

# **Community Food Co-op Proposed By-laws**

# BY-LAWS OF COMMUNITY FOOD COOPERATIVE

## ARTICLE 1 ORGANIZATION

1.1 **Name.** The name of the organization is Community Food Cooperative (referred to herein as "the Co-op").

1.2 **Purposes.** As described more fully in its amended Articles of Incorporation, the purposes of the Co-op are to establish and operate one or more retail food stores in the Bellingham-Whatcom County area, to provide educational materials and services regarding issues of concern to its members and community; to work in harmony with other cooperative organizations, and to engage in other activities approved by members. The Co-op is organized and shall be operated exclusively on a not-for-profit basis and in a democratic manner consistent with cooperative principles.

1.3 **Business Office.** The business office of the Co-op is located at 405 E. Holly Street, Suite 101, Bellingham, Washington 98225.

1.4 **Fiscal Year.** The fiscal year of the Co-op shall be established by the Board of Directors from time to time

## ARTICLE 2 MEMBERSHIP GENERALLY

2.1 **Eligibility.** Membership shall be available to anyone who is a resident of the State of Washington or a foreign country at the time such person applies for membership who is in accord with the purposes of the Co-op, wishes to patronize it and is willing to abide by the Co-op's Articles of Incorporation and these by-laws.

2.2 **Classes of Membership.** The Co-op may issue an unlimited number of Class A Shares, and such number, class and series of additional shares ("Additional Shares") as the holders of Class A Shares may approve following a recommendation by the Board of Directors.

2.3 **Application for Membership.** An applicant for Class A Shares must initially submit a written application for Class A Shares to the business office (or store) of the Co-op and pay the required fee and Class A Share purchase price in the manner required by the Co-op. In the event of questionable eligibility, admission may be subject to approval by the Co-op's Board of Directors. The amount of the Class A Share purchase price shall be determined by the Board of Directors.

An applicant for Additional Shares shall sign and submit to the Co-op a purchase agreement covering the Additional Shares being purchased in such form and containing such terms and conditions of purchase as may be adopted by the Co-op's Board of Directors for that purpose.

2.4 **Common Membership Fee.** Each holder of a Class A Share shall pay an annual membership fee in addition to the purchase price of the Class A Share in an amount and at a time determined by the Board of Directors. The annual membership fee may be waived in whole or in part by the Board on any reasonable basis. The membership fee shall be paid in cash and is nonrefundable.

2.5 **Non Discrimination.** The Co-op shall not discriminate against individuals or groups on the basis of race, creed, age, gender, class, disability, sexual preference, marital status or other arbitrary basis.

2.6 **Membership Rights.** (a) Holders of Class A Shares shall have the right to:

(i) purchase goods from the Co-op store at prices generally available to the holders of Class A Shares and otherwise to benefit from participation in the activities of the Co-op;

(ii) receive a copy of the bylaws and to obtain reasonably adequate and timely information as to the organizational and financial affairs of the Co-op, including review

of the minutes of Board of Directors' meetings and the Co-op's financial statements and records. The information shall be provided to the holders of Class A Shares upon request, with reasonable prior notice, at the Co-op's business office during office hours. Information of a sensitive nature will be provided only for a proper purpose and may be made subject to conditions or restrictions as determined by the Board of Directors;

(iii) participate in the democratic management of the Co-op, including through their entitlement to vote, proposing member initiatives, standing for election to serve on the Board of Directors and committees and as otherwise described in these By-laws;

(iv) receive patronage refunds;

(v) apply to purchase Additional Shares upon a decision of the Board of Directors and the holders of Class A Shares to issue them; and

(vi) generally enjoy all rights enjoyed by the Co-op's members immediately prior the date on which these Bylaws became effective.

(b) The holders of Additional Shares shall have the following rights and preferences:

(i) the financial rights and preferences described in Article VI of the Co-op's Amended and Restated Articles of Incorporation;

(ii) the right to receive a copy of the Co-op's Bylaws and to obtain reasonably adequate and timely information as to the organizational and financial affairs of the Co-op, including review of the minutes of Board of Directors' meetings and the Co-op's financial statements and records. The information shall be provided to holders of Additional Shares upon request, with reasonable prior notice, at the Co-op's business office during office hours. Confidential information as defined by Board policies will be provided only for a proper purpose and may be made subject to conditions

or restrictions as determined by the Board of Directors; and

(iii) the limited right to vote only in the circumstances described in Article VI of the Co-op's Amended and Restated Articles of Incorporation.

**2.5 Settlement of Disputes.** In any dispute between the Co-op and any of its members or former members which relates to normal membership transactions and which cannot be resolved through informal negotiations, it shall be the policy of the Co-op to prefer the use of mediation whereby an impartial mediator or mediators may facilitate negotiations between the parties and assist them in developing a mutually agreeable settlement. Members are encouraged to cooperate in this process. If mediation is not mutually agreeable or is unsuccessful in resolving such a dispute, both the Co-op and its members must submit the dispute to binding arbitration in a mutually agreeable manner.

**2.6 Termination.** (a) Class A Shares shall be cancelled and surrendered to the Co-op by their holders in the following circumstances:

(a) voluntarily by the holder at any time upon notice to the Co-op;

(b) automatically whenever payment of annual membership fees or required capital contributions become delinquent to an extent determined by the Board of Directors; or

(c) for reasonable and sufficient cause, including willful violation of these By-laws, by a two-thirds vote of the Board of Directors, after a fair hearing at which the holder has the opportunity to speak and present evidence.

(b) Additional Shares shall be cancelled and surrendered to the Co-op by their holders in the following circumstances:

(i) pursuant to a redemption described in Article VI of the Co-op's Amended and Restated Articles of Incorporation; or

(ii) on demand by the Co-op, for reasonable and sufficient cause, including willful violation of the Co-op's Articles or Bylaws, by a two thirds' vote of the Board of Directors, after a fair hearing at which the member has had the opportunity to speak and present evidence. If the Co-op exercises this right to terminate, it shall be deemed to have exercised its redemption right provided in Article VI of the Co-op's Amended and Restated Articles of Incorporation notwithstanding that its exercise of such rights falls outside any redemption period that may otherwise have applied.

**2.7 Household Privileges.** Rights associated with Class A Shares are individual to the persons holding them. The purchasing rights associated with a Class A Share may be shared by its holder with other members of her or his household.

### ARTICLE 3 CAPITAL CONTRIBUTIONS

**3.1 Additional Capital.** For the reasonable capital needs of the Co-op, holders of Class A Shares shall make additional capital contributions in amounts and at times determined by the Board of Directors. Capital contributions shall be made in cash and may be waived in whole or in part by the Board on any reasonable basis. Required capital contributions and any available waivers shall be applied uniformly among the holders of Class A Shares. Amounts invested pursuant to Class A Shares shall not be entitled to any dividend or other monetary return other than patronage refunds. Class A Shares may not be transferred or pledged as collateral.

**3.2 Use of Proceeds.** Amounts received from holders of any Class of Share in connection with their acquiring or holding Shares shall be credited on the books of the Co-op to capital accounts in the names of paying members, and may be used as designated by the Board of Directors, as far as is practicable, for acquiring

capital assets or paying liabilities incurred for the acquisition of capital assets.

**3.3 Termination of Membership, and Redemption.** (a) Following cancellation and surrender of Class A Shares for any reason, the price originally paid by the holder shall be returnable to the holder within six months after request by the holder and approval by the Board of Directors. In the event of dissolution of the Co-op, the original purchase price for the Class A Shares shall be returned to their holders after payment of all liabilities of the Co-op, including payment of any preferences to the holders of any Additional Shares and any retained patronage refunds. If sufficient funds are not available for repayment in full, repayment shall be made on a pro rata basis among the holders of the Class A Shares. If any repayment fails to reach any holder of a Class A Share via a single mailing through US mail at such holder's last known address on file with the Co-op, the provisions of Section 4.7 of Article IV shall apply.

(b) Following cancellation and surrender of Additional Shares for any reason, the Co-op shall pay the holders a redemption price equal to the Original Issue Price for each Additional Share held by the holders plus declared but unpaid dividends in the manner described in Article VI of the Co-op's Amended and Restated Articles of Incorporation.

**3.4 Lien and Offset.** The Co-op shall have first lien on the capital contributions of holders of Class A Shares to the extent of amounts due and payable to the Co-op by the holder. Capital contributions shall at all times be subject to being offset by amounts due and payable by the holder to the Co-op.

### ARTICLE 4 PATRONAGE DIVIDENDS

**4.1 No dividends on Class A Shares.** No dividends other than patronage dividends shall be declared or paid with respect to Class A Shares.

**4.2 Patronage Dividends.** The Co-op shall return the Co-op's net distributable surplus to the holders of Class A Shares annually as a patronage dividend, subject to the provisions of this Article 4. The holders of Additional Shares are not entitled to patronage dividends. As used in the Co-op's Amended and Restated Articles of Incorporation and these bylaws, the term "net distributable surplus" means (a) the annual earnings from the Co-op's sales attributable to the patronage of the holders of Class A Shares with the Co-op minus (b) any reserves the Board of Directors decides to retain for necessary or appropriate business purposes or contingencies. The Co-op shall calculate patronage dividends in proportion to the purchases made by the holders of Class A Shares from the Co-op during the year, subject to the provisions of this Article 4. The Co-op shall be entitled to take into account losses for prior years when calculating its net distributable surplus.

**4.3 Annual Determination.** The Board of Directors shall decide after the close of the Co-op's fiscal year whether a net distributable surplus exists for that year, how and when to distribute patronage dividends, and any other related matters, based on the Board's policies. The Board of Directors may elect not to declare or distribute a patronage dividend if it is in the best interest of the Co-op. Under Article VI of the Co-op's Amended and Restated Articles of Incorporation, however, the Board of Directors may not forgo a patronage dividend more than once every other fiscal year.

**4.4 Payment and Compliance.** The Co-op shall pay patronage dividends within the time frames provided in, and according to the Internal Revenue Service Code and Treasury Department regulations to qualify for income tax deductions for the Co-op. The Co-op may distribute patronage dividends in cash, merchandise credits, a qualified written notice of allocation or a non-qualified written notice of allocation as defined in 26 U.S.C. Section 1388, other property, or any combination of these methods as the Board of Directors may determine from time to time. Any patronage dividend distributed as a qualified written notice of allocation or a non-

qualified written notice of allocation shall be designated as such by the Board of Directors in accordance with the provisions of 26 U.S.C. Section 1388. Any part of a patronage dividend that the Board of Directors elects not to pay in cash, merchandise credits or other property is called the retained patronage dividend.

**4.5 Application of Retained Patronage Dividend.** The Board of Directors may apply any part of a retained patronage dividend due to the holder of a Class A Shares to cover that holder's unpaid capital contributions for that year and future years.

The Co-op shall hold the retained patronage dividends in revolving patronage dividend accounts in the names of the holders of Class A Shares receiving them, and may apply the retained patronage dividends toward the Co-op's operating capital needs. Retained patronage will not accrue interest or other monetary return on investment, and the accounts are non-transferable and in whole dollars only. The Coop shall be entitled to offset against retained patronage dividend accounts the amount of any losses subsequently sustained by the Coop, in such manner as the Board of Directors may reasonably determine.

**4.6 Repayment of Retained Patronage Dividends.** At any time, the Co-op may pay some or all of the retained patronage dividends to the holders of Class A Shares entitled to them if the Board of Directors decides the funds are no longer required for operating capital. Holders of Class A Shares will receive retained patronage dividends in the order of the oldest outstanding amounts on a pro rata basis from these amounts. If the Co-op dissolves as a corporation, it shall pay retained patronage dividends to the holders of Class A Shares after payment of all other liabilities, including payment of all preferences to the holders of Additional Shares. If the remaining funds are insufficient to repay all retained patronage dividends, the holders of Class A Shares entitled to them will receive retained patronage dividends in proportion to their revolving account balances at the time of dissolution. The Board of Directors may also

repay retained patronage dividends to an individual holder of a Class A Share under compelling circumstances in the Board's discretion. Retained patronage dividends are available at all times to pay amounts otherwise due and payable to the Co-op.

The Board of Directors may in its discretion pay retained patronage dividends in cash, as merchandise credits, or any combination of cash and merchandise credits. The Board of Directors may in its discretion establish the terms and conditions governing the issue and use of merchandise credits, including any period within which merchandise credits must be used or forfeited.

**4.7 Unclaimed Dividends.** If the Co-op wishes to pay retained patronage dividends to any holder of a Class A Share who holds a revolving patronage dividend account, but such payment fails to reach such holder via a single mailing through US mail at such holder's last known address on file with the Co-op, such holder shall be deemed to have contributed such payment entitlement to the Co-op and the Board of Directors may, by appropriate action, pay such amount to all other holders of Class A Shares who hold revolving patronage dividend accounts as a supplemental patronage dividend in the same ratio that such holders would then be entitled to patronage dividends.

**4.8 Treatment of Nominal Amounts.** The Board of Directors may exclude from distribution any patronage dividend that is so small that it does not justify the cost of distribution. These nominal amounts may not be distributed at any time to other holders of Class A Shares.

**4.9 Tax Provision.** If the Co-op distributes part of its annual earnings or income as a patronage dividend, and then discovers it cannot deduct some part of its annual earnings or income as a patronage dividend under the Internal Revenue Code and applicable regulations, then the Co-op and its Board of Directors deem that all the patronage dividend declared shall come from earnings or income

that does qualify for a deduction under the revenue laws. This designation shall occur regardless of whether the Board adopted a resolution or act that makes specific reference to the source of revenues for the dividend.

**4.10 Consent of Member to Tax Treatment.** By joining the Co-op, all holders of Class A Shares consent to having their patronage dividends, whether paid or retained, taken into account for the taxable year. Any patronage distribution the Co-op makes with a qualified written notice of allocation under 26 U.S.C. § 1388 will be taken into account by the receiving member at the stated dollar amount of the distribution as provided in 26 U.S.C. § 1385(a) in the taxable year the holder receives the written notice of allocation.

## ARTICLE 5 MEETINGS OF HOLDERS OF CLASS A SHARES

**5.1 Annual Meeting.** An annual meeting of the holders of Class A Shares shall be held within four months after the close of the fiscal year at a time and place determined by the Board of Directors. The purpose of the annual meeting shall be to report to the holders of Class A Shares on the operations and finances of the Co-op, and to conduct voting for directors and on other issues properly submitted to a vote of the holders of Class A Shares.

**5.2 Special Meetings.** Special meetings of the holders of Class A Shares may be called by the Board of Directors or by the President, and shall be called by the Board of Directors upon receipt of an initiative by the holders of Class A Shares.

**5.3 Balloting.** A meeting of the holders of Class A Shares may be conducted in whole or in part by written ballots as determined by the Board of Directors.

**5.4 Notice.** Written notice of the time, place and purpose of any meeting of holders of Class A Shares shall be delivered to each holder not less than ten nor more than thirty days before the

date of the meeting. In the event of voting by mail, the notice shall include necessary ballots and materials which impartially describe the candidates for election or issues for decision.

5.5 **Quorum.** The presence in person of five percent of the holders of all Class A Shares shall constitute a quorum at a meeting held to consider the adoption of a proposal that RCW 24.06 requires be adopted by a two-thirds vote of holders of Class A Shares. The presence in person of the holders of two hundred Class A Shares or eight percent of the holders of all Class A Shares, whichever is lesser, shall be necessary and sufficient for the transaction of business at any other meeting of the holders of Class A Shares.

5.6 **Voting.** Each holder of a Class A Share shall have one vote on any matter submitted to a vote of the holders of Class A Shares, provided that: (i) the holder is current in paying his or her capital contribution and annual member fee; or (ii) holders who are 62 years and older must have shopped at the Co-op at least once during the twelve month period preceding the date on which a vote of the holders of Class A Shares is called. Proxy voting is not permitted. All issues shall be decided by a majority of the holders of Class A Shares voting except where a higher percentage is required by law or by these By-laws. A decision on any issue which was not included in the notice of the meeting shall be of an advisory nature only.

5.7 **Class A Share Initiative.** An annual or special meeting of the holders of Class A Shares shall include a vote on any issue submitted by an initiative. A Class A Share initiative shall be in writing and signed by the holders of at least sixty Class A Shares or four percent of the holders of all Class A Shares, whichever is lesser. Any initiative must specify the issues for decision which may concern any matter appropriate for a vote of the holders of Class A Shares. An initiative must be submitted to the Co-op at least two months prior to the date of the meeting at which the issue is to be decided.

## ARTICLE 6 BOARD OF DIRECTORS

6.1 **Powers.** The business and affairs of the Co-op shall be directed and controlled in the interests by a Board of Directors (sometimes referred to herein as “the Board.”) The Board shall consist of nine persons, including eight directors elected by the holders of Class A Shares and one director selected by the staff. Staff membership on the Board of Directors shall be limited to 1/3 of the total membership of the Board. No other person shall serve as director.

6.2 **Duties to Members.** The duties of the Board of Directors shall include, but not be limited to: Communicating important decisions of the Board to holders of Shares, ensuring that accurate lists of the holders of Shares and directors are kept at the Co-op's business office, and initiating a referendum on any matter that is likely to affect the basic survival of the Co-op or change its purposes.

6.3 **Nominations.** Nominations for the eight directors to be elected by the holders of Class A Shares shall be made by the Board of Directors or a committee empowered by it or by petition of members. A petition of the holders of Class A Shares must be signed by the holders of at least twenty-five Class A Shares or one percent of the holders of Class A Shares eligible to vote in the previous year's election, whichever is greater, and must be submitted to the business office of the Co-op at least ten days prior to the issuance of the notice of the annual meeting. Nominees shall be stated in the notice of the meeting. All directors must be holders of Class A Shares in good standing of the Co-op.

6.4 **Election.** Voting for directors shall be conducted in a manner which encourages maximum member participation. Each holder of a Class A Share shall have one vote for each vacancy to be filled on the Board of Directors.

6.5 **Term of Office.** Directors shall be elected for terms of three years. Each term shall begin at the first meeting of the Board following the annual meeting. The terms of office of the

directors shall be staggered so that terms shall expire on a three-year cycle of 3-3-3.

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. Unless otherwise determined by the Board, a director having a conflict of interest in any matter may not participate in the discussion or decision of an issue involving that matter.

6.7 **Referenda.** The Board of Directors may call a referendum on any issue, and shall call a referendum on an issue when petitioned by the holders of at least sixty Class A Shares or four percent of all Class A Shares, whichever is lesser. Referenda shall be conducted pursuant to Article 5 of these Bylaws. A decision of the Board which is referred to the holders of Class A Shares will stand until annulled or modified by the holders of Class A Shares. Modification by holders of Class A Shares shall not impair rights previously acquired by third parties.

6.8 **Removal.** A director may be removed and replaced by the Board only for reasonable and sufficient cause after a fair hearing at which the director is given the opportunity to speak and present evidence. The holders of Class A Shares may remove, or remove and replace, a director with or without cause at any meeting of the holders of Class A Shares. Unexcused absence from two meetings of the Board per fiscal year is expressly deemed cause for removal.

6.9 **Vacancies.** Any vacancy occurring between annual meetings by reason of the death or resignation of a Director or removal by the Board or the holders of Class A Shares may be filled by the Board for the duration of the vacated term.

## ARTICLE 7 MEETINGS OF THE BOARD

7.1 **Regular Meetings.** The Board of Directors shall determine the times and places of regular meetings, which require no further notice to directors than the resolution of the Board.

7.2 **Special Meetings.** Special meetings of the Board of Directors may be called by the Board Chair, and shall be called on request of any three directors. Written or personal notice of all special meetings shall be provided to each director. Written notice shall be mailed not less than ten days and personal notice shall be given not less than three days before the date of the meeting.

7.3 **Quorum and Decision Making.** A majority of directors shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. The Board shall strive to make all decisions by consensus, attempting to reconcile differing points of view based upon the purposes and mission of the Co-op. If, in the opinion of a two-thirds majority of directors present, consensus cannot be reached within a reasonable period of time, particularly on an issue requiring immediate action, then a majority of directors present may decide such issue.

7.4 **Open Meetings.** Meetings of the Board of Directors shall be open to observation and limited participation by holders of Class A Shares. The Board may, however, conduct a closed session when necessary to protect the vital interests of the Co-op.

7.5 **Action by Consent.** Decisions of the Board of Directors may be made without a meeting if a consent in writing, stating the action to be taken, is signed by all directors and filed with the minutes of meetings.

7.6 **Notice to Members.** Notice of meetings of the Board of Directors shall be posted in the Co-op store and published in any newsletter or regular mailing to holders of Class A Shares.

## ARTICLE 8 COMMITTEES

8.1 **Executive Committee.** The Board of Directors may designate an Executive Committee to exercise interim or other stated authority of the Board except as to matters involving long-range policies or unusually large

expenditures. The committee shall consist of at least three Directors, and shall include the Board Chair, Board Vice Chair, and Finance Committee Chair. Only directors may sit on committees. Any action by the Executive Committee shall require the affirmative vote of at least three of its members and must be reported to and ratified by the Board of Directors at the next following meeting of the Board of Directors. The Executive Committee shall not operate to relieve the Board of general supervisory responsibilities in the management of the Co-op.

8.2 **Committees Generally.** Other committees may be designated, and their members appointed, removed or replaced at any time by the Board of Directors. All such committees shall function to advise the Board and develop proposals for its consideration. Committees may take action only as empowered by the Board of Directors in which case they shall require actual notice of meetings to all of their members and a quorum of at least three committee members including the chairperson.

## ARTICLE 9 OFFICERS

9.1 **Designation.** The officers of the Co-op shall consist of President, Vice President, Secretary and Treasurer. Any two offices may be held by the same person except those of President and Secretary. The offices of President and Treasurer shall not be held by the staff director.

9.2 **Selection and Removal.** The Board of Directors shall select the officers of the Co-op no later than at its first regular meeting after the annual meeting. Terms of officers shall be for one year or until their successors are selected. Officers may be removed and replaced, with or without cause, at any time by the Board of Directors.

9.3 **Powers and Duties.** The officers shall have the following powers and duties together with other powers and duties described in the Board policies or determined by the Board.

(a) the President shall be responsible to the Board of Directors for all Co-op operations and compliance with Board policies.

(b) the Vice-President shall perform the duties of the President whenever the President is unable to do so, and as requested by the President, shall assist the President in the performance of his or her duties.

(c) the Secretary shall supervise the maintenance of membership records, and oversee issuing notices for, and keeping minutes of, all meetings of members and the Board of Directors; and

(d) the Treasurer shall oversee the financial affairs of the Co-op, the maintenance of financial records, the control of receipts and disbursements, and the filing of required tax returns and corporate reports.

## ARTICLE 10 OTHER PERSONNEL PROVISIONS

10.1 **General Manager.** The Board of Directors shall employ a General Manager to manage the business of the Co-op under the direction and control of the Board. The general manager is expected to attend all meetings of the Board of Directors.

10.2 **Bonding.** The Treasurer, General Manager and other employees disbursing funds of the Co-op may be required to be bonded in amounts and on terms determined by the Board of Directors.

10.3 **Indemnification rights.** Subject to limitations in this Article, the Co-op shall indemnify its current and former directors and

officers against all losses and expenses, including reasonable attorneys' fees, to which they may become subject by reason of their positions with the Co-op or their service in its behalf. Such indemnification shall apply whenever such person is a party or is threatened to be made a party to any threatened, pending or

completed action, suit, or proceeding, whether civil, criminal, administrative or investigative. The Co-op shall advance the cost incurred in defending a suit or proceeding. Payment of expenses incurred in defending a suit or proceeding in advance of its final disposition may be made only upon receipt by the Co-op of a contractual undertaking by such person to repay such amounts unless the person shall be determined to be entitled to indemnification under this Article.

**10.4 Limitations to indemnification.** No indemnification shall be provided in connection with any action by or in the right of the Co-op. No indemnification shall be provided unless the person is determined to have acted in good faith or in the reasonable belief that his or her action was in the best interests of the Co-op, or, in regard to criminal actions, that such person had no reasonable cause to believe that his or her action was unlawful. If such determination is not made in a legal proceeding related to the claim, it may be made by a quorum of disinterested directors or by independent legal counsel selected by such quorum. If not made or able to be made by either, the determination shall be made by independent legal counsel at a membership meeting. Indemnification payments shall be made only in such amounts and at such times as will not jeopardize the solvency of the Co-op.

## ARTICLE 11 NOTICE

**11.1 Notice.** Any notice required under these By-laws shall be deemed delivered when deposited in the U.S. mail with names and addresses as they appear in the records of the Co-op.

**11.2 Waiver of Notice.** Any notice of a meeting may be waived in writing at any time before or after the meeting. The attendance of any person at a meeting shall constitute a waiver of notice of the meeting except where the person attends for the express purpose of objecting to the transaction of business because the meeting is not lawfully convened.

## ARTICLE 12 BYLAWS

**12.1 Severability.** If any provision of these By-laws is determined to be invalid or unenforceable under any statute or rule of law, then such provision 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.

**12.2 Amendment of By-laws.** These By-laws may be amended by holders of Class A Shares at a meeting called in part for that purpose. They may also be amended by a three-fourths vote of the Board of Directors provided that the proposed amendment is placed on the agenda of the meeting prior to the meeting at which the vote is taken. Amendments by the Board shall be presented for ratification at the next scheduled meeting of holders of Class A Shares, and shall take effect, if at all, on the date so ratified.