

**BY-LAWS OF THE BOSTON FOOD COOPERATIVE, INC.**  
**D/B/A HARVEST CO-OP MARKETS**

Revised July 2016

**ARTICLE 1: NAME AND OFFICE**

The name of this corporation is “The Boston Food Cooperative, Inc.” Its principal office is in the City of Cambridge, Commonwealth of Massachusetts (the “Cooperative”)

**ARTICLE 2: PURPOSES AND POWERS**

**SECTION 1: PURPOSES**

The Cooperative is organized for the following purposes:

- (a) To organize the purchasing power of its members and other to provide them with food, household goods, and other products they may request, with an emphasis on healthy food at reasonable prices.
- (b) To educate its members and shoppers regarding co-operative principles and practices, and the nutritional, health, and social effects of its products and services.
- (c) To publicize principles of co-operative organization, management, and decision-making.
- (d) To associate and share knowledge with other co-operative organizations, and to advance the co-operative movement for the mutual benefit of all people.
- (e) To provide a positive and rewarding work environment for its staff.
- (f) In pursuit of these purposes, the Cooperative will not discriminate in any way on the basis of race, color, national origin, sex, age, religion, sexual preference, or physical or mental disability.

**SECTION 2: POWERS**

The Cooperative shall have the power:

- (a) To purchase, receive, take by grant, devise, bequest or otherwise, lease, or otherwise deal in and with, real or personal property, or any interest therein, wherever situated;
- (b) To sell, convey, lease, exchange, transfer or otherwise dispose of, or mortgage, pledge, encumber, or create a security interest in, all or any of its property, or any interest therein, wherever situated;
- (c) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, employ, sell, lend, lease, exchange, transfer, or otherwise dispose of, mortgage, pledge, use and otherwise deal in and with, bonds and other securities or interests issued by others, whether engaged in similar or different business, governmental, or other activities;
- (d) To make contracts, give guarantees and incur liabilities, borrow money, at such rates of interest as the Cooperative may determine, issue its notes, bonds and other obligations by mortgage, pledge or encumbrance of, or security interest in, all or any of its property or any interest therein, wherever situated;
- (e) To lend money, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;
- (f) To do business, carry on its operations, and have offices and exercise the powers granted by these articles in any jurisdiction within or without the United States;

- (g) To be an incorporator of other corporations of similar or related kind, and;
- (h) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Cooperative is formed; provided that no such power shall be exercised in a manner inconsistent with Chapter 180 of the General Laws of the Commonwealth.

### **ARTICLE 3: MEMBERS AND MEETINGS OF MEMBERS**

#### **SECTION 1: DEFINITION OF MEMBERS AND EQUITY MEMBERSHIP ACCOUNTS**

- (a) **MEMBERSHIP CLASSES:** There shall be two classes of the members of the Cooperative, equity members and term members. Unless qualified by the word “equity” or “term,” the word “member” as used herein shall refer to both equity and term members.
- (b) **ADMISSION OF NEW MEMBERS:** A person may become a member of the Cooperative upon:
  - (1) submitting a written membership application in the form prescribed by the Board of Directors;
  - (2) paying an initial member capital contribution or fee in an amount to be set from time to time by the Board of Directors based on the member’s status as an equity member or a term member (as described further below);
  - (3) acceptance of the application by the Board of Directors or by a person designated by the Board of Directors

The Board of Directors may provide for privileges to be extended to a member’s family or household.

- (c) **PROCESSING FEES:** With respect to either or both classes of members, the Board of Directors may establish reasonable fees for processing membership applications, withdrawals and other membership transactions.
- (d) **ACTIVE OR INACTIVE STATUS:** A newly admitted member shall be deemed an active member with full voting privileges for one year from the date of admission and shall, thereafter, be classified as active or inactive pursuant to this Article 3, Section 1(d). With respect to either or both classes of members, the Board of Directors may provide for a membership renewal fee or other method that will qualify a member as an active member without regard to minimum purchases. Only active members shall be entitled to vote at meetings of the members and only active members shall be counted in determining the number of members required for quorums or determining the minimum number of votes required by the by-laws or the articles of organization to conduct an election or take any other action of the members. A member who is an inactive member for five consecutive years shall be deemed to have withdrawn from the Cooperative and, in the case of equity members, the Equity Membership Account of such person shall be treated as a non-refundable contribution to the additional paid in capital of the Cooperative. In addition, the Board of Directors may set a minimum amount of annual purchases for an equity member to qualify as an active member.
- (e) **CONFIDENTIALITY OF INFORMATION RECEIVED BY MEMBERS:** Members shall treat all information regarding the Cooperative received by them as confidential information and shall not disclose such information to any competitor retail food outlet or any employee, owner, agent or affiliate of such competitor. If a member is or becomes an employee, owner, agent or affiliate of a retail food outlet in the Boston area, he or she shall not use information received regarding the

Cooperative for competitive purposes or in any manner that does not fully protect the proprietary interest of the Cooperative.

- (f) **EQUITY MEMBERSHIP ACCOUNT:** Each equity member shall have a membership account on the books of the Cooperative (an “Equity Membership Account”). Equity Membership Accounts do not bear interest, are not transferable and are not refundable except upon the equity member’s withdrawal from the Cooperative. The Board of Directors shall determine from time to time the minimum amount required in an Equity Membership Account, the amount of a fully paid Equity Membership Account and the procedure for making payments into an Equity Membership Account until it is fully paid. No equity member is liable or may be assessed if an Equity Membership Account is less than fully paid.
- (g) **REFUND OF EQUITY MEMBERSHIP ACCOUNT:** An equity member who withdraws is entitled to receive a refund of the balance in his or her Equity Membership Account in accordance with policies as may be determined by the Board of Directors. The Board of Directors may adopt policies for the frequency and timing of refunds, postponement or suspension of refunds, and other conditions.
- (h) **OFFSETS AGAINST EQUITY MEMBERSHIP ACCOUNT:** The Cooperative may offset an equity member’s Equity Membership Account for any debt of the equity member or the equity member’s household to the Cooperative.

## **SECTION 2: RIGHTS OF MEMBERS**

A member of the Cooperative has the following rights, subject to the member’s status as active or inactive, as described in Article 3, Section 1(d) above:

- (a) to use the Cooperative’s services,
- (b) to vote at meetings of the members, in referenda and in elections of the Board of Directors,
- (c) to be informed about the Cooperative, and at the discretion of management or ultimately, of the Board,
- (d) to participate in committees, subject to the approval of the Board or committee members,
- (e) and to attend Board of Directors meetings, except Executive Sessions.

## **SECTION 3: RESIGNATION AND REMOVAL OF MEMBERS**

Any member may resign from the Cooperative by delivering a written resignation to the president or secretary of the Cooperative or any person designated by these officers. The Board may terminate an individual’s membership by a 2/3 majority vote, provided that the member has 15 days’ notice by mail and shall be entitled to speak before that meeting.

## **SECTION 4: ANNUAL MEETINGS**

Annual meetings of the members of the Cooperative shall be held each year between September 15 and November 30, at a place designated by the Board of Directors.

## **SECTION 5: SPECIAL MEETINGS**

Special meetings of the members may be called at any time by two Board members including the president or secretary of the Cooperative, or any four other Board members. A special meeting must be called by the president or secretary if requested in writing by at least as many members as would constitute a quorum (see sec. 7).

## **SECTION 6: NOTICE OF MEETINGS**

Notice of annual and special meetings of the members must be given by the secretary of the Cooperative. This notice – including time, place, and purpose or purposes of the meeting – must be given by publication in a local newspaper or the newsletter of the organization not less than 5, nor more than 20 days, before the meeting. In addition, notices of the meeting must be posted conspicuously at the office of the Cooperative and on the premises in which the Cooperative conducts business. The failure of any member to receive formal or actual notice of any annual or special meeting will not invalidate any action that may be taken at these meetings.

## **SECTION 7: QUORUM**

Unless otherwise provided by law, a quorum at any meeting of the members of the Cooperative shall consist of a number of active members specified by the Board as approximately equal to the square root of the size of the active membership. The Board shall revise this estimate whenever the size of the active membership changes substantially. Unless otherwise provided by statute or by these by-laws, any act approved by a majority of active members at a meeting of the members at which there is a quorum is an act of the membership.

## **SECTION 8: CHAIRING THE MEETING**

The Board of Directors shall appoint a chair for the annual meeting. The secretary or some other person appointed by the Board of Directors shall make the necessary records of the meeting.

## **SECTION 9: RULES**

The most recent edition of Robert's Rules of Order will be the formal guide to procedure at meetings of the members.

## **SECTION 10: VOTING BY MEMBERS**

Each member of the Cooperative shall be entitled to one vote.

- (a) **BALLOTS AND PROXIES:** At every meeting of members, each member shall be entitled to vote in person. Upon the demand of any 5 members, a vote on a question before the meeting shall be by paper ballot. If the Board of Directors specifically authorizes proxy voting for a particular meeting, members are entitled to vote at that meeting either in person or by written proxy dated not more than 3 months before the meeting.
- (b) The Board may specify a record date by which membership must be established for participation in any vote or meeting by the members.

## **ARTICLE 4: DIRECTORS**

### **SECTION 1: POWERS AND RESPONSIBILITIES**

- (a) Subject to statute and any limitation in the Articles of Organization or these by-laws, the activities and property of the Cooperative shall be managed and controlled by the Board of Directors, and all corporate powers shall be vested in and exercised by the Board of Directors.
- (b) **DELEGATION OF RESPONSIBILITY:** The Board of Directors may delegate any of these powers and responsibilities to any person, committee, or organization, as it sees fit and to the extent permitted by law, though ultimate responsibility and authority always shall remain with the Board.
- (c) **ANNUAL REPORTS:** The Board of Directors shall make such reports at the Annual Meeting as are necessary to disclose the financial condition and the status of affairs of the Cooperative.
- (d) **MEMBER INVESTMENT PROGRAMS:** The Board of Directors may establish programs under which the Cooperative may issue notes or other debt instruments to members.

### **SECTION 2: COMPOSITION**

- (a) **NUMBER:** There shall be up to nine (9) Directors. As many as two (2) additional members of the Board of Directors may be appointed by the Board of Directors, following the procedure given in Article IV, Section 6. By amendment to these bylaws, this number may be changed within limits fixed by the Cooperative's Articles of Organization, and according to the procedures set forth in Article 11. If the number of Directors is decreased, each Director will serve the remainder of his/her term, unless resigned or removed.
- (b) A Director shall hold office for three years from the date of his/her election until the election and qualification of his/her successor unless otherwise provided in these bylaws, including those provisions of these bylaws relating to filling vacancies, replacing a resigned Director or removing a Director. The Directors may fix the number of Directors to be elected by the members in any particular year. At any time, in order to maintain an equal number of Directors to be elected by the members each year, or whenever the Directors otherwise find it is in the best interests of the Cooperative, the Directors may determine that the term of any Director position to be filled by election of the members shall be less than three years.
- (c) **ELIGIBILITY:** All Directors must be members of the Cooperative.
- (d) **RESTRICTIONS:** No more than three salaried employees of the Cooperative may serve on the Board of Directors at any one time.

### **SECTION 3: ELECTION**

- (a) **NOMINATIONS:** All qualified members who wish to run are placed onto the ballot and the board 'endorses' a group. Applications are due at least 30 days before voting. Candidates must be present at the annual meeting in order to be elected unless their presence is specifically waived by the Board.

- (b) **CONTESTED ELECTIONS:** If there are more candidates nominated than there are vacant seats on the Board of Directors, then the election is contested. Members will have as many votes as there are vacant seats, and may cast no more than one vote for any nominee. The candidates who receive the most votes will be elected. If board terms of different lengths are being filled, longer terms will go to candidates receiving more votes. Ties shall be decided by coin toss.
- (c) **UNCONTESTED ELECTIONS:** If there are no more candidates nominated than there are vacant seats on the Board of Directors, then the election is uncontested. In uncontested elections each member may vote “Yes” and “No” for each candidate. Candidates who receive more “Yes” votes than “No” votes are elected. Spoiled ballots or a failure to vote “Yes” or “No” for a candidate do not count as either “Yes” or “No” votes.
- (d) **ADMINISTRATION:** Both Contested and Uncontested elections will be carried out by an in-store election. The Board shall set an election period of between two and six weeks in conjunction with the annual meeting. **The Board Election Committee will supervise the elections, making sure all deadlines and policies are adhered to.** Candidates may have representatives present for the counting of ballots. The Board may also authorize balloting by mail and by other methods and specify appropriate procedures.

#### **SECTION 4: RESIGNATION**

Any Director may resign at any time by giving written notice of resignation to the Board of Directors.

#### **SECTION 5: REMOVAL OF DIRECTORS**

- (a) **BY THE BOARD OF DIRECTORS:**
  - (1) Any Director may be removed from his/her office by the affirming vote of a simple majority of the remaining Directors if he/she is absent from two consecutive regular or special meetings of the Board without giving notice to the Board of his/her intended absence at or before the start of these meetings
  - (2) Any Director who fails to attend three regular meetings annually may be removed by the action of the majority of the other Directors
  - (3) Any Director of the association may be removed from office for cause, by a 2/3 majority vote of the remainder of the Board. Cause includes, but is not limited to, violation of the Board's code of conduct agreement.
- (b) **BY THE MEMBERSHIP.** A Director may be removed from office for cause; cause shall include the following reasons:
  - (1) Conduct detrimental to the interests of the Cooperative.
  - (2) Lack of sympathy with the Cooperative’s objectives.
  - (3) Refusal to render reasonable assistance in carrying out the Cooperative’s purposes.
- (c) **REMOVAL PROCESS:** An affirmative vote of two-thirds (2/3) of the members present at a membership meeting with a quorum, whether a regular Annual Meeting or a special meeting called for that purpose, is required to remove a Director.

- (d) **RIGHT OF THE DIRECTOR:** Any Director recommended for removal shall be given written notice by mail at least 5 days prior to the meeting at which his/her removal is to be voted upon. This Director is also entitled to appear before and be heard by the Board.

## **SECTION 6: VACANCIES**

An affirmative vote by a majority of the Board members then serving is sufficient to fill any Board vacancy or to increase the number of Directors. A Director appointed by the Board to fill a vacancy shall serve the remainder of the term of the Director whose position became vacant. A Director appointed by the board to increase the number of Directors shall serve until the next annual meeting. The Board may not appoint as a Director any candidate who, at the last annual election, failed to be elected by the members as a Director of the Cooperative.

## **SECTION 7: MEETINGS**

- (a) **REGULAR:** Regular meetings of the Board of Directors shall be held at least every 2 months. The exact time and place of these meetings shall be fixed by the Board of Directors.
- (b) **SPECIAL:** The president or the Executive Committee may call special meetings of the Board. On written request of any 2 members of the Board, the Executive Committee or president must call a special meeting.
- (c) **NOTICE OF MEETINGS:** All Directors shall receive written notice at their usual business or residence address of all Directors' meetings at least three days in advance or notice by telephone at least one day in advance. This notice may be waived by any Director. If every Director is present at a meeting, even though no notice of the meeting was given or waivers of notice received, any business may be transacted.
- (d) **QUORUM:** At all meetings of the Board of Directors a simple majority of all the Directors elected or appointed shall constitute a quorum for the transaction of business.
- (e) **VOTING PARTICIPATION:** Unless otherwise provided by statute or by these by-laws, those able to participate in decision making at Board meetings are those Board members present.
- (f) **VOTING:** The Board of Directors will make decisions by majority vote. The Board may approve operating procedures that allow for the use of new technologies for holding meetings and voting.
- (g) **RECORD OF ACTION:** Each of the official acts of the Board of Directors shall be recorded.

## **SECTION 8: COMMITTEES**

The Board of Directors may create committees. The constitution and duties of each committee shall be determined by the Board.

## **SECTION 9: EXECUTIVE COMMITTEE**

The Board of Directors shall elect each year for one-year terms a 3-4 person Executive Committee. This committee shall consist of officers of the Board. Responsibilities of the Executive Committee will be to call emergency meetings of the Board, make emergency decisions, and carry out any other responsibilities as authorized and directed by the Board.

## **SECTION 10: AGENTS AND REPRESENTATIVES**

The Board of Directors may appoint such agents and representatives of the Cooperative with such powers and to perform such acts or duties on behalf of the Cooperative as the Board of Directors may determine, but no appointments shall exceed the extent authorized or permitted by law.

## **SECTION 11: INDEMNIFICATION**

The Cooperative may, to the extent legally permissible, indemnify each of its present and former Members, Directors, agents, and employees (“Covered Persons”) against all expenses and liabilities that a Covered Person has reasonably incurred in connection with or arising out of any action or threatened action, suit, or proceeding in which a Covered Person may be involved by reason of being or having been a Covered Person. Such expenses and liabilities shall include, but not be limited to, judgments, court costs, attorney’s fees, and reasonable settlements.

No indemnification shall be made under this Article unless, based on a review of readily available information, a reasonable determination is made by (1) majority vote of a quorum of disinterested Directors; (2) a special indemnification committee appointed by the Board; or (3) an independent counsel in a written opinion, that the Covered Person acted in good faith and in reasonable belief that any action taken was in, and not opposed to, the best interests of the Cooperative and, with respect to a criminal action or proceeding, that the Covered Person had no reasonable cause to believe that the conduct was unlawful. In no event shall the Cooperative indemnify in relation to any matter in which the person to be indemnified is found not to have acted in good faith.

The foregoing indemnification provisions shall not be exclusive of other rights to which any Member, Director, agent, or employee may be entitled to as a matter of law.

## **ARTICLE 5: OFFICERS**

### **SECTION 1: NUMBER**

The officers of the Cooperative shall be the president, secretary, and treasurer, and such other officers with such powers and duties not inconsistent with these by-laws as may be appointed and determined by the Board of Directors. The Board of Directors must elect at least three persons as officers. Two offices may be held by the same person. All officers must be Directors.

### **SECTION 2: ELECTION AND TERM OF OFFICE**

All officers shall be elected annually by the Directors at the first meeting of the Board of Director after the annual Board election.

### **SECTION 3: VACANCIES**



In case any office of the Cooperative becomes vacant by death, resignation, retirement, disqualification, or any other cause, the majority of the Directors then in office may elect an officer to fill such a vacancy, and the officer so elected shall serve until the first meeting of the Board of Directors after the annual Board election.

#### **SECTION 4: PRESIDENT**

The president shall represent the Cooperative and shall do or perform such other duties as may be assigned to him or her by the Board of Directors. In all activities the president shall be subject to the direction, management, and control of the Board of Directors.

#### **SECTION 5: SECRETARY**

The secretary shall ensure that minutes and other documents and papers are maintained at the corporate offices. He or she shall see that required reports are filed with the state. He or she may sign with the president or treasurer, in the name of the Cooperative, any contracts or agreements authorized by the Board of Directors. He or she shall in general perform all duties incident to the role of clerk, subject to the control of the Board of Directors, and shall do such other activities as may be assigned to him or her by the Board of Directors.

#### **SECTION 6: TREASURER**

The treasurer shall ensure that appropriate records of financial transactions are kept, and that appropriate reports are filed when necessary. He or she shall, in general, perform all the duties incident to the office of treasurer, subject to the control of the Board of Directors.

#### **SECTION 7: EXECUTION OF PAPERS**

Except as the Board of Directors may generally or in particular cases authorize the execution thereof in some other manner, all deeds, releases, transfers, contracts, bonds, shall be signed either by the president and the treasurer or by the president and treasurer and the secretary.

#### **SECTION 8: REMOVAL**

Any officer may be removed from office by the affirmative vote of 2/3 of all Directors at any regular or special meeting called for that purpose for non-feasance, mal-feasance, mis-feasance, or conduct detrimental to the interests of the Cooperative. The officer involved shall receive 5 days advance notice of the meeting at which this issue will be considered and shall be entitled to appear before and be heard by the Board of Directors at such a meeting.

#### **ARTICLE 6: REFERENDA**

- (a) Referenda may be placed before the membership by the Board of Directors, or by petition of 10% of the membership. Referenda shall be conducted according to rules established by the Board.
- (b) Results of a referendum shall be binding on the Board if 25% of the membership casts ballots, and if 60% of those ballots favor a proposal, excepting that:
- (c) Decisions to boycott a product, or to take a public political stance, shall be vetoed if opposed by 10% of the entire membership, either by signing a petition or by voting against it in a referendum.

## **ARTICLE 7: VOTING UPON STOCK OF OTHER CORPORATION**

Unless otherwise ordered by the Board of Directors, the president shall have full power and authority on behalf of the Cooperative to vote in person or by proxy at any meeting of stockholders of any corporation in which this Cooperative may hold stock, and at any such meeting may possess and exercise all the rights and powers incident to the ownership of such stock which, as the owner thereof, this Cooperative might have possessed and exercised if present. The Board of Directors may confer like power upon any other person and may revoke any such powers as granted at its pleasure.

## **ARTICLE 8: PATRONAGE DIVIDENDS**

### **SECTION 1: DISTRIBUTABLE NET EARNINGS**

In arriving at distributable net earnings, the realized net earnings of the Cooperative for each fiscal year, to the extent attributable to the patronage of members, shall be reduced by the following:

- (a) such adjustments as may be necessary to put such earnings on a tax basis; and
- (b) such reasonable reserves for necessary business purposes as may be determined by the Board of Directors.

### **SECTION 2: ALLOCATION TO MEMBERS**

Distributable net earnings, as so determined, shall be allocated among members in proportion to their patronage and distributed as patronage dividends. Patronage shall be measured by the dollar amount of purchases from the Cooperative. Any allocations of such a nominal amount as not to justify the expenses of distribution may, as determined by the Board of Directors, be excluded from distribution provided that they are not then or later distributed to other members. Members shall retain the right to waive in whole or in part, by action at a meeting of members, any patronage dividends to which they may be entitled.

### **SECTION 3: NOTICE AND DISTRIBUTION**

Patronage dividends shall be evidenced by written notices of allocation delivered to recipient members within eight months and fifteen days following the close of the fiscal year. Each notice shall state the dollar amount of the patronage dividend. All notices, except those subject to Section 6 of this Article, shall be accompanied by checks in amounts determined by the Board of Directors which must be at least twenty percent (20%) of the amount allocated to each member.

### **SECTION 4: CONSENT OF MEMBERS**

By obtaining or retaining membership in the Cooperative, each member shall thereby consent to take into account, in the manner and to the extent required by Section 1385 of the Internal Revenue Code, the stated dollar amount of any qualified written notice of allocation in the taxable year in which such notice is received. A copy of this section and the appended explanation shall be provided to all members before the commencement of any member patronage.

## **SECTION 5: DEFERRED AMOUNTS**

Patronage dividends not currently distributed under Section 3 of this Article shall be credited to revolving capital accounts in the names of recipient members. Such deferred patronage dividends shall accrue no monetary return on investment and shall not be transferable. They shall be redeemed at no more than their carrying value on the books of the Cooperative when determined by the Board of Directors to be no longer needed for capital purposes of the Cooperative. At that time they shall be redeemed in the order of the oldest outstanding amounts and on a pro rata basis among such amounts, and shall be payable only to persons who are then active members or who become so within ninety days of the effective date of redemption. Deferred patronage dividends may also be redeemed under compelling circumstances as determined by the Board of Directors.

## **SECTION 6: ALLOCATION OF NET LOSS**

In the event the Cooperative shall incur a net loss in any fiscal year, such loss may be charged against retained earnings or other unallocated members' equity accounts. If the net loss exceeds such amounts, or in any event if the Board of Directors 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 dividends of prior fiscal years and then against patronage dividend allocations of subsequent fiscal years. Allocated net losses which are not so offset may be charged against the carrying value of a member's Equity Membership Account or other capital account only upon termination of membership. Allocated net losses shall not otherwise be assessed to or collected from members.

## **ARTICLE 9: FISCAL YEAR**

The fiscal year of the Cooperative shall be such period as is determined from time to time by the Board of Directors.

## **ARTICLE 10: DISSOLUTION**

Upon dissolution, any assets of the Cooperative remaining after payment of all obligations and the fulfillment of all legal requirements, including redemption of all qualified written notices of allocation and return of Equity Membership Account balances and any other capital contributions of the members, shall be distributed to the patrons based on their prior patronage with the Cooperative as shown by the records of the Cooperative to the extent practicable.

## **ARTICLE 11: AMENDMENTS**

### **SECTION 1: BY DIRECTORS**

The Board of Directors may adopt, amend, or repeal these by-laws by an affirmative vote of 2/3, so long as the action is proposed at one meeting and adopted at a subsequent meeting, unless the action would extend the term of a director beyond the term for which he or she was elected.

**SECTION 2: BY MEMBERS**

The by-laws may be altered, amended, or repealed at any meeting of members of the Cooperative by vote of a majority of active members present or represented at any meeting at which there is a quorum provided that the proposed action is inserted in the notice of such meeting.

- (a) **OPERATING PROCEDURES** The Board of Directors allows for voting via electronic mail on any issue if its first version of proposal has been made at least one week prior to vote. A quorum of Directors must respond in writing (including fax and email) either in favor, against, or in abstention.

**EXPLANATION OF PATRONAGE DIVIDEND CONSENT PROVISION**

The Internal Revenue Code generally requires each person receiving a patronage dividend to include the amount of such distribution in his or her gross income in the taxable year in which the related notice is received. Under bylaw Article 8, Section 4, mere acceptance or retention of membership in the Cooperative constitutes a consent to such inclusion in taxable income, including the portion of the patronage dividend 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 dividends is subject to an exception that is applicable to consumer cooperatives. Under that exception, a patronage dividend is not required to be included in gross income if the member's purchases from the Cooperative related to "personal, living or family items." The patronage dividend would thus be taxable to a member only if his or her purchases related to the operation of a trade or business or other income-producing activities.