



Fresh Start Bylaws Template Guide

Bylaws are an important set of governing agreements in which the member-owners of a cooperative articulate the special dual relationship they have with each other: members of an association and owners of a business. In the bylaws, the member-owners define how they will make certain decisions together and how they will empower a board to make other decisions on their behalf. We offer this template as a guide for creating bylaws in a straightforward way that focuses on member-owner rights and responsibilities, something we hope will help all member-owners participate effectively in cooperative democracy.

When using this template, keep in mind:

- This template is provided for educational purposes and as an aid for your bylaw development, revision or review work. It is not legal advice or a substitute for legal advice.
- Each state has unique laws that govern incorporated entities like your cooperative. This template is general and useful across many states, but needs to be aligned with the specific requirements of your incorporation type and state. Seek appropriate legal advice.
- This template is a companion to the CBLD Policy Register Template. In that document, we offer guidance for how a co-op board can appropriately make further, more detailed decisions beyond what the bylaws mandate.
- We avoid repetition of requirements that are typically found in state laws. Some co-ops prefer to include such language, but should remember to periodically review for changes in state law that would affect your bylaws. Wherever we have included specific numbers (notice requirements, number of directors, etc.), you should consider these numbers as reasonable suggestions or “placeholders.” Your state’s law may guide or limit your choices.
- As with any such template, these bylaws are not intended to be an absolute recommendation, but rather a starting point and reference to guide your own conversation.

You might want to use this template as a starting point when:

- You haven’t done a “complete overhaul” of your bylaws in many years
- You want to fix specific provisions in your current bylaws
- You want a simple, readily understood bylaw document
- You anticipate active member-owner engagement around one or two key bylaw issues

A suggested process for using this bylaw template:

- Make a board decision to begin this work.
- Use this template, rather than your current bylaws, as your starting point.
- Review the Fresh Start version one section at a time. Within each section, ask:
 - Is there anything in this version that is “wrong” for our co-op?
 - Is there anything in the addendum notes to this template that we should incorporate into our work?
 - Is there anything in our current bylaws that we need to bring into the new version?
 - Is there anything not consistent with our Articles of Incorporation?
- Ask your co-op’s lawyer for a focused legal review when you are close to completing your work. Rather than asking, “What do you think of these bylaws?” consider questions like:
 - Have we missed anything critical?
 - Have we included anything here that is not legal? (For example, does our state have unclaimed property laws that supersede the suggestions in this template?)

Engage your member-owners:

- Develop a communication plan to educate and engage member-owners and encourage voting. Keep them informed throughout the process. Consider using your web site, email, postal mail, social media and in-store communications.
- Invite long-term member-owners and/or opinion leaders to 1-2 focus groups to ask them for insight in general and on specific topics and questions.
- Schedule 1-2 open meetings for member-owners to comment and ask questions before the bylaws are finalized. Then schedule 1-2 more for member-owners to ask questions before the vote.
- Present your member-owners with the new proposed bylaws and an explanation of the voting procedures, along with a summary of the changes (including the board’s assessment about why the new version is better for the member-owners and co-op).
- Be prepared for “late comers” who won’t become engaged or comment before the proposed bylaws are formally presented for a vote.
- Understand and follow the process for changing bylaws as described in your current bylaws.

Other resources

- CBLD Policy Register Template
<https://columinate.coop/cbld-policy-template/>
- Bylaw Basics Field Guide <https://columinate.coop/bylaws-basics/>
- Legal Primer for Formation of Consumer-Owned Food Cooperatives
<https://fci.coop/wp-content/uploads/2021/05/LegalPrimer.pdf>
- Best Practices for Membership Development in Food Co-ops
<https://columinate.coop/best-practices-for-membership-development/>

SAMPLE BYLAWS
ABC Cooperative, Inc.

Article I: Organization

- 1.1 **Name.** The name of the organization shall be ABC Cooperative (henceforth “the Cooperative”).
- 1.2¹ **Ownership and Purpose.** The Cooperative shall be owned by its members and shall operate in accord with the International Cooperative Alliance’s Statement on the Cooperative Identity for the mutual benefit of its members (henceforth “member-owners”).

Article II: Membership

- 2.1 **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.
- 2.2 **Nondiscrimination.** Membership shall be open without regard to any characteristic that does not directly pertain to a person’s eligibility.
- 2.3 **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.
- 2.4 **Rights.** Member-owners have the right 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.
- 2.5 **Responsibilities.** Member-owners 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 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.
- 2.6² **Termination of Membership.** A member-owner may terminate his or her 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 or its member-owners, 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.

- 2.7 **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.
- 2.8³ **Unclaimed Equity.** If a member-owner voluntary or involuntarily terminates membership in the cooperative, and fails to inform the cooperative of his or her mailing address, then the 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.
- 2.9⁴ **Non transferability.** Membership rights and member equity may not be transferred in any manner.

Article III: Member Meetings and Decision Making

- 3.1⁵ **Annual Meeting.** A membership meeting shall be held each year 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, and to transact such other business as may properly come before the meeting.
- 3.2⁶ **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 15% 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 ten (10) days after a presentation of the petition to the Board. No business shall be conducted at that special meeting except that specified in the notice of meeting.
- 3.3⁷ **Notice of meetings.** 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.
- 3.4⁸ **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.
- 3.5⁹ **Quorum.** At any meeting of the member-owners, or for any vote of the members, a quorum necessary for decision-making shall be 10% of the total number of member-owners or 100 member-owners, whichever is less.

ARTICLE IV: Board of Directors

- 4.1¹⁰ **Powers and Duties.** The Board shall be composed of nine Directors. Except for matters for which member-owner voting is required, 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 assuring that the mission of the Cooperative is articulated and carried out.
- 4.2¹¹ **Eligibility.** Directors must be member-owners of the Cooperative in good standing. Employees and spouses or domestic partners of employees may not serve as Directors. A person with a conflict of interest so continuing and pervasive that he or she is unable to effectively fulfill the responsibilities of a director with the Cooperative shall not be qualified to serve as a director.
- 4.3¹² **Terms and 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.
- 4.4¹³ **Vacancies.** Any 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.
- 4.5¹⁴ **Removal.** 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.
- 4.6¹⁵ **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.
- 4.7 **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.
- 4.8 **Quorum.** A majority of the current Directors shall constitute a quorum and no decisions shall be made without a quorum.
- 4.9 **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 to avoid preferential treatment.
- 4.10 **Officers.** The Board will designate officers as necessary for the effective conduct of Board business, consistent with any requirements of state law.

- 4.11 **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 V: Patronage Dividends¹⁶

- 5.1¹⁷ **Allocations to member-owners.** 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.
- 5.2¹⁸ **Consent of member-owners.** 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.

ARTICLE VI: Dissolution and Liquidation

- 6.1¹⁹ **Asset Distribution.** The Cooperative may be dissolved or liquidated upon a decision of the Board and a two-thirds (2/3) vote of the member-owners who participate in the vote. Upon dissolution of the Cooperative, 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 equity accounts which, if they cannot be paid in full, shall be paid on a pro rata basis; (iii) by distributing any remaining assets in a way that furthers the Cooperative's mission, as determined by the Board.

ARTICLE VII: Bylaws

- 7.1²⁰ **Amendments.** These bylaws may be amended or repealed in whole or in part by a majority of the member-owners who participate in the vote. An amendment may be proposed by decision of the Board or by petition of at least fifteen percent (15%) of active member-owners. The proposed amendment shall be publicized to the membership not less than four (4) weeks prior to the voting process, which shall be held at a time and in a manner determined by the Board.

Notes to the “Sample Bylaws” template

¹ Section 1.2 You can use this very broad statement of purpose, or you can use your co-op’s stated purpose from your articles of incorporation or existing bylaws.

² Section 2.6 The “3 years” here is intended as a placeholder as well as a suggestion for a reasonable limit. It can be useful for co-ops to have a way to stop maintaining records for member-owners who have moved on. It’s also possible for the bylaws to allow some more flexibility by using the phrase “for more than 3 years or a shorter or longer period as established by the Board.”

³ Section 2.8 If your state law allows it, this bylaw provision can make it possible for the co-op to retain unclaimed equity as an asset (or donate it in support of the co-op’s mission) rather than forfeit it to the state. Provisions like this might not be retroactive.

⁴ Section 2.9 Some co-ops may want to allow for transfer upon death or dissolution. You should use your own best judgment, along with the advice of your attorney, to decide if and how you want to allow for such transfers.

⁵ Section 3.1 Some state laws may have more specific requirements for annual meetings. For example, some laws require the annual meeting to be held within a certain amount of time following the end of the fiscal year. As with all aspects of this template, check with your co-op’s lawyer to see what your applicable law says.

⁶ Section 3.2 The 15% threshold for petitions and the 10 day timeline are presented as reasonable suggestions; use your best judgment to determine if these numbers make sense for your co-op.

⁷ Section 3.3 The 15 day timeline here is presented as a reasonable suggestion.

⁸ Section 3.4 The 15 day timeline here is presented as a reasonable suggestion. Different states have different notice requirements for voting and meetings. Just make sure you check your state law.

⁹ Section 3.5 The numbers in this section are simply placeholders. Set your quorum requirements at a level that makes sense for your co-op. You may need to revisit this requirement periodically as your co-op grows. Some state laws dictate minimum quorum levels or require variations to be included in articles of incorporation rather than bylaws.

¹⁰ Section 4.1 Having nine directors on the board is a reasonable suggestion.

¹¹ Section 4.2 Some co-ops allow employees to serve on the board. Those co-ops’ bylaws and the board’s Code of Conduct policies should include provisions that address the practical aspects of this special role, including the inherent conflict of interest. For example: you may want to include a provision that a director who is also employed by the co-op whose employment ends is automatically removed from the board. As another example, you may have a board-level policy

that specifies that a director who is also an employee may not participate in the GM evaluation. (See the “Staff on the Board” field guide in the Columinate Library for a more thorough discussion of this issue.)

Some co-ops disallow former employees from serving on the board for a period of time following employment, perhaps forever if they were terminated for cause. If this is what you want for your co-op, your bylaws should include that provision.

¹² Section 4.3 Three years is a suggestion for a reasonable term length. You should determine if that and the 3-term limit make sense for your co-op.

¹³ Section 4.4 Check your state law. Some states require that an appointed director stand for election at the next annual meeting. If this is true, this sentence in the template could say “A Director so appointed shall serve only until the next board election, at which time the member-owners will elect a Director to fulfill the remainder of the pertinent term.”

¹⁴ Section 4.5 The 2/3 super-majority is a reasonable suggestion for this decision.

¹⁵ Section 4.6 Check your state law to see if it has specific requirements for providing notice of meetings.

¹⁶ Section 5.x – 5.x Many co-op tax experts suggest that the following items be covered in a co-op's patronage bylaws. These clauses deal with two things: they are better aligned with the subchapter T tax requirements, and they give the Board discretion to deal with some items that may never (but could) come up in ways that may be considered more equitable. The language in these sections is a bit more technical and legalistic than most of what you find in the rest of this template. This is an effort to help ensure that co-ops fully comply with the requirements of subchapter T of the IRS code. At the time of this template's creation, there is no particular indication that there is any regulatory scrutiny of retail food co-ops on these items; as co-ops continue to grow and prosper, this may become more of an issue. Your board, in conjunction with your co-op's lawyer, should use your best judgment to decide if your co-op's bylaws need this level of specificity.

5.x **Reserves.** 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 and patrons may be so allocated by the Board at any time.

5.x **Non-member Patrons.** The Board may establish policies by which legal entities or persons that are not member-owners but who are aligned with the Cooperative's purpose may contract with the Cooperative to deal on a patronage basis without voting rights.

5.x **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 (and any other patrons with whom the Cooperative has contracted to deal on a patronage basis) in proportion, insofar as is practicable, to their patronage during any period to which such margins are attributable, as determined by the Board.

5.x 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 and patrons 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 carryforward 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 and eligible patrons may be reduced or such loss is to be otherwise equitably apportioned among the member-owners and eligible patrons.

¹⁷ Section 5.1 If your co-op is incorporated as not-for-profit, you might say “excess margin” or “surplus” instead of “net profit”. Work with your attorney to choose language that makes sense for your co-op.

¹⁸ Section 5.2 You could consider this more flexible language in lieu of the second sentence in this section: “The Board may adopt policies by which member-owners and other eligible patrons are offered the chance to donate all or part of his or her patronage dividend to one or more other organizations aligned with the Cooperative’s purpose, or forfeit all or part of the patronage dividend to the Cooperative or for any other designated purpose that furthers toe Cooperative’s mission.” Whichever version you choose, this provision might not apply retroactively; be careful that you handle historical patronage dividends properly under the guidance of your co-op’s lawyer and accountant.

¹⁹ Section 6.1 The 2/3 super-majority is a reasonable suggestion for this decision. Check your state law and article of incorporation to see if they mandate a different order of redemption, particularly if your co-op has issued preferred stock. For subsection (ii), some co-ops prefer to redeem equity accounts according to the age of the account so that oldest amounts are redeemed first.

The intent of subsection (iii) is to ensure that a community-owned asset like a cooperative business does not get sold off in a way that profits only the current member-owners. Some state co-op laws require all excess assets to be distributed on the basis of patronage. Your co-op lawyer can help you craft language that accomplishes the goal in a way that meets legal requirements.

²⁰ Section 7.1 Some co-ops require a 2/3 majority to change the bylaws. There are pros and cons to a having a higher threshold; you should decide what makes sense for your co-op. Also note that this template suggests a longer notice period for bylaw revisions than for other votes to account for the importance of the decision.