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SOLUTIONS FOR COOPERATIVES

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Fresh Start Bylaws Template: A Field Guide

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This template is a guide for creating bylaws in a simple, clear way that focuses on member-owner level rights and responsibilities. We avoid repetition of requirements that are typically found in state laws. These bylaws are intended to be easily understood by any reader, helping all members participate effectively in cooperative democracy.

You might want to use this template as a starting point when

- You haven't done a "complete overhaul" of your bylaws in many years
- You are having trouble with more than a couple of the details in your current bylaws
- You want a simple, readily understood bylaw document
- You anticipate active member engagement around one or two key bylaw issues

A suggested process for using this bylaw template

- Make a board decision to begin this work
- Review the Fresh Start version one section at a time. Within each section, ask:
    - Is there anything in this version that is "wrong" for our co-op?
    - Is there anything in our current bylaws that we need to bring into the new version? (For example: Does your co-op allow for membership of non-natural (corporate) persons?)
- When you are close to completing your work, ask your co-op's lawyer for a focused legal review. Rather than asking, "What do you think of these bylaws?" consider questions like:
    - Have we missed anything critical?
    - Have we included anything here that is not legal?

Engaging your members

- Keep them informed throughout the process (newsletter articles, etc)
- Invite long-term members and/or opinion leaders to 1-2 focus groups to ask them for insight
- Schedule 1-2 open meetings for members to come and ask questions before the voting process
- Present your members with the new proposed bylaws, along with a summary of the changes (including the board's assessment about why the new version is better for the members and co-op)
- Be prepared for "late comers" who won't comment before the draft is formally presented for a vote

Other resources

- Bylaw Basics Field Guide
- Legal Primer for Formation of Consumer-Owned Food Cooperatives
- Best Practices for Membership Development in Food Co-ops

SAMPLE BYLAWS

ABC Cooperative, Inc.

Article I: Organization

1.1 **Name**. The name of the organization shall be ABC Cooperative (henceforth "the Cooperative").

1.2 **Ownership and Purpose**. The Cooperative shall be owned by its members and shall operate for the primary and mutual benefit of its members and its community.

Article II: Membership

2.1 **Eligibility**. Membership in the Cooperative shall be open to any individual who is in accord with its purposes and is willing to accept the responsibilities of membership.

2.2 **Nondiscrimination**. Membership shall be open without regard to any characteristic that does not directly pertain to a person's eligibility.

2.3 **Admission**. Any eligible person may be admitted to membership upon submitting an application and investing equity in an amount and on such terms as determined by the Board of Directors.

2.4 **Rights**. Members have the right to elect the Cooperative's Board of Directors, to attend meetings of the Board, to receive notice of and attend membership meetings, to petition as described in these bylaws, and to approve amendments to these bylaws. Each member shall have one vote and no more on all matters submitted to members. The rights of members shall be understood to apply only to active members in good standing. All rights and responsibilities of members are subject to the bylaws as they may be amended from time to time.

2.5 **Responsibilities**. Members shall keep current in equity investments due to the Cooperative, shall keep the Cooperative informed of any changes in name or current address, and shall abide by these bylaws and the policies and decisions of the Cooperative or the Board. A member who upholds these responsibilities is considered an active member in good standing.

2.6 **Termination of Membership**. A member may terminate his or her membership voluntarily at any time by written notice to the Cooperative. Membership may be terminated involuntarily by the Board for cause after the member is provided fair notice of the reasons for proposed termination and has an opportunity to respond in person or in writing. Cause may include intentional or repeated violation of any provision of the Cooperative's bylaws or policies, actions that will impede the Cooperative from accomplishing its purposes, actions or threats that adversely affect the interests of the Cooperative or its members, willful obstruction of any lawful purpose or activity of the Cooperative, or breach of any contract with the Cooperative.

2.7 **Return of Equity**. Equity shall be returned upon termination of membership in the Cooperative, under terms determined by the Board, provided that the Board has determined that the equity is no longer necessary for the reasonable or prospective capital needs of the Cooperative.

2.8 **Unclaimed Property.** If a member voluntary or involuntarily terminates membership in the cooperative, and fails to inform the cooperative of his or her mailing address, then the equity and patronage dividend amount allocated to that member will be forfeited by the member to the cooperative.

2.9 **Non transferability**: Membership rights and member equity may not be transferred in any manner.

Article III: Member Meetings

3.1 **Annual Meeting**. A membership meeting shall be held each year at a time and place to be determined by the Board. The purpose of such meetings shall be to hear reports on operations and finances, to review issues that vitally affect the Cooperative, and to transact such other business as may properly come before the meeting.

3.2 **Special Meetings**. Special meetings of the membership may be called by the Board, either by decision of the Board or in response to a written petition of 5% of the active members. Notice of special meetings shall be issued to members. In the case of a petition, notice of the special meeting will be issued within ten (10) days after a presentation of the petition to the Board. No business shall be conducted at that special meeting except that specified in the notice of meeting. Decisions made at any special meeting are advisory only.

3.3 **Notice of meetings**. Notice of the date, time, place and purpose of each meeting of the membership shall be posted in a conspicuous place at the Cooperative and communicated to members not less than four (4) weeks prior to the date of the meeting.

3.4 **Voting.** Voting shall be accomplished through methods and means established by the Board. Notice of the vote shall be posted in a conspicuous place at the Cooperative and communicated to members not less than four (4) weeks prior to the end of the election period. Unless otherwise stated in the articles of incorporation, or these bylaws, or required by law, all questions shall be decided by a vote of a majority of the members voting thereon. Proxy voting is not allowed.

3.5 **Quorum.** At any meeting of the members, or for any vote of the members, a quorum necessary for decision-making shall be *x*% of the total number of members or *xx* members, whichever is greater.

ARTICLE IV: Board of Directors

4.1 **Powers and Duties**. The Board of Directors ("the Board") shall be composed of nine directors, elected from among members of the Cooperative. The Board shall have full power to govern the Cooperative, including, but not limited to, hiring management and evaluating its performance, and assuring that the mission of the Cooperative is carried out.

4.2 **Terms and Elections**. Elections shall occur annually, in a manner prescribed by the Board. Directors shall serve a term of three (3) years and shall serve staggered terms so that approximately one-third (1/3) of the Board is elected each year. No Director may serve more than three (3) consecutive terms.

4.3 **Vacancies**. Any vacancy among Directors elected by the members may be filled by appointment by the Board. A Director so appointed shall complete the pertinent term.

4.4 **Removal**. A Director may be removed by decision of 2/3 of the remaining Directors for conduct contrary to the Cooperative or failure to follow Board policies.

4.5 **Meetings**. The Board shall hold regular meetings at such time and place as it shall determine, and all Directors shall be notified in writing of said meeting at least ten (10) days in advance. The time and place of all meetings shall be posted in a conspicuous place at the principal offices of the Cooperative not more than one day after calling of the meeting. Meetings shall be open to all members unless the Board decides to go into executive session regarding confidential matters such as: labor relations or personnel issues; negotiation of a contract; discussion of strategic goals or business plans, the disclosure of which would adversely impact the Cooperative's position in the marketplace; and/or discussion of a matter that may, by law, be considered confidential.

4.6 **Action without a Meeting**. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken by written action affirmed by all of the directors. The action is effective when affirmed by all of the directors, unless a different effective time is provided in the action.

4.7 **Quorum**. A majority of the current Directors shall constitute a quorum and no decisions will be made without a quorum.

4.8 **Conflicts of Interest**. Directors shall be under an obligation to disclose their actual or potential conflicts of interest in any matter under consideration by the board. Directors having such a conflict shall absent themselves from discussion and decision of the matter unless otherwise determined by the Board. No employee of the Cooperative may serve on the Board.

4.9 **Officers**. The Board will designate officers according to the requirements of state law and as necessary for the effective conduct of Board business.

4.10 **Indemnification**. The Cooperative shall indemnify and reimburse each present, past and future Director and officer for any claim or liability (including expenses and attorneys fees actually and reasonably incurred in connection therewith) to which such person may become subject by reason of being a Director or officer. Such indemnification shall be made only if it is determined by the Board that the Director or officer acted in good faith in the reasonable belief that his or her action was in the best interests of the Cooperative, or as otherwise allowed by law.

ARTICLE V: Patronage Dividends

5.1 **Allocations to members**. The Cooperative shall allocate and distribute to members 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.

5.2 **Consent of members**. By obtaining or retaining membership in the Cooperative, each member 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.

ARTICLE VI: Dissolution

6.1 **Asset Distribution**: The Cooperative may be dissolved upon a decision of the Board and a two-thirds (2/3) vote of the members who participate in the vote. Upon dissolution of the Cooperative, its assets shall be distributed in the following manner and order: (i) by paying or making provision for payment of all liabilities and expenses of liquidation; (ii) by redeeming any equity investment accounts which, if they cannot be paid in full, shall be paid in the order

of the oldest outstanding amounts; (iii) by distributing any remaining assets to another cooperative or cooperative development organization as determined by the Board.

ARTICLE VII: By-laws

7.1 **Amendments**. These by-laws may be amended or repealed in whole or in part by a majority of the members who participate in the vote. An amendment may be proposed by decision of the Board or by petition of at least five percent (5%) of active members. The proposed amendment shall be publicized to the membership not less than four (4) weeks prior to the voting process, which shall be held at a time and in a manner determined by the Board.