

**BYLAWS**

**OF**

**ACORN Renewable Energy Co-op**

**January 28, 2009.**

(as amended on March 27, 2014, and on March 31, 2016)

**Article I  
Organization**

**Section 1.1 - Name and status.** The name of the organization is ACORN Renewable Energy Co-op (referred to in these bylaws as "the Co-op"). The Co-op is a consumer cooperative incorporated under the laws of the State of Vermont.

**Section 1.2 - Mission statement.** The mission of the Co-op is:

1. To engage in acquiring and distributing high quality renewable energy products and appropriate technology products and services
2. To develop an attractive and successful model for community - and patron-ownership in renewable energy and appropriate technology production, education, sales and local economic development.
3. To create jobs that are secure and educational and that support the dignity of all workers of the Cooperative.

The Co-op shall be operated exclusively on a cooperative and nonprofit basis for the primary and mutual benefit of its owners as patrons of its goods and services.

**Section 1.3 - Cooperative principles.** The Co-op shall be operated in accordance with the cooperative principles adopted by the 1995 General Assembly of the International Co-operative Alliance, such principles being: (i) voluntary and open membership without arbitrary discrimination; (ii) democratic governance; (iii) economic participation by members; (iv) autonomy and independence of the Co-op; (v) providing education and training; (vi) cooperation with other cooperatives; and (vii) concern for community.

**Section 1.4 - Nondiscrimination.** The Co-op shall not discriminate on the basis of race, nationality, religion, age, gender, sexual orientation, political affiliation, or other arbitrary basis.

**Article II  
Ownership**

**Section 2.1 - Eligibility and admission.** Ownership in the Co-op shall be voluntary and open to any person whose purpose is to patronize the Co-op and to accept the responsibilities of ownership. Applicants will be admitted to ownership upon submitting required information and purchasing or subscribing (with payments scheduled over time) to purchase one or more shares at an issuing price to be determined by the Board of Directors., subject to Article

VII below. On or before admission to ownership, each owner shall be provided a copy of these bylaws, including the appended explanation of the patronage refund consent provision. In the event that any doubts arise concerning eligibility within six months after the date of application, an application for ownership shall be subject to approval by the Board.

**Section 2.2 - Rights.** Each owner shall be entitled to make purchases from the Co-op and to partake in other activities of the Co-op on terms generally available to owners and to participate in the governance of the Co-op as set forth in these bylaws. Persons who have subscribed but not fully paid for a share shall not thereby be denied any rights of owners.

**Section 2.3 - Responsibilities.** Each owner shall keep reasonably current in payment of the share purchase requirement described in Section 2.1 above, shall patronize the Co-op on at least an occasional basis, and shall notify the Co-op of any change to his or her name or address.

**Section 2.4 - Inactive status.** An owner who becomes delinquent by three months in meeting his or her share purchase obligation, or who fails to patronize the Co-op for one year, 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. An owner in inactive status may attain good standing ~~only~~ upon recommencing payment of ~~all~~ share purchase requirement or reestablishment of a patronage relationship with the Co-op. References herein to the rights and entitlements of owners shall be understood to refer only to owners in good standing.

**Section 2.5 - Access to information.** Owners shall be provided reasonably adequate and timely information as to the operational and financial affairs of the Co-op. An owner shall, upon request, be provided any other information concerning the operational and financial affairs of the Co-op that is necessitated by, and directly related to, a proper purpose, subject to such reasonable restrictions or conditions as is determined by the Board to be necessary to protect confidential or sensitive information. Any proper request necessitating information from the Co-op's records of owners shall be accommodated by means other than direct access to such records.

**Section 2.6 - Settlement of disputes.** In any dispute between the Co-op and any of its owners or former owners which cannot be resolved through informal negotiation, it shall be the policy of the Co-op to prefer the use of mediation whereby an impartial mediator may facilitate negotiations between the parties and assist them in developing a mutually acceptable settlement. Neither party with a grievance against the other shall have recourse to litigation until the matter is submitted to mediation and attempted to be resolved in good faith.

**Section 2.7 - Nontransferability.** Ownership rights and interests may not be transferred except as provided herein. Following termination of ownership, or at any time as to shares held in excess of the minimum amount, the Co-op will upon request of the owner transfer the carrying value of such person's share credits, net of any authorized offsets, to the credit of another person designated by the requesting owner, provided that the transfer is gratuitous and that the person so designated is an owner or becomes an owner of the Co-op. Any attempted transfer contrary to this section shall be wholly void and shall

confer no rights on the intended transferee.

**Section 2.8 - Termination.** Ownership may be terminated voluntarily by an owner at any time upon notice to the Co-op. Ownership may be terminated involuntarily by the Board for cause after the owner is provided fair notice of the charges and an opportunity to respond in person or in writing. Upon termination of ownership, all rights and interests in the Co-op shall cease except for rights to redemption of capital pursuant to Articles VII and VIII of these bylaws.

### **Article III Meetings of Owners**

**Section 3.1 - Annual meeting.** An annual meeting of owners shall be held within ninety days after the close of each fiscal year to receive reports on the operations and finances of the Co-op, to elect directors, and to conduct such other business as may properly come before the meeting.

**Section 3.2 - Special meetings.** Special meetings of owners may be called by the Board and shall be called by the President as soon as possible after the receipt of petitions signed by fifteen percent of all owners, such petitions stating any proper business to be brought before the meeting.

**Section 3.3 - Time and place.** The date, time and place of all meetings of owners 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 place convenient to owners.

**Section 3.4 - Notice.** Written notice of the time, place, and purpose of any meeting of owners shall be delivered to each owner not less than ten nor more than thirty days before the date of the meeting. Any business conducted at a meeting of owners other than that specified in the notice of the meeting shall be of an advisory nature only.

**Section 3.5 - Record dates.** Unless otherwise determined by the Board, only persons who are owners at the close of business on the day immediately preceding the date of distribution of notices shall be entitled to notice of any meeting of owners and to vote at such meeting.

**Section 3.6 - Quorum.** The presence in person or by mail ballot at the opening of the meeting of ten owners or one third of all owners, whichever is lesser, shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of owners.

**Section 3.7 - Voting.** Unless otherwise required by these bylaws, each owner shall have one and only one vote on each matter submitted to a vote of owners irrespective of the number of shares held. 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. An owner who is unable to attend a meeting as to which balloting by mail has not been authorized may in writing and with respect to only one

specific meeting appoint another owner to vote as his or her alternate, but no owner may hold more than one such authorization at any time. Meetings of owners shall be conducted generally in accordance with reasonable and accepted rules of parliamentary procedure.

**Section 3.8 - Balloting by mail.** Owners may, as authorized by the Board, vote by mail or e-mail ballots. Ballots, together with the exact text of an issue for decision shall be included in the notice of the meeting to which they relate. Ballots returned via USPS mail shall be submitted in a sealed plain envelope inside another envelope bearing the owner's name and any other required identifying information and shall be submitted in conformity with instructions contained in the notice. Ballots submitted by e-mail shall contain any required identifying information and shall be submitted in conformity with instructions contained in the notice. Casting of a ballot by mail or e-mail shall be equivalent to presence in person at a meeting, and ballots shall be counted together with votes cast at the meeting, if any. In the case of balloting separate from a meeting, the balloting shall for all purposes be considered a meeting of owners.

**Section 3.9 - Issues submitted by owners.** Notices of a meeting of owners shall include any proper issue submitted by petition of at least seven percent of all owners. Petitions must be received by the Co-op not less than forty five days before the date of the meeting at which they are to be presented to a vote of owners.

#### **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 managed under the direction and supervision of the Board of Directors (sometimes referred to in these bylaws as "the Board"). Such powers shall reside exclusively in the Board as a deliberative body; they may reside in individual directors only to the extent explicitly so delegated by the Board. The duties of the Board shall include, but not be limited to, overseeing the operations and finances of the Co-op, establishing policies to govern operational decisions, engaging a general manager and monitoring and evaluating his or her performance, securing good conditions of employment and reasonable employee benefits, and assuring that the purpose and mission of the Co-op are properly carried out.

**Section 4.2 - Number and qualifications.** The Board shall consist of no less than seven and no more than fifteen individuals. To be qualified as a director, a person shall be of the age of eighteen or more years, shall have been an owner for at least six months prior to the commencement of the election of directors, and shall not have any overriding conflict of interest with the Co-op. No employee shall be eligible to serve as a director.

**Section 4.3 - Nominations, election and terms.** Directors may be nominated by the Board, by a nominating committee, or by petitions signed by at least twenty-five owners and submitted to the Co-op at least forty five days before

the date of the annual meeting. Directors shall be elected by owners at the annual meeting. At the first annual meeting after adoption of these bylaws and periodically thereafter as may be necessary, directors shall be elected for specific one, two or three year terms in order to assure that approximately one third of the terms of Directors expire in each year. At other times directors shall be elected for terms of three years. Candidates receiving the highest number of votes shall be given the longest available terms. Directors shall hold office until their successors are elected or until their offices are sooner terminated in accordance with these bylaws.

**Section 4.4 - Compensation.** Directors may be compensated only as approved at a meeting of owners. Directors may be reimbursed for reasonable expenses incurred in connection with the performance of authorized business of the Co-op.

**Section 4.5 - Standards of conduct.** Directors shall be responsible at all times for discharging their duties in good faith, in a manner that they reasonably believe to be in the best interests of the Co-op and with the care that an ordinarily prudent person in a like position would use under similar circumstances.

**Section 4.6 - Conflicts of interest.** Directors shall be under an affirmative duty to disclose their actual or potential conflicts of interest, either direct or indirect, in any matter under consideration by the Board or by a committee exercising any authority of the Board, and such interest shall be made a matter of record in the minutes of the meeting. A director having such an interest shall be permitted to make a statement with regard to the matter but shall not be permitted to participate in the discussion or decision of the matter.

**Section 4.7 - Contracts for Profit** During her or his term of office, a director shall not be a party to a contract for profit with the Co-op differing in any way from the business relations accorded each owner or upon terms differing from those generally current among owners.

**Section 4.8 - Indemnification.** In order to attract and retain qualified people to serve as directors and officers, the Co-op shall indemnify its directors and officers to the fullest extent permitted under the Vermont Nonprofit Corporation Act, except that the Co-op shall not be required to indemnify a director or officer who was successful otherwise than on the merits in the defense of a proceeding to which the director was a party because he or she was a director of the Co-op. Indemnification payments shall be made on a priority basis but only in such increments and at such times as will not jeopardize the ability of the Co-op to pay its other obligations as they become due. Any indemnification payments or advances shall be reported to owners not later than the next-scheduled meeting of owners.

**Section 4.9 - Committees.** The Board may appoint special or standing committees to advise the Board or to exercise such authority as the Board shall designate. Such committees shall include at least one director. The appointment of any committee shall not relieve the Board of its responsibilities in the oversight of the Co-op.

**Section 4.10 - 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 Secretary; (ii) automatically upon termination of ownership in the Co-op; and (iii) for cause by the Board or by owners, provided the accused director is accorded fair notice of the charges and an opportunity to respond in person or in writing. A director who is absent from three consecutive Board meetings or four meetings in any one-year period shall, unless excused by the Board for good cause, be presumed to have resigned.

**Section 4.11 - Vacancies.** Any vacancy among directors occurring between annual meetings may be filled by the Board until the next annual or special meeting of owners, at which time owners shall elect a director to fill the unexpired term of the vacant director's position.

## **Article V Meetings of the Board**

**Section 5.1 - Meetings.** The Board of Directors may determine the times and places of its meetings. Special meetings may be called by the President and shall be called by the Secretary upon request of any three directors. Meetings of the Board shall be held no less frequently than once in each two-month period.

**Section 5.2 - Notice.** Meetings called by resolution of the Board shall require no notice, 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 seven 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.

**Section 5.3 - Waiver of notice.** 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 other than for the sole purpose of objecting to the adequacy of the notice shall be deemed to have waived any objection to the notice.

**Section 5.4 - Quorum.** The presence in person of a majority of directors shall be necessary and sufficient to constitute a quorum for the transaction of business at any meeting of the Board.

**Section 5.5 - Decision making.** Decisions at meetings of the Board shall be made by consensus, whereby all expressed concerns are resolved or those having unresolved concerns agree to "stand aside." If directors have made a diligent effort to reach a consensus and the issue requires immediate action, then such issue may be decided by a two-thirds majority vote.

**Section 5.6 - Action without a meeting.** Any action required or permitted to be taken at a meeting of the Board may be taken without a meeting only if a written consent to the action is signed by all directors and filed with the minutes of meetings.

**Section 5.7 - Open meetings.** Meetings of the Board and all committees shall be open to owners, except that sessions of a meeting may be closed as to matters

of a confidential or sensitive nature.

## **Article VI Officers**

**Section 6.1 - Designation and qualifications.** The principal officers of the Co-op shall consist of President, Vice President, Secretary and Treasurer. The Board may designate other officers or assistant officers.

**Section 6.2 - Election, terms and removal.** Officers shall be elected by the Board at its first meeting following the annual meeting of owners. 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 Co-op would thereby be served. The President shall serve no more than three consecutive one-year terms.

**Section 6.3 - Duties.** Officers shall have the following duties and such additional duties as are determined by the Board.

(a) The President shall be responsible for coordinating the activities of the Board, assuring the orderly conduct of all meetings, maintaining effective communication with the general manager, executing authorized documents on behalf of the Co-op except where otherwise determined by the Board, and shall present a report of operations at the annual meeting of owners.

(b) The Vice President shall be responsible for performing the duties of the President in his or her absence or disability and assisting the President in the performance of his or her duties.

(c) The Secretary shall be responsible for the recording, keeping and distributing within seven days adequate minutes of all meetings of the Board and of owners, overseeing the issuance of notices required under these bylaws, authenticating records of the Co-op.

(d) The Treasurer shall oversee the maintenance of financial records, issuance of financial reports and the filing of all required reports and returns, and shall present a financial report at the annual meeting of owners.

## **Article VII Capital Shares**

**Section 7.1 - Issuance and terms.** To evidence capital funds provided by owners, the Co-op shall issue shares. 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 no less than their issuing price in money or, if authorized by the Board, in other property, labor, or services actually provided. Shares shall be assessable as may be necessary to meet the reasonable capital needs of the Co-op as determined by the Board. Shares shall be entitled to no dividend or other monetary return on contributed capital. Promissory notes of owners may be accepted by the Co-op as full or partial payment for shares. In such case, the Co-op shall hold the shares as security for the payment of the note. Until such notes are paid in full, the corresponding shares, to the extent of unpaid balances, shall be carried on the books of the Co-op and upon all financial statements made by the Co-op as

"capital stock issued for notes," and the notes shall be carried on such books and statements as "notes given for capital stock."

**Section 7.2 - Redemption.** Upon request following termination of ownership, shares shall be redeemed when replacement capital is provided by other owners. Shares shall be redeemable at the lesser of the consideration paid by the owner or their net book value less a reasonable processing fee, if any, as determined by the Board. Redemption proceeds shall be subject to offset by amounts due and payable to the Co-op by the owner. No redemption shall be made when such payment would impair the ability of the Co-op to meet its other obligations as they become due or would impair the claims of instruments having a higher priority than shares. Reapplications for ownership after full or partial redemption shall be subject to full repayment of redemption proceeds.

### **Article VIII Patronage Refunds**

**Section 8.1 - Distribution of net savings.** The realized net savings of the Co-op, to the extent attributable to the patronage of owners, shall be allocated and distributed among owners as patronage refunds in proportion to their patronage and in such a manner and at such a time as to constitute patronage dividends within the meaning of federal income tax law. Such obligation shall commence only upon any initial operating losses having been recouped through realized net earnings or as soon thereafter as the Co-op can track the patronage of members through a point-of-sale system or otherwise. In determining and allocating adjusted net savings, the Co-op shall use a single allocation unit.

**Section 8.2 - Exceptions.** Net earnings may be reduced by such reasonable reserves for necessary business purposes as is determined by the Board. 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. Owners shall retain the right to waive in whole or in part, by action at a meeting of owners, any patronage refunds to which they may be entitled.

**Section 8.3 - Consent of owners.** By obtaining or retaining ownership in the Co-op, 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.

**Section 8.4 - Deferred amounts.** Payment of a portion of patronage refunds, not to exceed eighty percent of the allocation, may be deferred for the reasonable capital needs of the Co-op, as determined by the Board. Such amounts shall be credited to revolving capital accounts in the names of recipient owners and shall accrue no dividend or other monetary return on contributed capital. They shall be redeemed when determined by the Board to be no longer needed for capital purposes. At that time they shall be redeemed in the order of the oldest outstanding amounts and on a pro rata basis among such amounts, except that redemptions shall be made payable only to owners who are then in good standing or become so within a six-month period of time. Deferred amounts may

also be redeemed under compelling circumstances as determined by the Board. They shall be subject at all times to being offset by amounts otherwise due and payable to the Co-op.

**Section 8.5 - Allocation of net losses.** In the event the Co-op shall incur a net loss in any fiscal year, the patronage portion of such loss shall be carried forward to offset patronage-sourced income of subsequent years, and the nonpatronage portion of such loss shall be carried back and forward to offset nonpatronage-sourced income of other years as required or permitted under federal income tax law.

#### **Article IX Fiscal and Miscellaneous matters**

**Section 9.1 - Fiscal year.** The fiscal year of the Co-op shall coincide with the calendar year.

**Section 9.2 - Communication by electronic means.** Unless otherwise required by these bylaws, any notice, consent, ballot by mail, petition, document, or other oral or written communication required or permitted by these bylaws may be delivered by electronic means, provided that, in the case where such communication expressly or impliedly requires the signature of the person submitting the communication, means are in place to reasonably assure the authenticity of the signature.

#### **Article X Interpretation and Amendment of Bylaws**

**Section 10.1 - Interpretation.** The Board of Directors shall have the power, with or without advice of legal counsel, to interpret these bylaws, apply them to particular circumstances, and adopt policies in furtherance of them, provided that all such actions are reasonable and consistent with these bylaws.

**Section 10.2 - 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.

**Section 10.3 - Amendment.** These bylaws may be amended or repealed only 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.

**Appendix:**

**EXPLANATION OF PATRONAGE  
PATRONAGE REFUND CONSENT PROVISION**

The Internal Revenue Code generally requires each person receiving a patronage refund to include the amount of such distribution in his or her gross income in the taxable year in which it is received. Under bylaw section 8.3, mere acceptance or retention of ownership in the Co-op constitutes consent to such inclusion in taxable income, including the portion of the patronage dividends that is deferred by the Co-op for its capital needs.

The Co-op has been advised by legal counsel, however, that the general rule for inclusion in income of patronage refunds is subject to an exception that is applicable to consumer cooperatives. Under that exception, a patronage refund is not required to be included in gross income if the owner's purchases from the Co-op related to "personal, living or family items." The patronage refund would thus be taxable to an owner only if his or her purchases related to the operation of a trade or business or other income-producing activities. In effect, the consent provision is of no significance to owners of the Co-op, except as to organizational owners and except where the purchases of owners who are natural persons are for business or income-producing purposes.