

Revised complete text, as approved August 3, 2018 by referendum of owners, for:

BYLAWS OF FRENCH BROAD TRADING COOPERATIVE

Article I: Organization

Section 1.1 Name.

The name of the corporation is French Broad Trading Cooperative (referred to in these bylaws as “the Co-op”). The Co-op operates under the trade name of “French Broad Food Co-op”. The Co-op’s Board of Directors shall be referred to in these bylaws as “the BOD”.

Section 1.2 Purpose.

As more fully stated in its Amended and Restated Articles of Incorporation, the purpose of the Co-op is to operate a retail food store and to engage in other lawful activities on a cooperative and nonprofit basis. The Co-op defines “cooperative” according to the following principles, as articulated by the International Co-operative Alliance, copyright 2005 - 2010:

1. Voluntary and open membership
2. Democratic member control
3. Member economic participation
4. Autonomy and independence
5. Education, training, and information
6. Cooperation among cooperatives
7. Concern for community

Section 1.3 Vision.

Our Vision at the French Broad Food Co-op is to be a transformative force in our community and in our work, and to serve as a model of a sustainable business alternative that nurtures social and economic well-being in an environmentally sensitive manner.

Section 1.4 Mission.

The French Broad Food Co-op is dedicated to serving our owners and the Western North Carolina community by providing high quality natural foods and personal care products through a mutually beneficial exchange.

- We support consumption of healthful and organic foods, grown or produced locally with ecological and social responsibility.
- We encourage informed choice and consumer empowerment, with an emphasis on education and customer assistance.
- We are committed to use profits to strengthen and improve the Co-op community, and to provide a livable wage to our employees.
- We pledge to maintain a pleasant environment that fosters goodwill, cooperation, and participation.

Section 1.5 Nondiscrimination.

The Co-op shall not discriminate against any persons on the basis of: sex; race; color; age; national or cultural heritage; religious or spiritual beliefs, nonbeliefs and/or practice; political ideology; disability; genetic information; marital status; socio-economic status; sexual orientation; gender identity or

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reassignment; pregnancy or maternity; citizenship; veteran status; any other status protected by applicable laws; or any other arbitrary basis. Additionally, the Co-op shall be an equal opportunity employer accepting, supporting and practicing the concepts of non-discrimination pertaining to, but not limited to, hiring, pay, assignments, promotion, discipline, working conditions, training and benefits.

Section 1.6 Registered and Principal Office, and Registered Agent.

The Co-op shall maintain a registered office in the State of North Carolina, and shall have a registered agent whose office address is identical with the address of such registered office, in accordance with the requirements of North Carolina General Statutes, Chapter 55D: Filings, Names, And Registered Agents For Corporations, Nonprofit Corporations, And Partnerships. The principal office of the Co-op shall be located in the City of Asheville, North Carolina.

Section 1.7 In accordance with North Carolina General Statutes Chapter 55, G.S. 55-1-50, and other applicable provisions of NC law, the Co-op may conduct any communications transaction by electronic means when deemed feasible and in the best interests of the Co-op. In situations for which these bylaws specify that communications, such as voting or giving required notice, shall be conducted "by mail," the BOD may implement electronic methods that will accomplish said communications as successfully as may be expected through use of non-electronic mail procedures. Non-electronic options for voting and giving required notice shall be provided in all circumstances in which electronic methods are provided.

Article II: Ownership

Section 2.1 Admission.

2.1.1 Ownership in the Co-op shall be voluntary, and open to any individual who embraces its purpose and mission.

2.1.2 The Co-op shall not discriminate on social or political grounds, on the basis of race, creed, age, sex, handicap, sexual preference, or marital status. Disputes with regard to eligibility shall be referred to the BOD.

2.1.3 Applicants will be admitted to ownership upon submitting required information, paying an initiation fee, if any, and purchasing or subscribing to purchase one or more common shares, according to terms determined by the BOD.

2.1.4 Applicants shall be adequately informed of their rights, responsibilities, and benefits as owners and must express a willingness to accept the responsibilities of ownership.

Section 2.2 Termination.

2.2.1 Ownership may be terminated voluntarily by an owner at any time upon notice to the Co-op.

2.2.2 Termination may also occur by default if an owner shall die, or, in the case of a business, cease to exist, or if the owner fails to patronize the Co-op for a period of time as determined by the BOD.

2.2.3 Ownership may be terminated involuntarily only for cause, such as conducting activities contrary to the best interests of the Co-op, or violating the terms of the ownership application, subscription, or any other contract with the Co-op. Such termination may only occur by the consensus of, or approval by, 2/3rds of all directors currently serving, and only after a fair hearing at which the owner is given the opportunity to speak and present information.

2.2.4 Upon termination of ownership, all rights and interests in the Co-op shall cease, except for rights to redemption of capital funds, which shall cease as described within Articles VIII and IX of these

bylaws.

Section 2.3 Rights.

2.3.1 Reference in these bylaws to the rights and entitlements of owners or owners of record, shall be understood to refer only to owners in good standing.

2.3.2 Each owner shall be entitled to make purchases from the Co-op on terms generally available to owners.

2.3.3 Each owner shall be entitled to contribute labor or services as needed by the Co-op, and thereby be entitled to receive associated discounts, as determined by the BOD.

2.3.4 Each owner shall be entitled to participate in the governance of the Co-op, as set forth in these bylaws.

2.3.5 Each owner shall be entitled to redeem her or his portion of the Co-op's capital funds, as described within Articles VIII and IX of these bylaws.

2.3.6 Each owner shall be provided access to a copy of these bylaws.

2.3.7 Each owner shall be provided reasonably adequate and timely information as to the organizational and financial affairs of the Co-op.

2.3.8 Owners shall be provided access to the books and records of the Co-op at all reasonable times for any proper purpose. The nature of the proper purpose must be explained and demonstrated to the BOD to gain approval, before access is granted. Access is limited to information the BOD determines is for that proper purpose.

2.3.9 The owners as a group shall be entitled to decide any question regarding the business or affairs of the Co-op. Such questions can be brought before the owners:

- a. by a petition of owners, which states the business to be brought before the owners and has been signed by 10% of all owners,
- b. by BOD referral, or
- c. by an owner at a meeting of owners.

Section 2.4 Responsibilities.

2.4.1 Each owner shall keep reasonably current in payment of the share purchase requirement.

2.4.2 Each owner shall make purchases from the Co-op on at least an occasional basis.

2.4.3 An owner who becomes delinquent in meeting BOD share purchase requirement to an extent determined by the BOD, shall, no sooner than 30 days after delivery of written notification, be placed into inactive status. An owner in inactive status may attain good standing only upon full payment of all arrearages.

2.4.4 Each owner shall keep the Co-op informed of her or his current mailing address and any other important contact information.

2.4.5 Owners commit to using the process described in Section 2.5 to settle disputes with the Co-op.

Section 2.5 Settlement of Disputes.

In any dispute between the Co-op and an owner or former owner, the policy of the Co-op shall be to seek to use the following process:

- (i) Attempt to resolve the dispute through informal negotiation.
- (ii) Submit the matter to mediation and attempt to resolve in good faith, with each party taking responsibility for one half of any costs of mediation services.
- (iii) Utilize litigation as the last recourse.

Article III: Meetings of Owners

Section 3.1 Regular Meetings.

3.1.1 An annual meeting of owners shall be held not more than 6 months after the close of each fiscal year. The purposes of the meeting shall be to hear reports on operations and finances, to present measures that will appear on the upcoming ballot, and to conduct such other business as may properly come before the meeting.

3.1.2 Additional regular meetings may be established by the BOD.

3.1.3 Additional regular meetings may be established by the owners at a regular or a special meeting.

Section 3.2 Special Meetings.

3.2.1 Special meetings of owners may be called by the BOD.

3.2.2 Special meetings may be initiated by a petition of owners. These meetings shall be scheduled by the Secretary as soon as reasonably possible upon receipt and validation of the petition, unless a regular meeting can address the business stated in the petition in a timely manner.

3.2.3 Any action taken at a special meeting that is not within the purpose(s) described in the meeting notice, shall be of an advisory nature only.

Section 3.3 Time and Place.

The time and place of all meetings of owners shall be determined by the BOD, or, in the event that the BOD fails to act, by the Secretary. Meetings shall be held at a time and place convenient to owners.

Section 3.4 Notice.

Not less than 30 days nor more than 60 days before the date of a meeting of owners, notice of the time and place of the meeting shall be sent out directly to each owner of record. If a meeting is being called due to circumstances of an emergency nature, then the notice shall be sent out not less than 10 days before the date of the meeting. The notice shall be sent out either by first class U. S. mail or its equivalent. Alternatively, electronic transmission may be used as the sole method for delivery of notice to an owner, provided that the owner has requested that the Co-op use that method. In the event that notification is received that electronic transmission of the notice has failed for a particular owner, then as soon as is practicable, the notice shall be re-sent to that owner using first class U. S. mail or its equivalent. Notice shall also be posted prominently at all places of business of the Co-op. The notice shall also state the purpose or purposes of the meeting, and include a description of all business which has been referred, prior to transmission of the meeting notice, for action by the owners.

Section 3.5 Record Dates.

Unless otherwise determined by the BOD, only persons who are owners at the close of the business day immediately preceding the date of distribution of notices, shall be entitled to receive notice of any meeting of owners and to vote at such meeting. Only persons who are owners at the close of business on the day that a petition of owners is received, shall be valid signatories to the petition.

Section 3.6 Quorum.

The lesser of 50 owners or 3% of all owners, present in person at the meeting, shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of owners. For matters

submitted to the membership by mail, mail ballots cast shall be counted toward fulfillment of the quorum requirement.

Section 3.7 Voting.

3.7.1 At all meetings of owners and in every ballot, each owner shall be entitled to only one vote on each issue and/or each candidate submitted to a vote of owners, irrespective of the number of shares owned.

3.7.2 Voting by proxy shall not be permitted.

3.7.3 Absent members may vote at meetings by mail as permitted by North Carolina law.

3.7.4 Meetings of owners shall be conducted in accordance with *Robert's Rules of Order, Newly Revised*. *Robert's Rules* allows additional rules to be adopted at the start of a meeting. Such rules may include Formal Consensus processes. Any additional rules adopted shall not conflict with the provisions of Section 3.8.

Section 3.8 Balloting by Mail.

3.8.1 All references in these bylaws to a meeting of owners shall be understood as including balloting by mail. Balloting by mail shall be used for all matters coming before meetings of owners, except in cases when the matter must be decided in less than 30 days time. Such ballots may be used in conjunction with, in addition to, or in lieu of a meeting.

3.8.2 Procedures adopted for balloting by mail shall be fair and reasonable. The procedure specified for a vote by mail within *Robert's Rules of Order, Newly Revised* may be utilized. Alternatively, the following procedure may be adopted:

(i) Notice of the balloting shall be mailed to each owner qualified to vote.

(ii) The notice shall specify locations where ballots and voting instructions may be obtained, and the time span during which ballots must be submitted in order to be counted.

(iii) At the end of the balloting, the ballots shall be counted according to the procedure for a vote by mail.

3.8.3 When repeated balloting on a multiple choice question is not practical, preferential voting may be utilized, following the example procedure detailed within *Robert's Rules of Order, Newly Revised* section 44, Voting Procedure, Preferential Voting.

3.8.4 When balloting by mail in conjunction with a meeting, the following rule may be adopted for either 1) all main motions considered during the meeting, or 2) any particular main motion under consideration during the meeting:

All main motions for which this rule is adopted, at the conclusion of debate on the motions, shall be put before the owners via balloting by mail subsequent to the meeting.

Details and time limits relating to the process of balloting by mail, shall be specified upon adoption of this rule. Such motions shall be considered pending, with regard to the application of meeting rules regarding such motions.

Article IV: Board of Directors

Section 4.1 Powers and Duties.

Except as to matters reserved to owners by law or by these bylaws, the business and affairs of the Co-op shall be directed and controlled by the Board of Directors (BOD). The powers and duties of the BOD shall include, but not be limited to:

a. overseeing & safeguarding the operations, finances and assets of the Co-op,

- b. engaging one or more persons to manage the operations of the Co-op, and monitoring and evaluating their performance,
- c. communicating responsibly with owners, and implementing their decisions,
- d. securing fair and equitable conditions of employment, and
- e. ensuring that the Purpose (Article I, Section 1.2), Vision (Article I, Section 1.3) and Mission (Article I, Section 1.4) of the Co-op are properly carried out.

Section 4.2 Number and Qualifications.

The BOD shall consist of not less than 5 nor more than 11 persons, as determined at a meeting of owners. All directors shall be owners and shall not have any overriding conflict of interest. Staff members shall not at any time constitute more than 1/3rd of all Directors. Any staff members serving on the BOD must be recused from discussions and voting while the BOD is considering any personnel related matters or monitoring. Employees of the Co-op shall be allowed to serve on committees established by the BOD, to the extent provided for by Section 4.7.

Section 4.3 Nominations, Election and Terms.

4.3.1 Directors may be nominated by:

- a. the BOD,
- b. a nominating committee selected by the BOD,
- c. a petition signed by 10 or more owners.

4.3.2 Directors shall be elected annually by a vote of owners. Directors may also be elected at a special meeting of owners, if that is one of the purposes of the meeting.

4.3.3 The terms of directors shall be staggered so that, as nearly as may be practicable, one-third shall expire in each year. Directors shall be elected for terms of 3 years. Directors shall hold office until their successors are elected, or until their offices are sooner terminated in accordance with these bylaws. At the end of a full or partial term, if a director seeks a successive term, she or he must appear on the ballot for said term to be voted upon by owners. No director at term expiration may assume ongoing status as director without re-election by the owners.

4.3.4 Elected or appointed members of the BOD may not serve more than 2 full consecutive 3-year terms, excluding any partial term that may have been served prior to the full terms. After a minimum of 2 years' absence, a previously serving BOD member will be eligible to serve again.

Section 4.4 Compensation.

Directors shall receive a discount on purchases not to exceed 20%, and shall be reimbursed for reasonable expenses incurred in connection with business of the Coop. Directors may receive additional compensation for services as directors only as authorized at a meeting of owners.

Section 4.5 Standards of Conduct.

Directors shall be responsible at all times for discharging their duties in good faith, with care, and in a prudent and lawful manner that they reasonably believe to be in the best interests of the Co-op.

Section 4.6 Conflict of Interest.

Directors shall be under an affirmative duty to disclose their actual or potential conflicts of interest, in any matter under consideration by the BOD or by a committee exercising any powers of the BOD.

Directors having such a conflict may not participate in the decision of the matter, or, unless the BOD or

committee otherwise directs, in the discussion of the matter.

Section 4.7 Committees.

Except as otherwise required by law, the BOD may appoint standing or special committees to advise the BOD or to exercise such authority as the BOD shall designate. All committees shall include at least one director. Committees exercising authority of the BOD shall consist exclusively of directors.

Section 4.8 Indemnification.

The Co-op shall indemnify its current and former directors and officers against all reasonable expenses to which they may become subject by reason of their positions with the Co-op or their service in its behalf, to the maximum extent required or permitted by law, except as may be limited by its Articles of Incorporation. Indemnification payments and advances of expenses shall be made only in such increments and at such times as will not jeopardize the ability of the Co-op to pay its regular obligations as they become due. All such payments made shall be reported in writing to owners, either before or with the notice of the next scheduled meeting of owners.

Section 4.9 Termination.

The term of office of a director may be terminated prior to its expiration in any of the following ways:

- a. voluntarily by a director upon notice to the Co-op,
- b. automatically upon termination of ownership in the Co-op,
- c. automatically upon placement of ownership into inactive status, subject to reinstatement by the BOD upon timely attainment of good standing,
- d. by action at a meeting of owners whenever the best interests of the Co-op would thereby be served, provided that the notice of the meeting states that removal of the director is one of the purposes of the meeting,
- e. for cause, by the BOD, after a fair hearing at which the director is given the opportunity to speak and present information, such action requiring the consensus of, or approval by, 2/3rds of all directors currently serving, or
- f. for failure to attend 3 consecutive BOD meetings or any 4 meetings in any one-year period, unless excused by the BOD.

Section 4.10 Vacancies.

Any vacancy among directors occurring between annual meetings may be filled by the BOD. The term of the appointment may, at the option of the BOD, be either for the balance of the unexpired term, or until the next meeting of owners whose purpose includes election of directors. Vacancies may also be filled by the owners at a special meeting if that is one of the purposes of the meeting. Vacancies pending to be filled at a scheduled meeting of owners may not be filled by the BOD.

Article V: Meetings of the BOD

Section 5.1 Meetings.

The BOD may determine the times and places of regular meetings. Meetings of the BOD shall be held at least quarterly. Special meetings may be called by the President. Special meetings shall be called by the Secretary upon request of at least 35 percent of all directors. Meetings of the BOD and of all committees shall be open to owners, except as provided in Section 5.8.

Section 5.2 Notice.

5.2.1 Regular meetings shall require no notice other than a resolution of the BOD. It is the responsibility of absent directors to inquire as to the time of further scheduled meetings.

5.2.2 Special meetings shall require written or oral notice to all directors. Written notice shall be delivered at least 7 days before the date of the meeting and oral notices shall be given in person or by telephone at least 3 days before the date of the meeting. In an emergency situation, as determined by the President, actual notice to all directors of 24 hours shall be sufficient.

5.2.3 Owners shall be notified of BOD meetings in a timely manner by the posting of notices in a conspicuous place at all places of business of the Co-op.

Section 5.3 Quorum.

The presence, in person, of a majority of directors currently serving, shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the BOD.

Section 5.4 Voting.

Decisions at meetings of the BOD shall be made either by Formal Consensus or majority vote, unless otherwise required by law or by these bylaws. Meetings of the BOD shall be conducted in accordance with On Conflict and Consensus: a Handbook on Formal Consensus Decisionmaking by C.T. Lawrence Butler and Amy Rothstein, or in accordance with Robert's Rules of Order, Newly Revised.

Section 5.5 Telephone Conferences.

Meetings of the BOD may be conducted by means of a telephone conference or other communications equipment whereby all persons participating can simultaneously communicate with each other.

Participation by such means shall constitute presence in person at such a meeting. Telephone conferences shall not be used for the purpose of excluding owners from meetings of the BOD.

Section 5.6 Action Without a Meeting.

Any action required or permitted to be taken at a meeting of the BOD, may be taken without a meeting, if a written consent to the action is signed by all directors currently serving and filed with the minutes of meetings.

Section 5.7 Referendum.

At the request of 35% of all directors currently serving, a decision made by the BOD, or a pending decision, shall be referred to a meeting of owners. A decision referred to owners shall not take effect until ratified or approved by owners. No third parties shall acquire any rights in the matter until ratification or approval by owners.

Section 5.8 Closing Meetings.

Meetings, or portions of meetings, of the BOD or of committees, may be closed only to address issues of a particularly sensitive or confidential nature. Closing a BOD meeting shall require the consensus of, or approval by, at least 2/3rds of the BOD members in attendance. Owners may otherwise be excluded only for cause.

Article VI: Officers

Section 6.1 Designation.

The principal officers of the Co-op shall be the President and Secretary. The BOD may designate other officers or assistant officers such as Vice President and Treasurer. All officers must be directors.

Section 6.2 Selection, Terms and Removal.

Officers shall be selected by the BOD. Officers shall serve for terms of one year or until election of their successors. Officers may be removed and replaced by consensus of, or approval by, a majority of the directors currently serving, whenever the best interests of the Co-op would thereby be served.

Section 6.3 Duties.

In addition to signing or attesting to formal documents on behalf of the Co-op as authorized by the BOD, officers shall have the following duties and such additional duties as determined by the BOD:

- a. The President shall be responsible for assuring the orderly conduct of all meetings and coordinating the activities of the BOD.
- b. The Secretary shall be responsible for the issuance of required notices, and the recording and keeping of adequate minutes of all meetings.
- c. Additional duties, including overseeing maintenance of financial records, reporting of financial information, and filing of required reports and returns, shall be delegated to members of the BOD, as necessary.

Article VII: Fiscal Matters

Section 7.1 Fiscal Year.

The fiscal year of the Co-op shall coincide with the calendar year.

Section 7.2 Financial Accountability.

Financial statements of the Co-op shall be audited at least once in every 3 fiscal years by an independent public accountant selected by the BOD. However, if the cost of an audit could endanger Co-op financial viability, the timing of such an audit can be delayed up to 4 years from the date of completion of the previous audit. In addition to financial professionals, other external professionals may be engaged to conduct a management review and report concerning management performance, adequacy of operating controls, and such other matters as determined by the BOD.

Section 7.3 Reserve Equity Fund.

The Co-op shall maintain a Reserve Equity Fund, with the goal that its accumulated balance shall be the equivalent of not less than 50% of the Co-op's total paid-up capital stock. Such fund may be borrowed from and repaid as needed for Co-op investments or development, as determined by the BOD.

Article VIII: Capital Stock

Section 8.1 Issuance.

The Co-op shall issue its common stock to evidence capital funds provided by owners. Common shares may be issued only to persons eligible for and admitted to ownership in the Co-op. Shares shall be issued only upon full payment of their purchase or subscription price, as determined by the BOD, which shall

not be less than the par value of 15 dollars per share.

Section 8.2 Terms.

8.2.1 Shares shall be entitled to no dividend or other monetary return on investment.

8.2.2 The Co-op need not provide certificates to evidence issuance of stock.

8.2.3 Shares may not be transferred except to another person eligible for ownership, and with the express prior approval of the BOD. Any attempted transfer contrary to this section shall be wholly void and shall confer no rights on the intended transferee.

Section 8.3 Redemption.

8.3.1 The coop shall redeem shares upon liquidation of the Co-op.

8.3.2 Owners may redeem shares upon written request after termination of ownership, unless the BOD determines compelling circumstances not to redeem the shares. Reapplications for ownership after full or partial redemption shall be subject to full repayment of redemption proceeds.

8.3.3 Shares shall be redeemable at the lesser of their carrying value on the books of the Co-op or their net tangible book value, less a reasonable processing fee, if any, as determined by the BOD.

Section 8.4 Lien and Offset.

The Co-op shall have a first lien on shares to the extent of amounts due and payable to the Co-op by owners. The Co-op may, at any time after such amounts remain due and payable for 30 or more days, offset such amounts against owners' accumulated payments for share equity. Such offset may not be executed by owners or by anyone acting in the right of owners. The Co-op is authorized to utilize legal process to enforce liens against owners.

Article IX: Patronage Rebate

Section 9.1 Allocations to Owners.

The Co-op will operate on a nonprofit basis with regard to its transactions with owners, as specified in this Article.

9.1.1 Adjusted net income from operations shall be allocated for rebate to each owner in the proportion that her or his patronage bears to the total of all owner patronage during the fiscal year. Patronage shall be understood to mean goods and services purchased from the Co-op, and shall be measured in terms of its dollar amount.

9.1.2 Owners may, by action at a meeting of owners, waive or defer, in whole or in part, any patronage rebates that would otherwise be distributable, if, for example, payment of such rebates may be regarded as jeopardizing the financial health of the Co-op.

9.1.3 The Co-op may, in addition to or alternatively to using Patronage Rebates, use discounts on purchases as a method for operating on a nonprofit basis with regard to its transactions with owners.

Section 9.2 Adjusted Net Income Allocated for Patronage Rebates.

In determining the total allocations for patronage rebate, the Co-op shall treat all operations as a single allocable unit, except to the extent that it shall engage in any new and distinct line of business. In determining total amounts distributable to owners (referred to below as "Total Allocation Amount"), the net income of the Co-op shall first be determined in accordance with generally accepted accounting principles. Such net income shall, to the extent allowable under federal tax law, then be reduced by:

- (i) the portion of such net income not attributable to business done with owners;
- (ii) amounts not allowable as allocable net income under federal tax law;
- (iii) a portion of the remainder designated for the Reserve Equity Fund, as defined in Section 7.3, at such times as the fund balance is less than its goal amount; and
- (iv) such other reasonable reserves for necessary operational purposes, as determined by the BOD.

Section 9.3 Patronage Records.

The Co-op will provide its own electronic or other facilities to account for patronage transactions. Any owner also has the right to retain, tabulate, and remit receipts for all or selected purchases from the Co-op, in order to document the total amount of her or his patronage.

Section 9.4 Distribution And Notice.

9.4.1 Patronage rebates shall be evidenced by written or electronically distributed notices of allocation delivered to recipient owners within 8 months and 15 days following the close of the fiscal year. Each written notice shall state the dollar amount allocated to the owner on the books of the Co-op, constituting a patronage dividend within the meaning of federal tax laws.

9.4.2 Concurrent with issuance of said notice, payment of a percentage of each owner's Total Allocation Amount shall be made available to the owner through a form of payment chosen by the owner from 3 options:

- a. in the form of a credit toward the price of products subsequently purchased by the owner at the Co-op,
- b. in the form of a check payable to the owner, or
- c. in the form of a donation made back to the Co-op by the owner.

9.4.3 In the event of the death of any owner entitled to receive such a payment, the Co-op shall issue or re-issue the payment to that owner's heirs or assigns, or to such other recipient as is specified by applicable state law.

Section 9.5 Consent Of Owners.

9.5.1 By obtaining or retaining ownership in the Co-op, each owner thereby consents 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 written notice of allocation in the taxable year in which such notice is received.

9.5.2 As of the date of approval of these bylaws, all patronage rebates represent non-taxable income to individual owners, based upon the following:

- a. Internal Revenue Code Section 1385(b)(2) specifies that any patronage rebate attributed to the recipient's patronage purchases of personal, living or family items, shall be excluded from the recipient's gross taxable income; and
- b. Internal Revenue Code Section 6044(c) and Internal Revenue Regulations Section 1.6044-4(a)(2) specify that the Co-op is exempt from issuing Forms 1099-PATR to owners who are allocated patronage rebates, based upon 85% or more of the Co-op's gross receipts being attributed to retail sales of goods that are generally for personal, living, or family use.

Section 9.6 Retained Amounts.

9.6.1 Patronage rebates not currently distributed by payment shall be credited or charged to revolving

capital accounts in the names of recipient owners. Retained patronage rebates shall accrue no dividend or interest, and shall not be transferable or assignable except with the express consent of the Co-op.

9.6.2 The Co-op shall have a first lien on retained patronage rebates for amounts otherwise due and payable to the Co-op by the owner. The Co-op may, at any time after such amounts remain due and payable for thirty days, offset such amounts against retained patronage rebates, to the extent such amounts may exceed accumulated payments for shares. Such offset may not be executed by the owner or by anyone acting in the right of the owner.

Section 9.7 Redemption.

9.7.1 Retained patronage rebates may be redeemed generally when determined by the BOD to be no longer needed for capital purposes of the Co-op. At that time they shall be redeemed only in the order of the oldest outstanding amounts, and only on a ratable basis among amounts for each fiscal year.

9.7.2 Retained patronage rebates of particular owners may also be redeemed upon the death of the owner, or, at the discretion of the BOD, under other compelling circumstances.

9.7.3 Retained patronage rebates shall be redeemed at their carrying value on the books of the Co-op, or their net tangible book value, whichever is lesser.

Section 9.8 Allocation and Notice Of Net Loss.

9.8.1 In the event the Co-op shall incur a net loss in any fiscal year, such loss may be charged against retained earnings or other unallocated owners' equity. If the net loss exceeds such amounts, or in any event if the BOD so determines, the amount of such loss may either:

- (i) be carried forward to offset adjusted net income of subsequent fiscal years, or
- (ii) allocated to owners in the same manner as utilized in Section 9.2 for allocating adjusted net income, except that such allocation shall not exceed the total of invested capital.

9.8.2 Any net loss allocated to owners:

- (i) shall be charged first against retained patronage rebates of prior fiscal years, and
- (ii) shall then be charged against patronage rebate allocations of subsequent fiscal years.

Allocated net losses which are not so offset, may be charged against the carrying value of shares only upon termination of ownership. Allocated net losses shall not otherwise be assessed to or collected from owners, except as approved by a 3/4ths affirmative vote of those voting at a meeting of owners, a quorum being satisfied.

9.8.3 Written notice of incurred net loss, and of any allocated net loss, shall be delivered to owners within 8 months and 15 days following the close of the fiscal year.

Article X: Dissolution

Section 10.1 Process.

A decision to dissolve the Co-op, or to approve a dissolution plan, requires a meeting of owners. Only owners who have been in good standing for at least one year prior to the date of notice of the meeting, shall be eligible to vote on any matters related to dissolution. Adoption of dissolution and/or approval of a dissolution plan, requires a 3/4ths affirmative vote of those voting, a quorum being satisfied. The proposal for dissolution and a summary of the dissolution plan must be fully stated in the notice of the meeting at which a vote for dissolution is scheduled.

Section 10.2 Asset Distribution.

Upon dissolution of the Co-op, its assets shall be distributed in the following manner and order:

- (i) by paying or making provision for payment of all liabilities and expenses of liquidation;
- (ii) by redeeming any retained patronage rebates which, if they cannot be paid in full, shall be paid in the order of the oldest outstanding amounts to the newest amounts;
- (iii) by refunding to each owner her or his paid in capital stock which, if it cannot be paid in full, shall be paid ratably in an equal proportion to each owner; and
- (iv) by distributing any remaining assets to a similar organization or organizations as determined by a vote of the owners. Any such organization must meet the following criteria:
 - a. it is established as a cooperative or nonprofit entity,
 - b. purposes and activities are consistent with the Co-op's Vision (Section 1.3) and Mission (Section 1.4), and
 - c. primary region of activity is Western North Carolina.

Article XI: Interpretation and Amendment of Bylaws

Section 11.1 Severability.

Any provision of these bylaws determined to be invalid or unenforceable under any statute or rule of law, shall be deemed inoperative and modified to conform with such statute or rule of law, without affecting the validity or enforceability of any other provision of these bylaws.

Section 11.2 Amendment.

These bylaws may be amended or replaced at a meeting of owners, provided that the proposed amendments are stated or fully described in the notice of the meeting at which the amendments are to be adopted. Each amendment or replacement must be adopted through a 2/3rds vote of those voting, a quorum being present.