at which the director is given the opportunity to speak and present evidence. A director who fails to attend three consecutive Board meetings, unless excused by the Board, shall be presumed to have resigned.

**Section 4.8 – Vacancies.** Any vacancy among directors occurring between annual meetings may be filled by the Board for the balance of the unexpired term. As an interim process, the Co-op Board of Directors will follow these steps in filling board vacancies that occur between annual meetings:

- (i) Board or Owner Members may nominate individual member-owners to be Interim Directors;
- (ii) Nominees shall submit a resume or personal biography and statement of interest to the Board;

- (iii) Nominee submissions will be provided to each Board member prior to the next scheduled board meeting;
- (iv) The Board of Directors shall vote to accept or reject the nominee at the next scheduled Board meeting;
- (v) Interim Directors shall serve the balance of the unexpired term of the Director they replace. The annual meeting may elect the Interim Director for a full term.

## **Article V**

### **Meetings of the Board**

**Section 5.1 – Meetings.** A regular meeting of the Board of Directors shall be held, without any other notice, immediately after the annual meeting. The Board may determine the times and places of additional regular meetings. Special meetings may be called by the Facilitator and shall be called by the Clerk upon request of any two directors. Meetings of the Board shall be held no less frequently than once in each calendar quarter.

**Section 5.2 – Notice.** Regular meetings shall require no notice other than the resolution of the Board, it being the responsibility of absent directors to inquire as to the time of further scheduled meetings. Special meetings shall require written or oral notice to all directors. Written notice shall be delivered at least seven days before the date of the meeting or oral notices shall be given in person or by telephone at least three days before the date of the meeting. In an emergency situation, as determined by the Facilitator, actual notice to all directors of twenty-four hours shall be sufficient. Notices of meetings of the Board shall also be posted in a timely manner and in a conspicuous place in the Co-op's store.

**Section 5.3 – Quorum.** The presence in person at the opening of the meeting of a majority of directors shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board.

**Section 5.4 – Decision making.** Decisions at meetings of the Board shall normally be made by consensus, attempting to reconcile differing points of view based upon the purpose, mission and best interests of the Co-op. Any decision made by consensus shall be deemed to be inclusive of a vote in any required percentage. If, in the opinion of a two-thirds majority of directors present, consensus cannot be reached through diligent efforts within a reasonable period of time and the issue requires immediate action, then such issue may be decided by a two-thirds majority.

**Section 5.5. – ~~Telephone~~ conferences.** Meetings of the Board may be conducted by means of a ~~telephone-remote~~ conference or other communications equipment whereby all persons participating can hear each other at the same time. Participation by such means shall constitute presence in person at such a meeting. ~~Telephone-Remote~~ conferences shall not be used for the purpose of excluding owners.

**Section 5.6 – Action without a meeting.** Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a written consent to the action is signed by all directors and filed with the minutes of meetings.

**Section 5.7 – Referendum.** At the request of three or more directors, a decision of the Board shall be referred to a meeting of owners. A decision referred to owners shall stand until annulled or modified by owners. Modification by owners shall not impair rights previously acquired by third parties.

**Section 5.8 – Open meetings.** Meetings of the Board and all committees shall be open to owners. Sessions of a meeting may be closed only as to issues of a particularly sensitive nature. Such closed session shall be for purposes of discussion only and no decisions shall be made in closed session. Owners may otherwise be excluded only for cause.

## **Article VI Officers**

**Section 6.1 – Designation.** The principal officers of the Co-op shall consist of Facilitator, Second Facilitator, Clerk and Treasurer. The Board may designate other officers or assistant officers. All officers shall be directors.

**Section 6.2 – Selection, terms and removal.** Officers shall be selected by the Board. Officers shall serve for terms of one year or until selection of their successors. Officers may be removed and replaced by the Board at any time whenever the best interests of the Co-op would thereby be served.

**Section 6.3 – Duties.** In addition to signing or attesting to formal documents on behalf of the Co-op as authorized by the Board, officers shall have the following duties and such additional duties as is determined by the Board:

- (a) The Facilitator shall be responsible for assuring the orderly conduct of all meetings, coordinating the activities of the Board and presenting an annual report to owners in accordance with 11 V.S.A. sec. 1026;
- (b) The Second Facilitator shall be responsible for performing the duties of the Facilitator in his or her absence and, as requested, assisting the other officers in the performance of their duties;
- (c) The Clerk shall be responsible for the issuance of required notices and the recording and keeping of adequate minutes of all meetings; and
- (d) The Treasurer shall oversee the maintenance of financial records, reporting of financial information and filing of required reports and returns.

## **Article VII Committees**

**Section 7.1 – Executive Committee.** The Executive Committee shall exercise the authority of the Board when it is impractical to assemble the whole Board. Such Committee may not take action with respect to corporate structure, basic policies or other fundamental matters. The Executive Committee shall be composed of the principal officers. It may be convened by the Facilitator or any two of its members upon notice to all of its members and a quorum of not less than three persons. Any action of the Executive Committee shall be reported to the Board at its next following meeting. The functioning of the Executive Committee shall not operate to relieve the Board of its legal responsibilities in the oversight of the Co-op.

**Section 7.2 – Other committees.** The Board may appoint other special or standing committees to advise the Board or to exercise such authority as the Board shall designate. Such committees shall include at least one director.

## **Article VIII Capital Stock**

**Section 8.1 – Issuance and terms.** To evidence capital funds provided by owners, the Co-op shall issue its common stock. Common shares may be issued only to persons eligible for and admitted to ownership in the Co-op. No owner shall hold more than one such share. Shares shall be entitled to no dividend or other monetary return on investment.

**Section 8.2 – Payment for shares.** Shares shall be issued only upon full payment of their purchase or subscription price which shall not be less than the stated value of the shares. Promissory notes of owners may be accepted by the Co-op as full or partial payment for shares. In such case, the Co-op shall hold the shares as security for the payment of the note. Until such notes are paid in full, the corresponding shares, to the extent of unpaid balances, shall be carried on the books of the Co-op and upon all financial statements made by the Co-op as “capital stock issued for notes,” and the notes shall be carried on such books and statements as “notes given for capital stock.”

**Section 8.3 – Certificates.** Every holder of a fully paid share shall ~~be entitled to~~ receive a certificate evidencing such holding ~~upon request. All certificates shall be signed personally or by facsimile by the Facilitator and the Treasurer and shall be numbered and registered by the Co-op.~~ Each certificate shall contain a prominent notation that it is not transferable and that voting rights pertain only to ownership in the Co-op on the basis of one voice or vote per owner. The Co-op may issue a replacement certificate for any certificate alleged to have been lost, stolen or destroyed without requiring the giving of a bond or other security against related losses. In cases where an owner has paid for part of a share, the owner shall be allowed to vote at annual meetings or other member meetings and receive a patronage dividend provided he/she/they makes a payment towards the share price no less than once every twelve months.

**Section 8.4 – Redemption.** Upon request following termination of ownership, common shares shall be redeemed when replacement capital is provided by other new owners. Shares shall be

redeemable at the lesser of their carrying value on the books of the Co-op or their net book value, less a reasonable processing fee, if any, as determined by the Board. Redemption proceeds shall be subject to offset by amounts due and payable to the Co-op by the owner. No redemption shall be made when such payment would impair the ability of the Co-op to meet its other obligations as they become due. Reapplications for ownership after full or partial redemption shall be subject to full repayment of redemption proceeds.

## **Article IX**

### **Fiscal matters**

**Section 9.1 – Fiscal year.** The fiscal year of the Co-op shall begin on the first day of April in each year and end on the last day of March of the succeeding year.

**Section 9.2 – Operating policies.** The Co-op shall be operated in accordance with sound business policies insofar as they are compatible with the purpose and mission of the Co-op.

**Section 9.3 – Financial accountability.** The Board of Directors shall engage a certified public accountant to perform ~~an audit~~ a yearly review of the Rutland Area Food Co-op's financial statements. ~~and a study of the RAFC's internal controls at least every three years, beginning fiscal year end March 31, 2011.~~ If fiscally feasible and recommended by the accounting firm, by an outside firm/business partner of the coop for operational needs, or when requested by the BOD or a Membership referendum, an audit shall be performed by a CPA as chosen by the board of directors.

**Section 9.4 – Bonding.** The manager or managers, as well as other officers or employees who hold signatory powers on bank accounts of the Co-op shall be covered by adequate bonds of indemnity for faithful performance of duties in such amounts and on such terms as may be determined by the Board. Premiums on all such bonds shall be paid by the Co-op.

**Section 9.5 – Open bidding.** Whenever feasible, the letting of contracts shall be based upon open bidding. Contracts shall be let to the lowest evaluated bid.

**Section 9.6—Allocations to owner.** The Cooperative shall allocate and distribute to owners the net profit from business done with them in such a manner as to qualify them as patronage dividends consistent with cooperative principles, applicable state and federal laws and generally accepted accounting principles. The Board shall determine when and how such allocations and distributions will be made.

**Section 9.7—Consent of owners.** By paying towards the full cost of a share in the Cooperative, each owner consents to take into account, in the manner and to the extent required by federal and state tax law, any patronage dividend received from the Cooperative. Each owner also agrees that if his or her patronage dividend is not cashed within 90 days of the date on which it was issued by the Cooperative, the Cooperative shall have the right to make a contribution in



the name of that owner to support the local food system in a manner as may be directed by the Board from time to time.

**Section 9.8—Reductions.** Any distributable net earnings of such a nominal amount as not to justify the expenses of distribution may, as determined by the Board, be excluded from distribution. Net earnings may be reduced by such reasonable reserves for necessary business purposes as is determined by the Board.

**Section 9.9—Retained Amounts.** Payment of a portion of patronage dividends, not to exceed eighty percent of the allocation, may be retained as determined by the Board. Patronage dividends not currently distributed by check shall be credited to capital accounts in the names of recipient owners and shall accrue no dividend or other monetary return on contributed capital. Retained amounts that are no longer needed for capital purposes of the Cooperative may be redeemed in such amounts and at such times as may be determined by the Board. At that time they shall be redeemed in the order of the oldest outstanding amounts and on a pro rata basis among such amounts, except that redemption shall be payable only to owners who are then in good standing or become so within a period of time determined by the Board. Deferred amounts may also be redeemed under compelling circumstances as determined by the Board. They shall be subject at all times to being offset by amounts otherwise due and payable to the Coop.

## **Article X Indemnification**

**Section 10.1 – Rights.** In order to attract qualified persons to serve as directors and officers, the Co-op shall, subject to the terms and conditions in this Article, indemnify its directors and officers, including those formerly holding such positions, against all liabilities and expenses to which they may actually and reasonably become subject by reason of their positions with the Co-op or their service in its behalf. Such indemnification shall include direct payment of liabilities and expenses, and shall apply whenever such person was or is a party, or is threatened to be made a party, to any threatened, pending or completed proceeding, whether civil, criminal, administrative or investigative. Payment of expenses in advance of a final disposition of the action or proceeding may be made only upon receipt by the Co-op of a contractual undertaking by or on behalf of such person to repay such amounts unless he or she shall be determined to be entitled to indemnification under this Article.

**Section 10.2 – Limitations.** No indemnification shall be made unless the person to be indemnified is successful on the merits in defense of the action or is specifically determined to have acted in good faith and in the reasonable belief that his or her actions were in the best interests of the Co-op and, in regard to criminal proceedings, to have had no reasonable cause to believe that his or her actions were unlawful. If such determination is not made in a legal proceeding related to the claim, it may be made by a quorum of disinterested directors. If not made or able to be made by either, such determination shall be made by independent legal counsel selected at a meeting of owners. In any action or proceeding by or in the right of the

Co-op or in which such person is charged with receiving an improper personal benefit, indemnification shall be provided only as to reasonable expenses and only if the person is not adjudged liable to the Co-op on such bases.

**Section 10.3 – Payments and insurance.** Indemnification payments and advances of expenses shall be made only in such increments and at such times as will not jeopardize the ability of the Co-op to pay its other obligations as they become due. All such payments made shall be reported in writing to owners with or before the notice of the next meeting of owners. The Co-op may purchase and maintain insurance on behalf of its directors and officers against any liabilities and expenses related to their position with, or service on behalf of, the Co-op irrespective of whether the Co-op could have indemnified them under this Article against such liabilities and expenses.

## **Article XI**

### **Notice**

**Section 11.1 – Notice.** Any notice required under these by-laws shall be deemed delivered when deposited in the United States Mail, first class postage prepaid, or emailed, with names and addresses as they appear in the records of the Co-op.

**Section 11.2 – Waiver of notice.** Any notice of a meeting required under these Bylaws may be waived in writing at any time before or after the meeting for which notice is required. The attendance of any person at a meeting shall constitute a waiver of notice of the meeting except where the person attends for the express purpose of objecting to the transaction of business because the meeting is not lawfully convened.

## **Article XII**

### **Interpretation and Amendment of By-laws**

**Section 12.1 – Severability.** In the event that any provision of these by-laws is determined to be invalid or unenforceable under any statute or rule of law, then such provision shall be deemed inoperative to such extent and shall be deemed modified to conform with such statute or rule of law without affecting the validity or enforceability of any other provision of these by-laws.

**Section 12.2 – Amendment.** These by-laws may be amended or replaced only at a meeting of owners, provided that the proposed amendments are stated or fully described in the notice of the meeting at which the amendments are to be adopted.