

Electric City Food Cooperative, Inc. Bylaws

April 24, 2013 Amended May, 2017

ARTICLE I – ORGANIZATION

Section 1.1 Name

The name of this Cooperative shall be the Electric City Food Cooperative, Inc., hereafter referred to as “the Cooperative,” organized under the laws of State of New York.

Section 1.2 Mission and Purpose

1.2.1 Electric City Food Cooperative, Inc. is a member-owned and operated cooperative marketplace based on principles of economic fairness. Our mission is to cultivate the health, self-sufficiency, and sustainability of our community.

1.2.2 The purposes for the Cooperative are to:

- Provide wholesome food and responsibly-produced products to our member-owners and their families and guests throughout the community,
- Expand social awareness of health and nutrition,
- Support local agriculture and the local economy,
- Promote sound ecological practices,
- Offer member-owners an opportunity to contribute talents and abilities towards the success of the Cooperative.

1.2.3 The Cooperative shall operate on a not-for-profit basis and shall be empowered to operate for any and all lawful purposes and activities for which cooperatives may be organized under the laws of the State of New York and to transact any and all such business incidental thereto, primarily for the benefit of its member-owners and their families and guests and for the to benefit of the Community.

ARTICLE II – MEMBER OWNERSHIP

Section 2.1 Eligibility

2.1.1 Any individual 18 years or older interested in the Cooperative's mission and purposes and the promotion of the same, who agrees to be a patron of the Cooperative, to act in the best interests of the Cooperative, and to abide fully by its Articles of Incorporation, Bylaws, rules, policies and regulations, who executes a Member-Ownership Agreement, and remits the required equity payment for an interest in the Cooperative is eligible to become a Member-Owner of the Cooperative on terms and conditions established by the Board of Directors, hereafter referred to as “the Board.”

2.1.2 Towards a shared responsibility for the success of the Cooperative, individuals who join the Cooperative as members by remitting an equity payment for the purchase of an interest in the Cooperative shall be referred to as “Member-Owners” of the Cooperative.

2.1.3 Member-Ownership is open and voluntary. The Cooperative will not discriminate on the basis of gender, social, political, racial, ethnic, disability, sexual orientation, age, marital status, religious discrimination, or any other arbitrary basis.

2.1.4 Member-Ownership in the Cooperative is non-transferable.

Section 2.2 Rights of Member-Owners

2.2.1 Member-Owners participate in the democratic management of the Cooperative by voting on amendments to the Bylaws or the Articles of Incorporation, petitioning for changes or initiatives, and by standing for election to serve on the Board. Each Member-Owner shall have one vote upon any matter submitted to a vote of the Member-Owners.

2.2.2 Member-Owners who are current on all required payments are entitled to receive special discounts and privileges as identified by the Board.

2.2.3 Upon approval of the Member-Owner Agreement and payment in full of the required equity payment, the Cooperative shall issue each Member-Owner a membership certificate in the form of a Member-Owner Card as evidence of member-ownership. Member-Ownership Cards are not transferable.

2.2.4 Additional cards for a Household of a Member-Owner or for an institution, corporation, or organization which has purchased an interest in the Cooperative may be allowed according to terms set by the Board. Household cardholders and Representative cardholders of the institution, corporation, or organization are entitled to benefits, services, and rights as specified and to participate in the Cooperative's programs and events for Member-Owners. Cards for Households and organization Representatives shall make clear on their face that they are not membership certificates.

2.2.5 Each Member-Owner that is not an individual shall designate a person to act on the Member-Owner's behalf in matters requiring a vote. Such designation shall remain in effect until the Cooperative receives written notice authorizing a change in the designated person.

2.2.6 The Cooperative shall maintain an ongoing list of those entitled to hold Member-Owner Cards.

Section 2.3 Responsibilities of Member-Owners

2.3.1 To ensure the success of the Cooperative community, Member-Owners are expected to support the Cooperative with patronage.

2.3.2 Each Member-Owner is responsible for notifying the Cooperative of changes in the Member-Owner's postal and email address and any other change in the Member-Owner's information or status which might affect Member-Ownership and Member-Owner rights and benefits.

2.3.3 Each Member-Owner shall abide by the Articles of Organization, the Bylaws and the policies of the Cooperative.

Section 2.4 Termination of Member-Ownership

2.4.1 Member-Ownership may be terminated

- voluntarily by the Member-Owner by notice to the Cooperative
- whenever a Member-Owner becomes delinquent in fulfilling the member equity payment. Ownership can be reestablished by fulfilling equity payments. Prior to an action to terminate Ownership, the Cooperative shall send notice of the proposed termination to the Member-Owner's last known email and postal addresses. Any Member Owner so notified may contest the proposed termination of Ownership in writing to the Board of Directors, within thirty (30) days of the date of the notification. Any action of the Board to terminate Ownership shall be by two-thirds (2/3) vote of the directors present.
- automatically if the Member-Owner is deceased.

2.4.2 A terminated Member-Owner shall receive no benefits at the Cooperative.

Section 2.5 Costs of Member-Ownership

2.5.1 The costs for an interest in the Cooperative are to be determined by the Board. Changes in the cost of membership are to be determined, at the recommendation of the Board, by a vote of the Member-Owners.

ARTICLE III MEMBER-OWNERS MEETINGS

Section 3.1 Annual Member-Owners Meetings

3.1.1 The Annual Meeting of Member-Owners shall be held each year at such a time and place as the Board of Directors may prescribe, and shall be announced by written notice thirty (30) days before the date of the meeting. The annual meeting shall be

held within six (6) calendar months of the close of the Cooperative's fiscal year. Notice of the annual meeting shall be posted conspicuously in the Cooperative's store, and shall be delivered by mail and/or electronic mail to every Member-Owner. Items intended to be voted on at the Annual Meeting shall be identified with the meeting notice. Items without prior notice may be deferred by the Board to a subsequent Member-Owner meeting.

3.1.2 The purposes of the Annual Meeting shall be to receive the annual financial report, to ratify amendments to bylaws or policy, and to elect Directors for the Board.

3.1.3 Voting may be determined by the Board. The election of Directors to the Board shall be by written ballot supplied by the Cooperative.

3.1.4 Questions except for revisions to the Bylaws shall be decided by a majority vote of the Member-Owners present at the meeting.

Section 3.2 Special Meetings

3.2.1 Special Member-Owners meetings may be called by the Board or by petition of at least 25 Member-Owners or Member-Owner representatives, subject to the same notice requirements as the Annual Meeting.

3.2.2 A Member-Owner initiative shall be presented to the Board President as a written petition to the President of the Board signed by at least 4% of the Member-Owners. The President of the Board shall acknowledge in writing the receipt of such petition to the Member-Owner who submitted the petition within seven (7) days of its receipt. The Board shall be responsible for conducting any Special Meeting.

3.2.3 The method of voting on Member-Owner initiatives shall be determined by the Board. Unless otherwise stated in Bylaws or as required by law, all questions shall be decided by majority vote of those in attendance.

3.2.4 The Board shall provide for absentee voting by written ballot, and shall establish fair means by which votes will be tallied.

3.2.5 There shall be no proxy voting.

Section 3.3 Quorum

For meetings at which voting will take place, a Quorum must be present.

A Quorum shall consist of the lesser of three percent (3%) of the number of Member-Owners or 25 Member-Owners. In the event that a quorum shall not be present, the meeting can continue but no changes or elections can be made which requires a vote by the Member-Owners. Only Member-Owners in actual attendance or Member-Owners not in attendance but who have properly submitted an absentee ballot shall count towards a quorum.

ARTICLE IV BOARD OF DIRECTORS

Section 4.1 Powers and Duties

4.1.1 The Board of Directors, hereafter referred to as "the Board," shall set the policies and direct the administrative and financial affairs of the Cooperative and shall exercise its authority in the interests of the Cooperative, according to its mission and purposes.

4.1.2 The Board shall establish the fiscal year of the Cooperative.

Section 4.2 Qualification and Number of Board Members

4.2.1 The Board shall consist of no fewer than five (5) and no more than fifteen (15) Directors, each of whom shall be an Owner of the Cooperative in good standing and at least eighteen (18) years of age. "In good standing" refers to the payment for an interest and all other payments.

4.2.2 An employee of the Cooperative may not serve on the Board.

4.2.3 No more than one person from any household, association, corporation, or institution may serve as a Director on the Board at

the same time.

4.2.4 The Directors of the Board shall not be compensated.

Section 4.3 Nominations

4.3.1 Nominations for Directors shall be made by a Nominating Committee empowered by the Board to solicit and review applications for nominations to the Board. The Nominating Committee shall consist of a combination of Directors and other Member-Owners, as set forth in policy. A Member-Owner in good standing not selected by the committee may submit a petition for nomination. Said petition must be signed by at least fifteen (15) Member-Owners in good standing and must be received not less than six (6) weeks before the Annual Meeting.

4.3.2 All candidates nominated for the Board must submit information to the Nominating Committee for review.

4.3.3 Candidates shall be listed in the notice of the Annual Meeting. The Cooperative will equitably provide information about the candidates to the Member-Owners prior to the Annual Meeting.

Section 4.4 Election and Term

4.4.1 Directors shall be elected for terms of three (3) years except for the first Board. To stagger terms, no more than one-third (1/3) of the Board shall be re-elected to full terms each year according to NY State Cooperative Corporation Law. At the first Annual Meeting of the Cooperative, the Board shall elect from among the Directors as equitably as possible Directors of terms of 3 years, 2 years 1 year. At the expiration of these respective terms and thereafter, successor Directors shall be elected for three-(3)-year terms.

4.4.2 Directors may serve no more than three (3) consecutive full terms, but may be subsequently re-elected after a period of one year.

4.4.3 Except as described in 4.4.5, all Directors shall be elected at Annual Meetings by secret ballot. The nominee(s) receiving the most number of votes shall be elected.

4.4.4 A Board member may resign at any time by submitting a written resignation to the Board, which shall take effect immediately upon receipt without requiring Board acceptance.

4.4.5 Any vacancy on the Board due to resignation, death or removal of a Director prior to completion of the term may be filled by Board appointment. A Director so appointed shall serve until the next Annual Meeting at which time the Member-Owners shall vote by majority to ratify the appointment.

Section 4.5 Removal of Directors

4.5.1 A Director may be removed from office for cause by action of a 2/3 majority vote of the remainder of the entire Board.

4.5.2 A Director may be removed who misses three (3) consecutive Board meetings or a total of 6 missed meetings in any 12-month period, who ceases to have the necessary qualifications as established by the Bylaws and policies of the Cooperative, who is unable to carry out the duties of a Director, or who engages in illegal action or behavior that has a detrimental effect on the Cooperative or the functioning of the Board, provided that notice and an opportunity for the Director to be heard has been given in accordance with these bylaws.

4.5.3 Any Director may be removed according to current NYS Cooperative Corporation Law.

Section 4.6 Board Meetings

4.6.1 The Board of Directors shall hold a minimum of four (4) regular meetings per year. Board meetings shall in general be open to any Member-Owner of the Cooperative on an observational basis only; however, the Board may convene closed sessions or Executive Council (Board Officers only) sessions, in order to conduct business pertaining to sensitive issues (including but not

limited to personnel and legal matters) and in cases of emergencies.

4.6.2 Notice of all Board meetings shall be posted on the bulletin board in the store and on the Cooperative's website. Minutes of all Board meetings shall be posted after approval by the Board.

4.6.3 Participation by a Director at a meeting via electronic and/or telephone conference shall constitute presence in person at a Board meeting and shall count for purposes of quorum.

4.6.4 Any action required or permitted to be taken at any meeting of the Board of Directors, or any committee thereof, may be taken without a meeting if all Members of the Board or committee consent thereto in writing, and such writing is filed with the minutes of the proceedings of such Board or committee.

4.6.5 Directors shall be under an affirmative duty to disclose their actual or potential conflicts of interest in any matter under consideration by the Board unless otherwise determined by the Board. A Director having a conflict of interest in any matter may not participate in the discussion or decision of an issue involving that matter.

4.6.6 At all meetings of the Board of Directors the presence of at least fifty one percent (51%) of the number of Board members shall be necessary to constitute a quorum for the transaction of any business.

4.6.7 At all meetings of the Board each Director shall be entitled to one (1) vote. Each matter submitted to a vote shall be determined by a majority of the votes cast by the Directors present either in person or in communication via telephone or videoconference, or other technological means unless a greater number of votes are otherwise required by these bylaws or by applicable law.

4.6.8 As required by statute, the Board shall engage the services of a competent and disinterested public auditor or accountant, who shall make a careful audit of the books and accounts of the Cooperative and render a report in writing thereon, which report shall be submitted to the Directors and made available to the members of the Cooperative.

Section 4.7 Officers

4.7.1 The Officers of the Cooperative shall consist of a President, a Vice-President, a Secretary and a Treasurer. Officers shall be elected annually at its first regular Board meeting after the Annual Meeting of Member-Owners. The President and Vice-President shall be members of the Board of Directors.

The officers shall perform such duties as are ordinarily assigned to such Officers in the normal course of business. The President, Vice-President, and Treasurer shall have the authority to sign all documents within the scope of the implied or express authorization of the Board and state and federal law.

In the absence or disability of the President, the Vice President shall perform the duties of the President, provided, however, that in case of death, resignation, or disability of the President, the Board of Directors may declare the office vacant and elect any eligible person President.

4.7.2 All such Officers shall serve a term of one (1) year.

4.7.3 Such Officers shall serve at the will of the Board and may be removed by majority vote of the Board.

4.7.4 The Board has the responsibility and authority to hire a manager and establish the scope of manager responsibilities. The Board may authorize any Officer or Officers, or such other persons as the Board may designate to sign documents, make payments and drafts, and enter into necessary contracts on behalf of the Cooperative.

4.7.5 The Board may, at its discretion, establish such other committees or special task forces and vest them with such powers and duties as the Board deems appropriate. At the discretion of the Board, Cooperative Member-Owners who do not currently serve on the Board may be appointed to committees or task forces, but may not serve on Committees entrusted with sensitive or confidential information.

ARTICLE V PATRONAGE REFUNDS

Section 5.1 Allocation and Distribution

5.1.1 If available, patronage refunds shall be declared and paid from net earnings attributable to patronage of the Member-Owners at the end of each fiscal year. Each year, the Cooperative shall be obligated to account for and pay on a patronage basis to all Member-Owners the Cooperative's net earnings over and above the cost of providing services to Member-Owners, paying all costs incurred by the business of the Cooperative, and making reasonable additions to capital and reserves.

5.1.2 All Member-Owners shall be treated equitably, and patronage refunds shall be paid in proportion to the dollar amount of purchases from the Cooperative during the fiscal year.

5.1.3 The Cooperative shall be entitled to take into account losses for prior years when calculating its net distributable surplus.

5.1.4 The Board of Directors shall decide after the close of the Cooperative's fiscal year whether a net distributable surplus exists for that year, how and when to distribute patronage refunds and any other related matters, based on the Board's policies.

5.1.5 The patronage refund notice shall be in the form of a written notice of allocation that is delivered to recipients within a time frame after the close of the fiscal year as set by the Internal Revenue Service. The notice to Member-Owners shall state the dollar amount of the patronage refund and any other information required by law and shall be accompanied by a store certificate – the form and amount determined by the Board. Store certificates may be redeemed for cash.

5.1.6 In order that patronage refunds shall qualify as federal income tax deductions for the Cooperative, its Member-Owners must be deemed to have given their consent to the following treatment of these funds. By obtaining or retaining Member-Ownership in the Cooperative, each Member-Owner shall thereby consent to take into account, in the manner and to the extent required by the Internal Revenue Code, the stated dollar amount of distribution made in qualified written notice of allocation in the taxable year in which such notice is received.

5.1.7 Member-Owners shall retain the right to waive in whole or in part any patronage refunds to which they may be entitled.

5.1.8 The Board of Directors may elect not to declare or distribute a patronage refund if it is in the best financial interests of the Cooperative. Any allocations of such a nominal amount as not to justify the expenses of distribution may, as determined by the Board, also be excluded from distribution.

5.1.9 Any part of a patronage refund that the Board of Directors elects not to pay in cash or merchandise credits is called the retained patronage refund and shall be credited to revolving capital accounts. At any time, the Cooperative may pay some or all of the retained patronage refunds to qualifying Member-Owners if the Board of Directors decides the reserve funds are no longer required. Member-Owners will receive retained patronage refunds in the order of the oldest outstanding amounts on a pro rata basis from these amounts.

5.1.10 If the Cooperative dissolves as a corporation, it shall pay retained patronage refunds to Member-Owners after payment of all other liabilities. If the remaining funds are insufficient to repay all retained patronage refunds, Member-Owners will receive retained patronage refunds in proportion to their revolving account balances at the time of dissolution.

5.1.11 Patronage refunds and/or notice of patronage refunds shall be sent to Member-Owners electronically or by US regular mail delivery to the Member-Owner's address in the Cooperative records. If such notice or refund is returned to the Cooperative as undeliverable, then the patronage refund allocated to the Member-Owner shall be forfeited and allocated to the Cooperative's capital reserve.

5.1.12 In the event the Cooperative shall incur a net loss in any fiscal year, such loss may be charged against retained savings or other unallocated Member-Owner equity accounts. If the net loss exceeds such amounts, or in any event if the Board so determines, the amount of such loss may either be carried forward to offset adjusted net earnings of subsequent fiscal years or allocated to members in the same manner as for adjusted net earnings except that such allocation shall not exceed the total of invested capital. Any such allocated net loss shall be charged first against retained patronage refunds of prior fiscal years and then against patronage refund allocations of subsequent fiscal years. Allocated net losses shall not otherwise be assessed or collected from members.

Section 5.2 Operation at Cost

5.2.1 The Cooperative shall be operated at all times on a cooperative, service-at-cost basis for the mutual benefit of its Member-Owners and patrons. The Cooperative may accumulate only such capital, reserves and other financial assets as are determined by the Board to be necessary and prudent to the ongoing operation of the Cooperative's business, to include the requirements of the Cooperative's Annual Operating Budget, and Strategic and Capital Plans.

5.2.2 Within a reasonable time after the end of each fiscal year, the Board shall determine the net earnings (net margin) of the Cooperative for said fiscal year, which determination shall be made in accord with generally accepted business principles and practices, or otherwise as the Board may direct upon the advice of the Cooperative's accountant or other professional advisor. No distribution of net earnings to Member-Owners shall be declared or paid until a sum equal to twenty percent (20%) of the net profits is appropriated for a contingent or reserve fund.

5.2.3 The net earnings of the Cooperative for said year from all the business of the Cooperative other than business done with or for Member-Owners may be retained by the Cooperative as unallocated reserves or surplus.

Article 6 – EQUITY PAYMENTS AND CAPITAL ACCOUNTS

6.1.1 In order to help meet the capital needs of the Cooperative, a new Member-Owner is required to remit an equity payment, the amount of which shall be determined by the Board. For the reasonable capital needs of the Cooperative, more than one investment as a capital contribution may be necessary over the course of an ongoing membership, as determined by the Board. Capital contributions shall be made in cash and may be waived in whole or in part by the Board on any reasonable basis. Required capital contributions and any available waivers shall be applied uniformly among members.

6.1.2 The receipt of a Member-Owner's equity payment will be credited in the financial records of the Cooperative to a capital share, or equity, account in the name of each Member-Owner. A Member-Owner's equity account is not entitled to a dividend or other return on investment, and is not transferable. Member-Owner's equity accounts shall be subordinated to all other debt or equity obligations of the Cooperative.

6.1.3 Following termination of Member-Ownership and request for redemption of equity, Member-Owner equity payments may be redeemed upon approval by the Board. Withholding of approval shall only be for good cause, including that such payments would violate loan agreements or other contractual obligations of the Cooperative or would jeopardize the solvency of the Cooperative. In no event shall redemption proceeds exceed the total of the Member-Owner's equity payment(s). Redemption proceeds shall at all times be subject to being offset by amounts otherwise due and payable to the Cooperative.

6.1.4 Any institutional Member-Owner's equity payments, redemption payments, or patronage refunds shall be made payable only to the named institutional Member-Owner.

6.1.5 Individual or household Member-Owner's redemption payment and refunds shall be made payable only to the named Member-Owner and not divided among or paid to household members. In the absence of any such notice of designation of named Member-Owner or in the event of the death or prolonged absence of the representative of Member-Ownership, the Cooperative, by a vote of the Board of Directors, may designate another person in the household or institution as the representative of Member-Ownership for such purposes.

6.1.6 If the Member-Owner allows their status to revert to "not in good standing" or not "current" and does not request a return of equity within the following three years, the amounts in the Member-Owner's account will revert to the Cooperative as permanent non-allocated capital. For a period not to exceed one year following termination of Membership and the return of that Member-Owner's equity payment account, the readmission to Member-Ownership of that former Member-Owner shall be conditional upon the contribution by that Member-Owner of the entire amount of the equity account theretofore paid by the Cooperative at his or her termination or such other reasonable conditions as may be imposed by the Board.

Section 6.2 Dissolution of Cooperative

In the event of dissolution of the Cooperative, equity shall be returned to Member-Owners after payment of all liabilities of the Cooperative are settled. If sufficient funds are not available for repayment in full, repayment shall be made on a pro rata basis among all Member-Owners in proportion to their accumulated capital contributions. If any repayment fails to reach any member via a single mailing through regular U.S. mail at such Member-Owner's last known address on file with the Cooperative the provisions of Section 5.1.12 of Article 5 of these Bylaws shall apply.

ARTICLE VII INDEMNIFICATIONS AND INSURANCE

Section 7.1 Indemnification

The Cooperative shall indemnify its Directors and Officers of the Cooperative against liabilities – including attorney fees, judgments, fines, and amounts paid in settlements – reasonably incurred in connection with the performance of the duties provided, however, that no indemnification may be given for any person with respect to any matter as to which he or she shall have been adjudicated not to have acted in good faith in the reasonable belief that his or her action was in the best interest of the Cooperative.

Section 7.2 Insurance

The Cooperative may purchase such insurance as they deem necessary, including, without limitation, liability insurance coverage for any person serving as an Officer, Director, employee, or agent to the extent permitted by the law, except to the extent that the cost thereof may be deemed by the Board to be fiscally prohibitive.

ARTICLE VIII BYLAWS

Section 8.1 Amendment

8.1.1 The Board shall have the right to amend these bylaws. Prior to any action to amend, the content of a proposed amendment shall be conspicuously posted at the Cooperative for a comment period of not less than thirty (30) days and/or a written or printed notice of the proposed amendment and of the time and place of the meeting to vote thereon shall be delivered electronically to each Member-Owner, or mailed to the last known address of the Member-Owner, at least thirty days prior to any such meeting. All written comments submitted to the Board during such comment period shall be considered by the Board and the Board shall have discretion whether to act on submitted comments.

8.1.2 The Board of Directors shall vote on the amendment at the next Board meeting with approval affirmed by majority vote of quorum.

8.1.3 Should the Board approve the amendment, the amendment shall be placed on the agenda of the next Annual Member-Owners Meeting or a Special Meeting of Member-Owners.

8.1.4 The amendment will become final and effective with ratification by a 2/3 vote of the Member-Owners present at the meeting. If not approved at the next such meeting, such amendment shall be deemed as if it did not occur and the Bylaws shall continue in effect as unamended.

Section 8.2 Severability

In the event that any provision of the Bylaws is determined to be invalid or unenforceable under any statute or regulation, then such provision shall be deemed inoperative to such extent and shall be deemed modified to conform with such statute or regulation without affecting the validity or enforceability of any other provision of these Bylaws.

ARTICLE IX DISSOLUTION

The Cooperative may be dissolved at any meeting, held upon due and express notice previously given, by a two-thirds (2/3) vote of the Member-Owners at the meeting after 30 days prior written notice to every Member.

Explanation of Patronage Refund Consent Provision

The Internal Revenue Code generally requires each person receiving a patronage refund to include the amount of such distribution in his or her gross income in the taxable year in which it is received. Under bylaw Article V, Section 5.1.6, mere acceptance or retention of Member-Ownership in the Cooperative constitutes consent to such inclusion in taxable income, including the portion of the patronage refund that is retained by the Cooperative for its capital needs. The Cooperative has been advised by legal counsel, however, that the general rule for inclusion in income of patronage refunds is subject to an exception that is applicable to consumer cooperatives. Under that exception, a patronage refund is not required to be included in gross income if the Member-Owner's purchases from the Cooperative are related to "personal, living or family items." The patronage refund would be taxable to a Member-Owner only if his or her purchases related to the operation of a trade or business or other income-producing activities. In effect, the consent provision is of no significance to members of the Cooperative, except as to organizational members and except where the purchases of Member-Owners who are natural persons are for business or income-producing purposes.

