

Constitution and By-Laws Of the East Warren Community Market Cooperative, Inc. dba East Warren Community Market

Adopted November 17, 2008

As Amended: February 8, 2011, February 7, 2013

1. Name & Location

The name of the organization shall be the East Warren Community Market Cooperative, Inc., doing business as the East Warren Community Market (Hereinafter the “Market”). The Market shall be located in the East Warren Schoolhouse at 42 Roxbury Gap Road, Warren, Vermont, with mailing address of P.O. Box 426, Warren, Vermont 05674-0426.

2. Purpose and Authority

The Market’s is organized for the following purposes:

- Providing food and other useful goods and services to the local community;
- Promoting locally grown agricultural products and organic and sustainable foods;
- Creating a community center for, and enriching life in, East Warren; and
- Encouraging cooperative and grass roots forms of organization

The Market shall have the authority to buy, store, distribute, handle, process, and produce for its members and other patrons, foodstuffs, clothing, merchandise of all kinds, fuel, building materials, and any and all other products it may see fit to handle, and to perform such other services as the members may desire. The Market may buy or lease real estate and other properties or facilities necessary or desirable in the conduct of its business. It shall have all other rights and privileges consistent with its certificate of incorporation under the laws of the State of Vermont.

3. Ownership & Governance

The Market shall be owned by its members and shall operate for the primary and mutual benefit of its owners and other patrons. The business of the Market shall be governed by its Board of Directors (the “Board”) selected by and accountable to its assembly of members. The assembly of members shall retain all powers required by law or by these by-laws.

4. Membership

- 4.1 Eligibility:** Membership in the Market is voluntary and open to any person, group or household who is in agreement with the purposes of the Market, agrees to abide by its by-

laws and is willing to accept the responsibilities of membership.

- 4.2 Admission:** An eligible person or group may be admitted to membership upon submitting a membership application, making a financial investment in the Market in the form and in an amount determined by the Board and subscribing to purchase one share of common stock (i.e. a “membership share”) as determined by the Board. Persons may either pay the full purchase price of a membership share or may make partial payments under an installment plan until the full purchase price has been paid. Membership may, at the option of the applicant, be designated in the name of the household in which case each adult in the household shall be considered a member of the Market and be required to purchase a share.

The Board may require that ownership in the Market be conditioned on owners: (i) paying annual dues, and/or (ii) establishing and paying into pre-payment accounts (i.e., a credit deposit against which purchases are to be made) in an amount and form as determined by the Board.

Money paid for shares of common stock shall at all time be a part of the capital stock of the Market and is not a credit deposit against which purchases are to be made. Unless specified otherwise herein, member benefits begin immediately and continue as long as annual payments are current. Payments must be made within thirty days of the day specified by the Board of Directors in a fiscal year in order for a Member to be considered in “Good Standing.” It shall be the duty of each member to notify the Secretary within 60 days of any change in residence.

- 4.3 Non-Discrimination:** No member or person applying for membership shall be restricted or discriminated against on account of age, color, creed, disability, gender, national origin, race, religion, sex or sexual preference.

- 4.4 Termination of membership:** A member may terminate his or her membership voluntarily at any time by giving notice to the Market and tendering all outstanding stock. The Market Board may terminate membership for other causes only after offering a fair hearing.

4.5 Participation rights and “Members in Good Standing”

Each Member who has remitted the required equity payment, as well as the annual dues and the pre-payment accounts as required, within the required time interval, as defined by the Board, shall be considered to be a "Member in Good Standing", and shall be eligible to:

- a membership card
- exercise voting rights as a Member
- receive publications of the Market that are offered to Members.
- seek nomination and election for service as a member of the Board or as an officer of the Board.
- discounts on member specials

A member who becomes delinquent in meeting such obligations to an extent determined by the Board shall, no sooner than thirty days after delivery of written notification, be placed into inactive status. His or her participation rights shall then be suspended. A member in inactive status may attain good standing only upon full payment of arrearages. References in these bylaws to the rights and entitlements of members shall be understood

to refer only to members in good standing.

5. Meetings of Members

5.1 Annual Meeting

Members shall meet as an assembly at least once a year at a date, time and place determined by the Board of Directors. The purpose of such meetings shall be to receive a report on the finances and operations of the Market. An annual meeting shall be held no later than June 30 of each calendar year. Meetings need not be held at the principal office of the Market.

5.2 Special meetings

Special meetings of members may be called by the Board and shall be called by the Secretary as soon as practicable upon receipt of petitions signed by at least 10% of the members, such petitions stating the business to be brought before the meeting. Any business conducted at a special meeting other than that specified in the notice of the meeting shall be of an advisory nature only.

5.3 Time and Place; Notice

The date, time, and place of all meetings of members shall be determined by the Board or, in the event that the Board fails to so act, by the Secretary. Meetings shall be held at a time and place convenient to members. Written notice of the time and place and in the case of a special meeting the purposes of the meeting, shall be posted in a timely manner and in a conspicuous place in the Market not less than fourteen days before the date of the meeting.

5.4 Record dates

Unless otherwise determined by the Board, only persons who are Members in Good Standing at the close of business on the 60th day preceding the date of a meeting shall be entitled to vote at such meeting.

5.5 Quorum and voting

The members in Good Standing in attendance shall be sufficient to constitute a quorum for the transaction of business at any meeting of members properly noticed in accordance with Section 5.3. Except as otherwise set forth in these bylaws, each Member in Good Standing shall have one and only one vote on each issue submitted to a vote at a meeting of members. Voting by proxy shall not be permitted. Unless otherwise required by law or by these bylaws, issues shall be decided by a simple majority of votes cast except where one or more choices are to be made from several alternatives, in which case the alternative(s) receiving the most votes shall be considered approved. The Board may establish any reasonable voting procedures to avoid the need for multiple rounds of voting. Meetings of members shall be conducted generally in accordance with reasonable and accepted rules of parliamentary procedure.

6. Board of Directors

6.1 Powers and duties

Except as to matters reserved to members by law or by these bylaws, the corporate powers of the Market shall be exercised by or under the authority of the Board of Directors, and the business and affairs of the Market shall be managed by the Board of

Directors. Subject to these bylaws, the Board may adopt such rules, regulations and resolutions as it may deem proper for the conduct of its meetings and the management of the Market. The duties of the Board shall include, without limitation, the following:

- Establishment of policies to further the mission and goals of the Market, to interpret and implement the mission and purpose of the Market, and to introduce proposals for change to the mission and purpose of the Market;
- Financial planning;
- Establishing budgets and fiscal controls
- Selection, evaluation, compensation, hiring, and firing of employees;
- Employment of an accounting firm;
- Retention of board legal counsel;
- Approval of basic changes in financial structure; and
- Approval of major plans and commitments.

6.2 Number and qualifications

The Board shall consist of at least five individuals. All directors shall be Members. No employees shall serve as a director at any time.

6.3 Nominations, election, and terms

Elections shall be held annually and shall be supervised by a committee appointed by the Board of Directors. Directors may be nominated by the Board, by a committee of members, or by petition signed by at least 10% of members and, if by petition, submitted to the Market at least 30 days before commencement of election of directors. Directors shall be elected by members at the annual meeting or at a meeting in lieu thereof. Terms of directors shall be so staggered that one-third of the terms, or as nearly so as may be practicable, shall expire in each year. Directors shall be elected for terms of three years and may succeed themselves in office. Directors shall hold office until their successors are elected or until their terms are terminated sooner in accordance with these bylaws.

6.4 Termination

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

- i) Voluntarily by a director upon notice to the Market;
- (ii) Automatically upon termination of membership in the Market; and
- (iii) by vote of the Board or of members at a meeting of members, provided that written reasons for removal are included in the notice of the meeting and the director whose removal is sought has had an opportunity to answer the charges in person or in writing. The Board may remove any Director who fails to attend 3 consecutive meetings of the Board, by a vote of 2/3 of the Directors present at any meeting of the Board, not counting the Director to be removed.

6.5 Vacancies

Whenever a vacancy among directors occurs before a term of office has been completed, the board may appoint a director to fill the vacancy. Such director or directors shall serve until the next regularly scheduled election of directors.

6.6 Conflicts 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 Board, and such interest shall be made a matter of record in the minutes of the meeting. Directors having such an interest

may not participate in the decision of the matter or in deliberations leading to such decision. A transaction in which a director has an interest may be approved only by a majority of directors who have no interest in the transaction and upon a determination that the transaction is fair to the Market.

6.7 Committees

The Board may appoint special or standing committees to advise the Board or to exercise such authority as the Board shall designate. Advisory committees shall include at least one director. Committees exercising any authority of the Board shall consist only of directors and shall conform to all procedural requirements applicable to the Board, provided, however, that the Board may establish a Budget and Finance Committee, which committee shall include the General Manager of the Market and any other Market employee(s) selected by the General Manager.

7. Meetings of the Board

7.1 Meetings

The Board of Directors may determine the times and places of regular meetings. Special meetings may be called by the President and shall be called by the Secretary upon request of any three directors. The Board shall meet at least monthly at a time and place determined by the Board of Directors. Regular meetings shall require no notice other than the resolution of the Board, it being the responsibility of absent directors to inquire as to the time of further scheduled meetings. Special meetings shall require written or oral notice to all directors. Written notice shall be delivered at least five days before the date of the meeting and oral notices shall be given in person or by a telecommunications device at least forty-eight hours before the time of the meeting. The Market shall also endeavor to post the notices of meetings of the Board in a timely manner and in a conspicuous place in the Market's store. Any notice of a meeting required under these bylaws may be waived in writing at any time before or after the meeting for which notice is required. A person who attends a meeting shall be presumed to have waived notice unless the person attends for the express purpose of objecting to the transaction of business because the meeting is not lawfully convened.

7.2 Quorum & Decision Making

The presence in person of a majority of directors then in office shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board. The affirmative vote of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board or a committee of the Board.

Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting if a written consent to the action is signed by all directors and filed with the minutes of meetings. Such consents may be executed by email. Any action without a meeting shall be read into the minutes of the next meeting of the board.

8. Officers

8.1 Designation and Qualifications

The principal officers of the Market shall consist of President, Vice President, Secretary, and Treasurer, all of whom shall be directors. The Board may designate other officers or assistant officers. The offices of Secretary and Treasurer may be held by one director. Employees of the Market are not eligible to serve as principal officers.

8.2 Election & Term

Officers shall be elected by the Board at its first meeting following election of new directors. Officers shall serve for terms of one year or until election of their successors. Officers may be removed and replaced by the Board at any time whenever the best interests of the Market would thereby be served.

8.3 Duties.

In addition to signing or attesting to formal documents on behalf of the Market as authorized by the Board, officers shall have the following duties and such additional duties as are determined by the Board:

(a) The President shall be the principal officer of the Market and shall be responsible for (i) coordinating the activities of the Board, (ii) acting as the principal liaison between the Board and the General Manager, and (iii) assuring the orderly conduct of all meetings;

(b) The Vice President shall be responsible for performing the duties of the President in his or her absence or disability and, as requested, assisting other officers in the performance of their duties;

(c) The Secretary shall be responsible for the recording and keeping of adequate minutes of all meetings of the Board and of members, issuing notices required under these bylaws, and authenticating records of the Market; and

(d) The Treasurer shall oversee the maintenance of financial records, reporting of financial information and filing of required reports and returns.

9. Membership Interests

9.1 Terms

Membership interests shall be entitled to no dividend or other monetary return on investment. Such interests shall be nontransferable and may not be pledged as security for a debt. Membership interests shall be subject to assessment insofar as it may become necessary to increase the required capital investment of members by reason of the current or prospective capital needs of the Market.

9.2 Return of membership share

Within 180 days after written request following voluntary termination of membership, the Market shall refund to the terminating member the actual value of a membership share. Membership shares also shall be refunded within 180 days after involuntary termination of membership, within 180 days after receipt of written notice of the death of a member from the personal representative of such member's estate, and under other compelling circumstances as determined by the Board. The Board may extend the time for return of membership shares if it determines that money is not available for refunds and/or the refund will cause undue hardship to the Market. A reasonable processing fee may be imposed at the time a membership is terminated, as determined by the Board.

10. Finances

The fiscal year of the Market shall coincide with the calendar year. Any capital expenditures in excess of \$15,000 must be approved by the members.

10.1 Allocations to owners.

In order to assure that it will operate on a nonprofit basis relative to its transactions with owners, the Market shall allocate and distribute to its owners its adjusted net savings from business done with them in the manner set forth in this Article. Any allocations of such a nominal amount as not to justify the expenses of distribution may, as determined by the Board, be excluded from distribution provided that they are not then or later distributed to other owners.

10.2 Adjusted net savings.

In determining amounts distributable to owners, the net savings of the Market derived from the excess or deficit of revenues over costs and expenses shall first be determined in accordance with generally accepted accounting principles. Such net savings shall then be reduced by amounts not attributable to business done with owners, by other amounts which are not allowable under federal tax laws and by such reasonable reserves for necessary business purposes as may be determined by the Board.

10.3 Basis of Allocation.

Adjusted net savings shall be allocated to each owner in the proportion which his or her 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 Market and shall be measured in terms of its dollar amount. The Board may require that patronage be measured only by purchases made with the use of a pre-payment account.

10.4 Distribution and notice.

Patronage rebates shall be evidenced by written notices of allocation delivered to recipient owners within eight months and fifteen days following the close of the fiscal year. Written notices shall state the dollar amount of the allocation which constitutes a "patronage dividend" within the meaning of federal tax laws. Such written notices for each fiscal year may, as determined by the Board, be made either "qualified" or "nonqualified," within the meaning of federal tax laws. All qualified notices, except those subject to Section 10.8 hereof, shall be accompanied by checks in an amount determined by the Board which must be at least twenty percent of the total allocation.

10.5 Consent of owners.

By obtaining or retaining ownership in the Market, each owner shall thereby consent to take into account, in the manner and to the extent required by Section 1385 of the Internal Revenue Code, the stated dollar amount of any qualified written notice of allocation in the taxable year in which such notice is received.

10.6 Retained amounts.

Patronage rebates not currently distributed by check 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 Market. The

Market shall have a first lien on retained patronage rebates for amounts otherwise due and payable to the Market by the owner. The Market 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 effected by the owner or by anyone acting in the right of the owner.

10.7 Redemption.

Retained patronage rebates that are no longer needed for capital purposes of the Market may be redeemed in such amounts and at such times as may be determined by the Board. At that time they shall be redeemed only in the order of the oldest outstanding amounts and only on a ratable basis among such amounts for each fiscal year. Retained patronage rebates shall be redeemed at their carrying value on the books of the Market or their net book value, whichever is lesser.

10.8 Allocation of net loss.

In the event the Market shall incur a net loss in any fiscal year; such loss may be charged against retained savings or other unallocated equity accounts. If the net loss exceeds such amounts, or in any event if the Board so determines, the amount of such loss may either be carried forward to offset adjusted net savings of subsequent fiscal years or allocated to owners in the same manner as for adjusted net savings except that such allocation shall not exceed the total of invested capital. Any such allocated net loss shall be charged first against retained patronage rebates of prior fiscal years and then 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.

11. General Provisions

11.1 Severability

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

11.2 Amendment

These bylaws may be amended or repealed only by vote of members. An affirmative vote of the majority of Members in Good Standing present at a duly noticed meeting shall be required.

11.3 Indemnification

So as to induce the directors and officers of the Market to serve as such and as partial consideration for such services, the Market shall indemnify any director or officer of the Market against any claim or liability (including expenses and attorney's fees actually and

reasonably incurred in connection therewith) incurred by a director or officer in a proceeding in which he or she was a party because he or she was a director or officer of the Market or by reason of his or her acts or omissions as a director or officer. Such indemnification shall be made only if it is determined by the board of directors that the director or officer acted in good faith in the reasonable belief that his or her action was in the best interests of the Market.