

Nourishing Our Community



With Local Food Since 1976

## **THE HIGH FALLS FOOD COOPERATIVE BY-LAWS APPROVED NOVEMBER, 2021**

### **ARTICLE ONE: Name and Principal Office**

#### SECTION ONE. Name

The name of the cooperative shall be The High Falls Food Cooperative, Inc., hereinafter “HFFC.”

#### SECTION TWO. Ownership and Purpose

The Cooperative shall be owned by its members and shall operate in accordance with cooperative principles for the mutual benefit of its members (henceforth “member-owners”)

### **ARTICLE TWO: Membership**

#### SECTION ONE. Eligibility

Membership in the Cooperative shall be open to any individual or legal entity who is in accord with its purposes and is willing to accept the responsibilities of membership.

#### SECTION TWO. Nondiscrimination

As reflected in our commitment to inclusivity, membership shall be open without regard to any characteristic that does not directly pertain to a person’s eligibility.

#### SECTION THREE. 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 (henceforth “the Board”). A legal entity applying for membership must name a single individual as an authorized representative.

#### SECTION FOUR. Rights

Member-owners have the right, as provided in Article Four, Section Nine, to elect the Cooperative’s Board, 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-owner shall have one vote and no more on all matters submitted to member-owners. The rights of member-owners shall apply only to active member-owners in good standing. All rights and responsibilities of member-owners are subject to applicable state law, the bylaws as they may be amended from time to time, and to policies and decisions of the Cooperative or the Board.

#### SECTION FIVE. Responsibilities

Member-owners shall keep current in annual dues and/or 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. Member-owners shall also patronize the cooperative. A member-owner who upholds these responsibilities is considered an active member in good standing. A member-owner who does not uphold these responsibilities may be suspended by the Board, at its sole discretion.



SECTION SIX. Termination of Membership

A member-owner may terminate their membership voluntarily at any time by written notice to the Cooperative. Membership may be terminated involuntarily by the Board for cause after the member-owner 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, willful obstruction of any lawful purpose or activity of the Cooperative, breach of any contract with the Cooperative, or failure to patronize the business for more than 3 years.

SECTION SEVEN. Return of Equity

Equity may 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 needed by the cooperative.

SECTION EIGHT. Unclaimed Equity

If a member-owner voluntarily or involuntarily terminates membership in the cooperative, and fails to inform the cooperative of his or her mailing address, then any equity and patronage dividend amount allocated to that member-owner will be retained by the cooperative or donated to a non-profit to the extent authorized by state law.

SECTION NINE. Non Transferability

Membership rights and member equity may not be transferred in any manner except for transfers to estates or heirs pursuant to board policy.

## **Article Three: Meeting of Members**

SECTION ONE. Annual Meeting

A membership meeting shall be held annually at a time and place to be determined by the Board. The purpose of such meetings shall be to hear reports on governance, operations and finances, to review issues that vitally affect the Cooperative, to elect directors if necessary, and to transact such other business as may properly come before the Board.

SECTION TWO. Special Meetings

The Board may call special meetings of the membership. The Board shall call a special meeting if presented with a written petition stating a proper purpose and signed by 5% of active members. Notice of special meetings shall be issued to member-owners. In the case of a petition, notice of the special meeting will be issued within twenty days. The meeting will be held within a reasonable time after presentation of the petition to the Board. No business shall be conducted at that special meeting except that specified in the notice of meeting.

SECTION THREE. Quorum

At any meeting of the members or for any vote of the members, a quorum shall consist of fifty (50) members or 5% of the total membership, whichever is less.



SECTION FOUR: Notice

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 15 days prior to the date of the meeting.

SECTION FIVE: Voting

Voting on all matters that member-owners are entitled to vote upon will be accomplished through paper or electronic ballots, or both, as authorized by the Board. Unless otherwise specified in these bylaws, notice of the vote shall be posted in a conspicuous place at the Cooperative and communicated by written notice delivered to member-owners' postal or electronic address not less than 15 days 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 member-owners voting thereon. Proxy voting is not allowed.

## **Article Four: Directors and Officers**

SECTION ONE: Powers and Duties

Except for matters for which member-owner voting is required by law or these bylaws, the Board shall have full power to govern the Cooperative, including, but not limited to, hiring management, establishing compensation, if any, for the Board, and taking reasonable action to articulate the mission of the Cooperative. The Board of Directors shall consist of nine (9) members, a majority of whom shall constitute a quorum.

SECTION TWO: Eligibility

Directors must be member-owners of the Cooperative in good standing. One member-owner who is also a current employee may serve on the board. The General Manager, and spouses or domestic partners of employees may not serve as Directors. A person with a conflict of interest so continuing and pervasive that they are unable to effectively fulfill the responsibilities of a director with the Cooperative shall not be qualified to serve as a director.

SECTION THREE: Officers

The Board will designate officers as necessary for the effective conduct of Board business, consistent with any requirements of state law. The Board will elect the following officers: President, Vice President, Secretary and Treasurer for one year terms annually. Officers may be re-elected. Officer duties are as follows:

*a. President and Vice President*

The president shall coordinate the activities of the cooperative and the Board of Directors. In the president's absence, the vice-president will take their place.

*b. Secretary*

The secretary will attend all meetings of the cooperative and the Board of Directors and take minutes of the proceedings. They will make sure the board's documents are accurate, up to date, and appropriately maintained.



*c. Treasurer*

The treasurer shall attend all meetings of the cooperative and the Board of Directors. They are responsible for supporting the board in all finance-related board work.

SECTION FOUR. 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.

SECTION FIVE. Vacancies

Any mid-term vacancy among Directors may be filled by appointment by the Board. A Director so appointed shall be appointed until the end of the pertinent term.

SECTION SIX. Conflicts of Interest

Directors shall be under an obligation to disclose their actual or potential conflicts of interest. Directors having such a conflict shall absent themselves from discussion and decision of any related matter under consideration by the Board unless otherwise determined by the Board. Directors may not do business with the Cooperative except in the same manner as other member-owners generally do business with the Cooperative or under other conditions that are procedurally defined by the board to avoid preferential treatment.

SECTION SEVEN. Removal of Directors and Officers

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. A Director may be removed by decision of the member-owners in accordance with the petition and voting provisions of these bylaws. (See Article Three.)

SECTION NINE. Meetings

The Board shall hold regular and special meetings at such time and place as it shall determine, and all Directors shall be notified in writing of said meeting at least five (5) days in advance, unless the Board agrees to a shorter notice. The Board will provide reasonable notice of all board meetings to member-owners. Attendance at any meeting constitutes waiver of notice of that meeting. Meetings shall be open to all member-owners unless the Board decides to go into executive session regarding confidential or proprietary 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 or contract, be considered confidential.

SECTION TEN. Action Without a Meeting

Any action required or permitted to be taken at a meeting of the Board 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.



SECTION ELEVEN. Indemnification

The Cooperative shall indemnify and reimburse each present, past and future Director 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, to the full extent allowed by law, except to the extent the Director acted in bad faith.

## **Article Five: Patronage Dividends**

SECTION ONE. Allocations to member-owners

In the event that The Cooperative moves to a Patronage Dividend equity model, The Cooperative shall allocate and distribute to member- owners the net profit from business done with them in such a manner as to qualify them as patronage dividends consistent with cooperative principles, applicable state and federal laws and generally accepted accounting principles. The Board shall determine when and how such allocations and distributions will be made, including the amount if any, distributed in cash and the form of any amount distributed as equity, whether the allocations will be made in one or more divisions, departments or allocation units, and whether all or part of the excess margins shall be set-aside in capital or other necessary reserves. Net margins from business done with persons that are not member-owners may be allocated to member-owners or set-aside in an unallocated surplus or retained earnings (if the allocation is made prior to the beginning of the fiscal year).

SECTION TWO. Consent of member-owners

In the event The Cooperative moves to a Patronage Dividend equity model, each member-owner agrees that by obtaining or retaining membership in the Cooperative, each member-owner consents to take into account, in the manner and to the extent required by federal and state tax law, any patronage dividend received from the Cooperative. Each member-owner also agrees that if his or her patronage dividend is not cashed within 90 days of the date on which it was issued by the Cooperative, the Cooperative shall have the right to make a contribution in the name of that member to support other organizations aligned with the Cooperative's purpose in a manner as may be directed by the Board from time to time.

SECTION THREE. Reserves

In the event the Cooperative moves to a Patronage Dividend equity model, amounts carried in reserves shall be allocated on the books of the Cooperative on a patronage basis or in lieu thereof the books and records of the Cooperative shall afford a means of doing so at any time so that in the event of distribution each member-owner and eligible patron may receive a pro rata share of such distribution. Amounts carried in reserves or unallocated surplus and not allocated to the member-owners may be so allocated by the Board at any time.

SECTION FOUR. Extraordinary Gains

Margins produced by a transaction (such as income from the lease of premises, investment in securities, or from the sale or exchange of capital assets) which is directly related to the Cooperative's business will be deemed to be patronage sourced margins and may be distributed to member-owners in proportion, insofar as is practicable, to their patronage during any period to which such margins are attributable, as determined by the Board.



SECTION FIVE. Allocation of Losses

- a. Operating Losses. An operating loss will be apportioned among the member – owners and eligible patrons during the year of loss so that the loss will, to the extent practicable, be borne by those member-owners with respect to the loss year on an equitable basis, including charging the loss against allocated reserves, unallocated surplus, or the patronage equity. Member-owners and patrons may not be directly assessed for any loss. The Board may also direct that all or part of any loss be carried forward or back so long as any carry-forward or carryback will not place an inequitable burden upon past or future members.
- b. Other Losses. If, in any fiscal year, the Cooperative incurs a loss other than an operating loss, the Board may determine the basis on which patronage capital furnished by the member-owners may be reduced or such loss is to be otherwise equitably apportioned among the member-owners.

**Article Six: Bylaws**

In accordance with the New York Law on Corporate Corporations (Article 2, Section 16), the bylaws may be amended by the board of directors; but any amendment adopted by the board shall be reported to the annual meeting of the corporation and, if not affirmatively approved at that meeting, shall cease to be in effect. By-laws may be adopted, repealed or amended on the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the members who participate in the vote held after due written notice setting forth the proposed action and the purpose of the meeting.

**Article Seven: Dissolution**

SECTION ONE. Vote of Membership

The Cooperative may be dissolved or liquidated upon a decision of the Board and a two-thirds ( $\frac{2}{3}$ ) vote of the member-owners who participate in the vote.

SECTION TWO. Liquidation.

On such dissolution, the co-op shall designate a committee of three members who shall, on behalf of the corporation, liquidate its assets, and

- a. pay or make provision for payment of all debts and expenses of liquidation
- b. or turn over net assets to such recognized cooperative organization or government or public agency to be used for social purpose, as the membership may determine,
- c. or redeem any equity accounts which, if they cannot be paid in full, shall be paid on a pro-rata basis, with initial capital contribution for Membership Shares paid prior to non-cash patronage equity,
- d. or by distributing any remaining assets on the basis of patronage of members over a reasonable historical period determined by the Board or in a way that furthers the Cooperative's mission, as determined by the Board.

The committee shall make a report of the proceedings, which shall be signed by its members, acknowledged by them before an officer duly authorized to administer oaths in this state, and filed in the offices in which the certificate of incorporation is filed.