



Focus on Leadership

Bylaws

It is called Cooperative Living.
You Enjoy Living and Your Home Cooperative

Leadership Series Handbook

By Richard Berendson

Interpretation give in Robert's Rules.

1. Each society decides for itself the meaning of its bylaws
If there is any question as to the meaning of a certain statement, the organizations decides the meaning. Such decisions should be added to the bylaws as an addendum so there is consistent interpretation over time.
2. When a provision of the bylaws
is susceptible to two meanings, one of which conflicts with or renders absurd another by-laws provision and the other meaning does not, the latter must be taken as the true meaning. Interpretation must be consistent within the bylaws.
3. A general statement or rule
is always of less authority than a specific statement or rule and yields to it. The specific always take precedence over the general.
4. If the bylaws authorize certain things
specifically, other things of the same class are thereby prohibited. If the bylaws require a certain action that is the only way that thing can be done. Example: The bylaws require a ballot vote for officers. Therefore you cannot hold the vote any other way, even if the ballot seems superfluous.

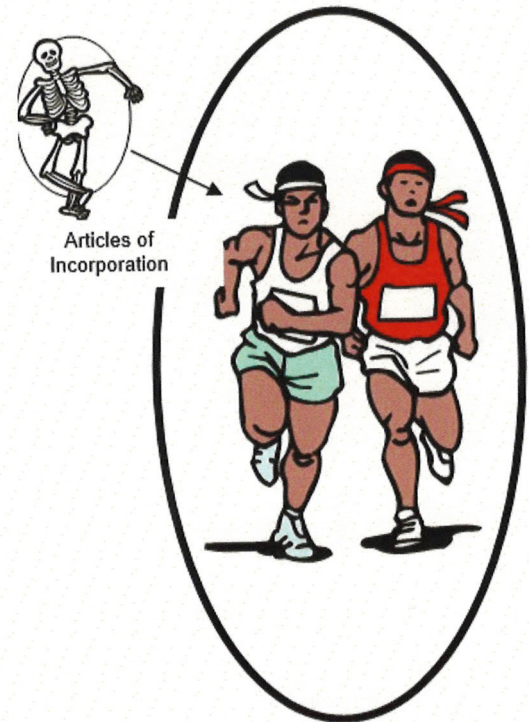
Fiscal Management.

By-laws establish the co-op's fiscal year, prescribe how its books and accounts shall be kept, require an annual audit, and state that financial records must be kept at the co-op office for inspection by any member.

This section provides for the signing of checks by a specified number of officers and for authorization by the board to execute notes and contracts on behalf of the co-op.

Cooperative Associations.

A final section authorizes the co-op to belong to an association of cooperatives whose members join for purposes of mutual aid and for advancing the interests of housing cooperatives.



Officers.

By-laws name the cooperative's principal corporate officers (president, one or more vice presidents, secretary, and treasurer) and they state that officers are to be elected by directors from among those serving on the board.

The officers' powers and duties are also stated: generally, the president is named executive officer, with all powers and duties usually vested in the president of a corporation, the vice president is authorized to act when the president is disabled or absent, the secretary is required to keep minutes of board and membership meetings and perform other duties usually belonging to a secretary, and the treasurer is made responsible for co-op funds, securities, receipts, disbursements, and the keeping of full and accurate accounts.

Regulatory Agreement.

By-laws of government-insured co-ops require that management and operation of the development shall be subject to the "rights, powers, and privileges" of the regulatory agency, in accordance with the regulatory agreement (to be discussed separately in the next section of this chapter).

Amendments.

An important article in the by-laws specifies how they may be amended by the membership, and how amendments may be proposed. Note that the approval of the regulating agency is required for government - insured co-ops.

5. A provision granting certain privileges carries with it a right to a part of the privileges but prohibits a greater privilege. You may do less than the bylaw, but not more. Example: The bylaws allow the board to raise dues by not more than \$0.00 per year. They can raise them only 30¢ but cannot raise them 7%.
6. A prohibition or limitation prohibits everything greater than what is prohibited or which goes beyond the limitation; but it permits what is less than the limitation, as well as things of the same class that are not mentioned in the prohibition or limitation and that are evidently not improper.

As in the above example, the board could add a specific fee for a specific service to the dues, such as an initiation fee to cover the cost of creating the new member records.
7. The imposition of a definite penalty for a particular action prohibits the increase or diminution of the penalty.
8. In cases where the bylaws use a general term and also two or more specific terms that are wholly included under the general one, a rule in which only the general term is used applies to all the specific terms. If the bylaws refer to elected officers, and also appointed officers, any reference to just officers applies to both elected and appointed

There are some other rules as well:

9. If the bylaws say something "shall" be done, then it must be done, even if there seems no reason.
10. If the bylaws say something "may" be done, then if you do that thing, you can only do it that way.
11. Be careful of lists of duties etc.
If it is not on the list, then it does not have to be done, at least by that person.
12. If the bylaws refer to another document or to a provision of law, those are included by reference as part

Suspending bylaws

Bylaws may only be suspended, and then only by a 2/3 vote, for this meeting only, in one of these three circumstances:

1. The bylaw relates to the duties of an officer at a meeting
This means if the secretary cannot make this meeting, someone else can be appointed to take minutes. Likewise with any other officer.
2. If the bylaw is in the nature of a rule of order
If the bylaw is actually a procedural rule, then it can be suspended.
3. If the bylaw provides for its own suspension
If the bylaw states that it can be suspended in certain specific circumstances.

Membership Meetings.

By-laws set the date and place of the co-op's annual meetings and specify when and how special meetings are to be called. Procedure for notification of members, determining a quorum (the percent of members of record required to be present in order for business to be conducted), and adjournment of meetings when a quorum has not attended are also set forth.

Voting rights and procedures are described in detail, as are methods of appointing proxies. Some by-laws provide an order of business to be followed at regularly scheduled meetings of the membership.

Directors.

Also stated in the by-laws are the number of directors to serve on the board, their qualifications, their powers and duties, and provisions for their election and term of office. This section describes how vacancies shall be filled, how directors may be removed by a vote of the co-ops members, and how a successor may be chosen. Included, generally, is a provision for automatic termination of a director more than thirty days' delinquent in payment of housing charges. This section forbids the co-op either to pay compensation to or employ its directors.

By-laws set the time of a new board's first organizational meeting and the minimum number of board meetings to be held each year; they describe how special meetings of the board may be called and what constitutes a quorum for board meetings.

Also included is a requirement that all co-op officers and employees handling or responsible for co-op trust funds provide adequate fidelity bonds, with the premiums to be paid by the co-op.

- Appointment of replacement Board members
- Selection of corporate officers
- Meeting requirements
- Voting procedures
- Restrictions on membership or stock sales and transfers.

How does it regulate cooperative operations?

The bylaws are defined in a document created by the incorporator or members to define how the corporation will function. It usually contains provisions for amendments by the members as needs and expectations change. This single document serves to protect individual members by limiting the powers of the Board of Directors and specifying how certain basic functions of the corporation are carried out.

Membership.

These provisions discuss such matters as eligibility for membership, applications, deposit of subscription funds, content of the membership certificate, and re-placement of lost certificates. An important section deals with transfer of membership should a member die or desire to leave the co-op. The co-op's option to purchase a retiring member's share is described in detail, as is the procedure to be followed if the co-op chooses not to exercise this option and allows the member to sell the membership to a purchaser approved by the board of directors.

The method to be used by the board for determining "transfer value," in the event it exercises its option to purchase a membership, is set forth here. The by-laws also include procedures for terminating membership and for limiting the sales price.

The bylaws should contain those rules that are of such importance that they should be placed out of the power of a single meeting to modify. Rules relating to the conduct of business should be omitted. These are included in the adopted parliamentary authority. The society should adopt only the rules that are necessary to guide it in achieving its objectives. As the society changes, the rules can be changed accordingly. The usual articles in bylaws are:

Article I	Name
Article II	Object
Article III	Members
Article IV	Officers
Article V	Meetings
Article VI	Executive Board
Article VII	Committees
Article VIII	Parliamentary Authority
Article IX	Amendment
Article X	Dissolution

Other articles that may be needed to deal with certain other issues or needs. Some of the most common are:

- Dues, Fees, and Finances
- Nominations and Elections
- Disciplinary Procedure
- Constituent Bodies
- Convention
- Certification
- Executive Director/Staff
- Indemnification and Insurance
- Code of Ethics

Each of the 10 usual articles should contain:

Article I. Name

The name should be the full legal name. If there is a corporate charter or articles of incorporation, the name should be the same as in that document.

Article II. Object

This is the statement of the purpose for which the organization exists. It should be precise, complete and drafted with extreme care, as it should not change over the life of the organization.

Article III. Members

Sections to be included:

- Classes (types, categories) of. members (active, associate, honorary, etc.)
- Qualifications or eligibility for membership
- Rights of each class and limitations, if any
- Board's authority to establish and change, dues, fees, assessments, etc., and due dates for the same. It should establish the amount of change that is allowable each year, with any-thing over that amount approved by the members. Members cannot be assessed any additional payment aside from dues unless specifically authorized in the bylaws.
- Deadline for notifying members of dues delinquency
- Date on which a member will be dropped for nonpayment of dues
- Procedure for resignation or reinstatement
- Any requirements that members must attend a certain number of meetings or participate in certain activities of the society as a condition of continued membership

Amendments:

Who can propose amendments? How amendments may be proposed

Fiscal Management:

Books and accounts

Annual Audit

Inspection of financial records by members

Authorization for board to execute notes and contracts.

BY-LAWS

Purpose -

Details how the co-op will be governed and spells out the rights of members.

Effects -

- Defines membership (eligibility and rights)
- Delineates powers, operations, and officers of the Board of Directors
- Discusses and defines the annual meeting of members and elections of Directors
- May establish maximum transfer value and usually provides a schedule of calculation for the determination of the transfer value.
- Subordinates all of the above to the Regulatory Agreement

Elements -

- Number of Directors, their terms of office, and how they are elected
- Powers, privileges, and any restrictions upon the Board of Directors
- Resignation and removal of current Board members

By-Laws

The by-laws are the written rules and regulations governing the operation of the co-op. Besides stating the name, location, and purpose of the cooperative, they deal with membership, meetings of members, the board of directors, officers of the corporation, rights of the regulatory agency, how by-laws shall be amended, and fiscal management of the co-op.

These are the written rules and regulations which govern the operation of the cooperative. The By-Laws will define:

Membership:

- Eligibility
- Certificates
- Transfer of membership
- Transfer value
- Membership termination
- Equity limits

Membership Meetings:

- Date and place
- Voting rights
- Notice requirements
- Quorum
- Special meetings

Directors:

- Number and duties
- Powers and Duties
- Election and term of office
- Removal of directors
- Board meetings
- Special meetings
- Officers

Article IV. Officers

Sections to be included:

- Officer titles - listed according to rank
- Qualifications for holding office
- How the officers are to be elected or appointed
- Term of office and number of terms permitted
- Any duties different from or in addition to those stated in the parliamentary authority
- Method of nominating the officers
- How vacancies are to be filled

Article V. Meetings

Sections to be included:

- The month in which the annual meeting or convention is to be held
- If there are to be regular monthly or quarterly meetings, that should be stated but the schedule should be left to the board
- Who may call a special meeting and how they are to call a special meeting
- Notice required for all types of meetings
- Quorum
- Provision for changing or cancelling meetings in an emergency
- Authorization to allow meetings to be held via electronic media or internet, if such meetings are desired by the organization

Article VI. Executive Board

Sections to be included:

- Composition of the board
- Powers delegated to the board
- Special rules by which the board is to conduct its business such as when to meet, how often to meet, quorum, etc.

Article VII. Committees

Sections should be included on:

- Naming the standing committees
- Composition of committees
- Manner of selecting the chairman and members
- Duties
- Appointment of special committees and additional standing committees
- Whether the president is ex-officio of all committees; the president should be expressly excluded from the Nominating Committee.

Article VIII. Parliamentary Authority

This article should specify the name of the manual of parliamentary procedure to be used for settling disputes or questions of procedure. It should also include a statement that "The rules contained in specify the work on parliamentary procedure, such as Robert's Rules of Order Newly Revised] shall govern the society in all cases to which they are applicable, and in which they are not inconsistent with the by-laws and special rules of order of this society."

Article IX. Amendment

- Who has the authority to amend or revise the by-laws
- When the bylaws may be amended or revised
- Who may propose an amendment or revision
- What notice and vote is required If the bylaws are silent on these questions:
- Any member may propose an amendment (including a revision) at any business meeting -after giving notice.
- A two-thirds vote with previous notice is required to adopt.
- Isolated amendments and a revision may be handled at the same meeting.

Rules	To Adopt	To Amend or Rescind		To Suspend
		No Notice	Notice	
Constitution	Majority	Majority of Entire Membership *	Two-thirds *	
Bylaws	Majority	Majority of Entire Membership #	Two-thirds #	
Special Rules of Order	Two-thirds with Notice or +/-	Majority of Entire Membership	Two-thirds	Two-thirds
Rules of Order	Majority	Majority of Entire Membership	Two-thirds	Two-thirds
Standing Rules	Majority	Two-thirds or +/-	Majority	Majority
Parliamentary Standing Rules in Convention	Two-thirds	Two-thirds or %	Two-thirds or %	Majority
Ordinary Standing Rules in Convention	Majority	Two-thirds or %	Majority +	Majority

* if no special provision

if no provision in bylaws

+/- majority of entire membership without notice

% majority of all voters registered at convention

+ after notice on at least the preceding day

is completed at the next regular meeting. The president should preside since the officers serve for two years or until their successors are elected.

Event 4

In a properly called business meeting, Nancy Novice moved to take a bus trip to the capital city to lobby for the protection of the purple tortoise-also an endangered species. The motion was seconded by Betty Brown. How should the chair proceed?

Article II, Object states that the object of this society shall be to "protect the white whale as an endangered species ... " RONR advises that no motion can be introduced that is outside the object of the society as defined in the bylaws, unless by a two-thirds vote the body agrees to its consideration.

The chair should advise the member that the motion is outside the scope of the object of the society unless by a two-thirds vote the members wish it to be considered. Then take a vote on whether the motion should be considered.

Article X. Dissolution

- State how the association can be dissolved.
- State what happens to the assets of the organization if it is dissolved.

It should be noted that this provision is required in some states and is not in others. If it is, the article is largely 'boiler plate' language that is standard to all non-profit organizations and are specific to the 502(c) designation of the organization.

Amending Bylaws

An **amendment** to the bylaws is a change in the wording in a single place, or for a single purpose (example: To change four vice presidents to three vice presidents). Such an amendment might require alterations in several places throughout the bylaws; these other changes are called "consequential and conforming amendments" and are voted on as a package with the primary amendment. This type of amendment is referred to as an Isolated Amendment as it deals with only one topic.

A **revision** of the bylaws is a complete rewrite of the entire bylaws or a large portion thereof.

Isolated Amendments

If isolated annexments are to be proposed, they should go to a Bylaws Committee. The Committee verifies that the language of the amendment is proper and in the correct verbiage and sentence structure as is used in the bylaws as a whole. They should also verify, that the consequential and conforming amendments are complete, and complete them if they are not.

The procedure below should be followed in processing isolated amendments when they are brought to the members for action.

- The bylaws chairman reads the first amendment.
- The chair states the question and calls for debate or amendment.
- The members debate and/or propose amendments.
- The chair takes the vote on amendments made from the floor.
- When there is no further debate or amendment, the chair takes the vote on the proposed amendment (as amended).
- The chair states the question on the next proposed amendment and handles in the same manner as the first amendment.
- Processing continues with each successive amendment until all have been adopted, rejected, or otherwise disposed of.

An amendment to the bylaws is an incidental main motion because the existing bylaws are not pending. It can be amended by both primary and secondary amendments

The bylaws are silent on filling vacancies in the nominating committee. However, the parliamentary authority, Robert's Rules of Order Newly Revised, provides that " ... if the assembly has the power of selection, removal or replacement can take place only under rules applicable to the motions to rescind or amend something previously adopted."

The chair should announce the demise of the three members of the nominating committee and hold a special election to fill the vacancies. If the election is held at the meeting at which the vacancies were announced, a two-thirds vote is required to replace the three members since no previous notice was given. If notice is given that the election will be held at a later meeting, a majority vote elects.

Event 3

At the annual meeting all elective offices were filled, except the office of president. How should the chair proceed? The bylaws Article III, Section 3 provides that " ... All officers shall be elected by ballot to serve for two years or until their successors are elected."

The parliamentary authority, Robert's Rules of Order Newly Revised, provides, "If an assembly wishes to adjourn when an election is incomplete, an adjourned meeting should be provided for. If such an adjourned meeting is not provided for and The organization will hold another regular business session before a quarterly time interval has elapsed, the election is completed at the next regular meeting." The chair should entertain a motion for an adjourned meeting. The president should preside over the adjourned meeting. If an adjourned meeting is not possible.

TESTING EFFECTIVENESS OF' BYLAWS

Bylaws are effective only if they are written to resolve events that occur in the society.

EVENT I.

Six weeks after taking office, the president was swallowed by a great white whale and perished. The first vice-president refused to become the president. What should the society do?

The bylaws are silent on filling vacancies. However, the parliamentary authority, Robert's Rules of Order Newly Revised, states "In case of the resignation or death of the president ... the first vice-president automatically becomes president for the unexpired term ... The second vice-president ... then becomes first vice-president ... with the vacancy to be filled occurring in the lowest ranking vice-presidency.,,

The chair should announce that the first vice-president declined to become president, leaving vacancies in the offices of president and first vice-president. The second vice-president became the first vice-president, leaving vacancies in the offices of president and second vice-president. The vacancies can be filled either at the meeting where the vacancies were announced, at an adjointed meeting, at the next regular meeting, or at a special meeting called for that purpose pending on the urgency in filling the vacancies.

Event 2

In April three members of the newly elected nominating committee perished at sea while studying the migration pattern of the great white whales. No work has been done by the committee. What should the society do?

Scope of Notice

However, amendments to isolated amendments may not exceed the scope of notice. The scope of notice is defined as anything between the existing condition and the proposed amendment. For example, if notice was given of an amendment to change the dues from \$5 to \$10, an amendment to strike out \$10 and insert \$12 OR to strike out \$5 and insert \$4 would not be in order, as they would be out of scope. Only amendments between \$5 and \$10 would be within the scope of notice.

Isolated amendments usually are handled separately with a final vote taken on each amendment as it is proposed. But there may be times when the procedure used in handling a revision will be more effective, if there are a large number of amendments. The assembly may select either method for handling isolated amendments.

Revising Bylaws

The only constant is change. Times change, Bylaws change, circumstances change. Organizations must change with the times and circumstances if they are to survive and flourish. Therefore, the time will come when only rewriting the bylaws will properly address the issues.

When the required amendments create a need to update the bylaws, cover many sections, and/or propose a restructuring of the organization, the bylaws should be revised. A revision committee may be appointed to draft the new document.

A revision is an amendment and must meet the same requirements specified in the bylaws article for amendment of the bylaws. Previous notice for a revision is the same as for other amendments to the bylaws.

The scope of notice for amendments to the proposed revision differs from that of isolated amendments discussed previously. In processing a revision there is no scope of notice. When notice is given that a revision will be handled at a certain meeting, the members are put on notice that any change will be in order.

Unless the bylaws provide otherwise, if isolated amendments and a revision are landed at the same meeting, the isolated amendments are handled first, then the revision. This is because a revision is a substitute amendment which requires that the original document be perfected by amendment before the substitute document can be considered.

Extreme care should be given to the drafting of the revision; it may be wise to engage a consultant who is an expert in this field. When the revision is adopted, it will immediately replace the existing bylaws. Provisions in the existing bylaws they no longer be used for settling disputes and questions of procedure.

Adopting a Revision

Seriatim Debate

When adopting a revision, a process called seriatim must be used. This process allows full debate and amendment to the proposed revision, then adopts the revision with a single vote. If the parts of the revision were to be adopted separately (renumbering that by-laws go into effect the moment they are adopted) then an organization runs the risk of having internal contradictions, being out of compliance, or, in the extreme case, not legally able to function. The seriatim process avoids all of those problems.

- The bylaws chair introduces one part (article, section, page, whatever seems reasonable) at a time.
- The chair conducts a debate, during which amendments may be proposed to that section only.
- If any amendments are adopted, they become part of the documents, but that does not adopt the document or any part of it.
- when all parts have been debated, the chair opens the entire document to debate and amendment. This is to allow further amendment to correct any inconsistencies generated by amendments, and allow new material to be proposed.
- when that is completed, the chair takes a vote on the entire document (as or as to amended). And, if it passes by the required two-thirds vote, it goes into effect immediately. If it fails, the existing bylaws remain in effect.