

BYLAWS OF THE MARSH RIVER COOPERATIVE

ARTICLE I ORGANIZATION

- 1.1 Name: Marsh River Cooperative.
- 1.2 Purpose: To establish a year-round consumer/producer market with a strong emphasis on offering quality locally produced goods, supplemented with goods from beyond the local area as necessary. Our goal is to offer fair prices to both consumers and producers, to provide material support for local agriculture endeavors, to create a space for relevant educational classes, and to help establish a viable and sustainable local economy while providing meaningful employment in a humane workplace at reasonable wages.
- 1.3 Principle office: 5 Veterans Hwy. Brooks Maine.
- 1.4 Fiscal Year: To be determined by the Board of Directors.

ARTICLE II MEMBERSHIP

- 2.1 Ownership: The Cooperative shall be owned by its members and shall be operated exclusively on a cooperative basis as per 13 M.R.S.A. § 1501-1731, et seq, and 13 M.R.S.A. §1771-1952, for the primary and mutual benefit of its members and community.
- 2.2 Eligibility: A person of majority age, a household, business, or an association may become a member. All new memberships shall be reviewed by the Board of Directors. Each member shall make an equity payment under the membership policy as approved and modified by the members as needed.
- 2.3 Classes of membership: Membership in the Marsh River Cooperative shall be according to the following classes.
 - a. Consumer Members shall consist of individuals or organizations who purchase goods and services provided by the Cooperative.
 - b. Producer Members shall consist of individuals or organizations that produce or supply goods for sale at the Cooperative.
- 2.4 Transfer of membership: A member changing his/her membership to a different class shall pay the difference in equity, or if the equity for the new class is lower, the Board shall return the difference in equity as set forth in Section 2.7.
- 2.5 Rights and Duties of the Membership: Each member in good standing can attend and participate with one vote the annual, special, and emergency meetings of members. Members must inform the Cooperative of any changes

of name or address. Failure to do so may result in forfeiture of amounts owed to them if payments are undeliverable for a period of six months.

- 2.6 Representation: In all dealings with the Cooperative, organizations or households that are members shall designate, in writing, one representative who is formally and/or legally associated with the organization or household to the Cooperative.
- 2.7 Return of equity payment: Upon written request from a member, The Marsh River Cooperative has the right to purchase back a membership equity share from a member, at par value, in the manner described by state statutes, if and when the purchase can be made without jeopardizing the solvency of the Marsh River Cooperative or if and when there are sufficient funds to do so.
- 2.8 Removal of membership: The Board of Directors reserves the right to remove any persons, households, businesses, or associations who intentionally harm or intend to harm the property of the Marsh River Cooperative or a member of the Marsh River Cooperative and/or have acted in a way so contrary to the purpose of the Marsh River Cooperative as to cause concern among the Board of Directors. A producer membership may be terminated by the Board of Directors if a producer member is found to be in breach of contract with the Marsh River Cooperative. If this should happen the equity payment will be refunded as noted in Article II Section 2.7.
- 2.9 Nondiscrimination: Membership shall be open without regard to any characteristic that does not directly pertain to a person's eligibility.
- 2.10 Admission: Any eligible person or business may be admitted to membership upon submitting an application, investing equity in an amount specified by the membership policy, and meeting the requirements for membership established by the Board of Directors.
- 2.11 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 policies, agreements and decisions of the Cooperative or the Board.

Article III MEETINGS OF THE MEMBERS

- 3.1 Annual Meetings: All annual meetings shall be held, at a place to be determined, on a date within 6 months of the end of the fiscal year as determined by the Board of Directors. The various classes of membership will be notified of the meeting's date, time, location, and agenda by posting in the public space of the storefront, and/or email, at least 21 days in advance of the meeting.

- 3.2 Special Meetings: Special Meetings can take place as deemed necessary by a majority of the Board of Directors or by written permission of 30% of the total membership. It will be the duty of the Secretary to call such meetings into place within 30 days of the demand. The Board of Directors shall determine the time and place of the special meetings. Notice of these meetings shall be given to members 21 days in advance by posting in the public space of the storefront and/or by email.
- 3.3 Calling the Member meeting to order: The Chairperson of the Board of Directors shall call to order the Member meeting. All non-election votes shall be by a show of hands unless the Chairperson determines the need for a secret ballot. All elections shall be by ballot. Absentee ballots shall be made available to all Members who are unavailable to be present at any vote. Vote counting shall be made by the Chairperson and the Secretary of the Board of Directors.
- 3.4 Quorum and Voting: For a duly-called vote to be valid, 10% of the membership in good standing must take part. If such a quorum exists, business is transacted by a simple majority unless otherwise provided herein. Only votes by members in good standing are considered valid.

ARTICLE IV BOARD OF DIRECTORS

- 4.1 Number of Board seats: The Marsh River Cooperative Board shall have 5 – 9 seats as determined by the Board, except during those interim periods when any Board seat becomes vacant prior to being filled as provided hereinafter. Each director shall be a voting member in good standing. Producer members shall reserve a majority of the seats on the Board.
- 4.2 Qualifications and Terms: The Directors shall be elected by the membership of each class of members voting for their respective class's allotted Board seats to serve staggered three-year terms. To qualify for one of these seats, a prospective director's membership in the Marsh River Cooperative must be in good standing for 6 months prior to election. Neither the general management nor employees of the Marsh River Cooperative are eligible to run for or hold seats on the Board of Directors. The Board shall establish reasonable deadlines for members to nominate themselves for expiring or vacant Directors' seats. Members currently serving as Directors may serve successive terms as limited by Article IV, Section 4.4. General Board members will be elected by a ballot vote held in conjunction with the annual meeting. Under this staggered system, up to 5 seats will be up for election or retention every year unless there are more vacancies. The winning candidates will be elected to three-year terms or to fill the remaining term of any vacant seats. Among the winning candidates, the top vote-receivers will be elected to the longer

terms open. Any candidate running for the Board must receive at least 25% of the total vote cast to be declared elected.

- 4.3 Election ties: If there are ties involving term length, a flip of a coin will decide who wins the longer term on the Board. If there are ties involving who will serve on the Board, the winner shall be decided by the flip of a coin. The loser of the coin toss will be in line to fill the next vacancy should one occur before the end of the term.
- 4.4 Term Limits: Members of the Board of Directors are bound by a nine consecutive year term limit. This rule will take effect after the first year interim board has served.
- 4.5 Removal of Board Members: If a majority of the Board of the Marsh River Cooperative finds at any time that any Director or Officer so engaged or affiliated has failed to follow the provisions set forth in these Bylaws dealing with conflict of interest, then the procedure for Removal of Directors as set forth in Article IV, Section 6 shall be followed, with the Board requesting removal in the place of the member petition.
- 4.6 Vacancies, Resignations, and Removals: Any vacancies among members of the Board shall be filled at the next annual meeting, and candidates shall be posted 7 days prior in the public space of the store front. Additionally, the Board may appoint, by a vote of no less than 2/3 of current Board members in good standing, qualified interim members to vacant Board seats up to a number not to exceed 25% of the currently sitting member-elected members of the Board, for a period not to extend beyond the next annual meeting. Any Board member may resign his/her position by delivering a written notice to the President or the Secretary. Any Board member may be removed from his/her position by a 2/3 vote of the full Board of Directors. If a Director ceases to be a member in good standing of the Cooperative, his or her Board membership will cease immediately.
- 4.7 Powers: The Board of Directors shall oversee, direct and control the business, property, and affairs of the Cooperative on the behalf of the members. The Board shall act in keeping with any votes of the membership and shall act consistently with the laws of the State of Maine, the Cooperative's Certificate of Formation, and/or these Bylaws. The Board shall have the 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.
- 4.8 Initial Board: The Initial Board shall be determined by the Incorporators. The first Board shall serve for the first fiscal year of the Marsh River Cooperative.

ARTICLE V MEETINGS OF THE BOARD OF DIRECTORS

- 5.1 Regular Meetings: Regular meetings of the Board shall be held at a location and time that is agreed upon the Board. At these meeting the Board may transact any business brought to the Board at least seven days before the meeting. Minutes of all said meetings shall be kept at Marsh River Cooperative, available for review by the membership within one week of their adoption by the Board.
- 5.2 Special Meetings: Special meetings of the Board may be called by 2/3 or more of the current directors and shall be held at such time and place as shall be designated in the call for the meeting.
- 5.3 Notice of Meetings: Written notice of each special meeting shall be posted at the March River Cooperative 7 days prior to the day named.
- 5.4 Emergency Meetings: When matters require the Board's immediate attention, an emergency meeting may be convened by providing personal notice (whether in person, by phone, or by email) to every Board member at least 48 hours in advance.
- 5.5 Attendance or Waiver of Notice: Attendance at a meeting by a Director shall constitute waiver of any argument that he/she was not on notice of an action or motion discussed at the meeting, in accordance with the minutes of the meeting.
- 5.6 Minutes of all meetings: Minutes of all said meetings shall be kept in binder at the Marsh River Cooperative, available for review by any member within one week of their adoption.
- 5.7 Quorum and Vote Required: At any meeting of the Board, 50% of the Directors shall constitute a quorum for the transaction of business. If no such quorum exists, then no motions shall be made or decided upon.
- 5.8 Telephone Meetings: Members of the Board or any committee may participate in meeting of the Board or of such committee by means of conference telephone call or similar communication equipment by means of which all persons participating in the meeting can hear each other, and participating in a meeting in such a manner by any member who does not object at the beginning of such meeting to the holding thereof in such a manner shall constitute presence in person at such meeting.

ARTICLE VI OFFICERS

- 6.1 Number: The officers of Marsh River Cooperative shall be chosen by the Board of Directors and shall include a President, Vice President, a Secretary, a Treasurer, and a Clerk.
- 6.2 Choosing: The Board of Directors shall choose such officers from among the Board members immediately following the annual meeting.
- 6.3 Additional Officers: The Board of Directors may appoint such other officers and agents from among the Board's members, as it shall deem necessary, who shall hold their offices for such terms and shall exercise such powers and perform such duties as shall be determined from time to time by the Board.
- 6.4 Vacancies, Terms, and Removals: The officers of the Cooperative shall hold office until their successors are chosen and qualify. Any officers elected or appointed by the Board of Directors may be removed at any time by the Board, with or without cause. Any vacancy occurring in any office may be filled by the Board.
- 6.5 President: The President shall preside at all Board meetings and annual membership meetings. The president shall actively manage the business and activities of the Board and shall see that all orders and resolution of the Board are carried into effect.
- 6.6 Vice President: The Vice President shall, in the absence of or in the case of the disability of the President, perform the duties and exercise the powers of the President and shall perform such other duties and have such other powers as the Board may from time to time prescribe.
- 6.7 Clerk: A Clerk shall be chosen by the Board of Directors. The clerk need not be chosen annually and shall serve until the Cooperative changes its Clerk. The Clerk is not necessarily a Board member but shall perform the functions provided by 13 M.R.S.A. Section 1501-1731, et seq. and 13 M.R.S.A. Section 1771-1952.
- 6.8 Secretary: The secretary shall attend and take minutes of all the Board and membership meetings, unless the Board shall appoint or hire another person to assume such duties. The Secretary shall ensure that the minutes are kept up to date in a safe file and shall keep, in a book kept for such purpose, the records of all members' and Directors' meetings. The Secretary shall also give notice of special meetings. The Board of Directors may give general authority to any officer to affix the seal of duties as are prescribed by law or by the Board. In case of absence or disability of the Secretary, or if the corporation shall have no secretary, all the powers listed above shall be exercised by the Vice-President.

6.9 Treasurer: The Treasurer shall oversee the general and active management of the Cooperative's funds and securities, and oversee all receipts and disbursements belonging to the Marsh River Cooperative. The Treasurer shall supervise the disbursement of funds of the Cooperative as may be ordered by the Board and shall render to the President and/or the Board, at its regular meetings, or when the Board so requires, an account of all transactions. In the case of his or her disability, the Board may designate another one of its members to perform the duties and exercise the powers of the Treasurer. The responsibilities of individual officers listed above may be delegated by the Board of Directors when deemed appropriate.

ARTICLE VII INDEMNIFICATION; INSURANCE

- 7.1 General: The cooperative shall in all cases indemnify any person who is or was a Director, and may indemnify any other person, who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that that person is or was a Director, officer, employee or agent of the Cooperative, or is or was serving at the request of the Marsh River Cooperative as Director, officer, trustee, partner, fiduciary, employee or agent of another cooperative, a corporation, partnership, joint venture, trust, pension or other employee benefit plan or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement to the extent actually and reasonably incurred by that person in connection with such action, suit or proceeding; provided that no indemnification may be provided for any person with respect to any matter as to which that person shall have been finally adjudicated:
- a. Not to have acted honestly or in the reasonable belief that that person's action was in or not opposed to the best interests of the Marsh River Cooperative or its members or, in the case of a person serving as a fiduciary of an employee benefit plan or trust, in or not opposed to the best interest of that plan or trust, or its participants or beneficiaries; or
 - b. With respect to any criminal action or proceeding, to have had reasonable cause to believe that that person's conduct was unlawful.
- 7.2 Insurance: The Marsh River Cooperative shall have power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Cooperative, or is or was serving at the request of the Cooperative as a Director, officer, trustee, partner, fiduciary, employee or agent of another co-op, corporation, partnership, joint venture, trust, pension, or other employee benefit plan or other enterprise against any liability asserted against that person and incurred by that person in any such capacity, or arising out of that person's status as such, whether or not the co-op would have the power to indemnify that person against such liability under this Article.

ARTICLE VIII FISCAL YEAR

The fiscal year of the cooperative shall be fixed by the Board of Directors.

ARTICLE IX PATRONAGE DIVIDENDS

9.1 Patronage dividends: In order to assure that it is operating on a cooperative and nonprofit basis, the Marsh River Cooperative shall be obligated to pay patronage dividends of its net savings which, after all required adjustments, shall be returned to its customer and producer members (herein called patrons) in proportion to their patronage and in the manner and to the extent set forth in this article.

9.2 Determination of net savings: In calculating patronage dividends, the net savings resulting from the excess or deficit of revenues over costs and expenses shall first be determined in accordance with generally accepted accounting principles. Such determination shall be according to division of the cooperative if so required under the Internal Revenue Code of 1954, as amended (herein called the Code). The net savings as so determined shall then be adjusted for allocations to the reserve fund for conduct of business, and to the educational fund, as required or permitted under Maine law.

9.3 Allocation of net savings: The net savings, as determined in the preceding section, shall be apportioned at 60% to consumer members, and 40% to producer members, of the cooperative. Net savings apportioned to members shall be allocated in proportion to their purchases made during the fiscal year.

9.4 Distribution and notice: Allocation of the net savings pursuant to the preceding section shall be evidenced by the written notice delivered to patrons within eight months and fifteen days following the close of the fiscal year. Each notice shall state the dollar amount of the patron's allocation and the portion that constitutes a patronage dividend within the meaning of federal law. The notice shall be accompanied by a check in an amount determined by the Board of Directors that must be at least 20% of the patronage dividend. Patronage dividends which are of a nominal amount may however be excluded from patronage dividends provided that they are not distributed to other patrons. Patrons should keep the cooperative informed of any changes of their names or addresses. Failure to do so may result in forfeiture of amounts owed to them if payments are undeliverable for a period of six months.

9.5 Consent: Eligibility to receive patronage dividends is conditional upon submitting a signed Taxpayer Identification Number form to the Cooperative, and a signed written consent agreement that the recipient consents to include in its income the stated dollar amount of any patronage dividends received henceforth from the cooperative in the manner and to the extent required by

Section 1385 of the Internal Revenue Code. The consent agreement can be ended at any time upon written notice to Marsh River Cooperative.

- 9.6 Retained amounts: The portion of patronage dividends not currently distributed by check and which are consented to as provided above (herein called deferred patronage dividends) shall be credited to a revolving capital account in the names of the patrons. They shall be understood to have the same status as though they had been paid to patrons in cash, who had then furnished corresponding amounts for capital of the cooperative. Deferred patronage dividends may accrue interest at a rate determined by the Board of Directors which rate shall not exceed 6% per year. Deferred patronage dividends shall be subordinated to all other debt or equity obligations of the cooperative except membership shares.
- 9.7 Redemption: Deferred patronage dividends shall be redeemed within a period of 25 years when determined by the Board of Directors to be no longer needed for capital purposes, but only in the order of the oldest outstanding amounts and only on a ratable basis among such amounts. Patrons shall, however, be entitled to redemption of their deferred patronage dividends upon their death or dissolution or in the case of producer members or former producer members, upon reaching age 65 or upon other compelling circumstances as determined by the Board of Directors. Deferred patronage dividends shall be subject at all times to being offset by amounts otherwise due and payable to the cooperative.
- 9.8 Construction: The overriding policy of the cooperative in regard to this Article shall be to allocate and distribute patronage dividends equitably among its consumer and producer patrons and in compliance with both Subchapter T of the Internal Revenue Code and the laws of the State of Maine. The literal provisions of this article shall therefore be construed to best effectuate this policy.

ARTICLE X EXECUTION OF DOCUMENTS

Unless the Board of Directors, executive committee, or members shall otherwise generally or in any specific instance provide; (a) any bill, note, check, or negotiable instrument may be executed or endorsed in the name and on behalf of Marsh River Cooperative by the President and Treasurer, and (b) any other instrument, documents, deeds, bills of sale or other writings of whatever nature shall be executed in the name and on behalf of the Cooperative by the President and the Treasurer, and either officer may seal, acknowledge and deliver the same by a vote of the Board.

ARTICLE XI AMENDMENTS

The Bylaws and corporate filing(s) may be adopted, amended, or repealed by a majority vote of the members in good standing so long as the number of members present and voting combined with the number of votes received by absentee ballot constitutes a quorum as defined in Article III Section 4.

ARTICLE XII DISSOLUTION

A vote to dissolve the Marsh River Cooperative shall require a vote of 2/3 of the membership of the Cooperative. By a vote of the majority of the members voting, three or more members shall be designated trustee, who shall, on behalf of the association and within a time fixed in their designated or within any extension thereof, liquidate its assets and distribute them in the manner set forth in M.R.S.A. SS 1731.

ARTICLE XIII DISPUTE RESOLUTION

In any dispute between the Cooperative and any of its members or former members which cannot be resolved through informal negotiation, the Cooperative reserves the right to use mediation whereby an impartial mediator may facilitate negotiations between the parties and assist them in developing a mutually acceptable settlement. No member with a grievance against another member, or of the Cooperative, shall have recourse to litigation until the matter is submitted to mediation and attempted to be resolved in good faith.