

CERTIFICATE OF INCORPORATION  
OF  
CATSKILL WATERSHED CORPORATION

Under Section 1411 of the Not-for-Profit Corporation Law

The undersigned, for the purpose of forming a Not-for-Profit Corporation pursuant to the Not-for-Profit Corporation Law of the State of New York, hereby certifies:

1. The name of the Corporation is the CATSKILL WATERSHED CORPORATION (the "Corporation").
2. The Corporation is a corporation as defined in subparagraph (a)(5) of Section 102 of the Not-for-Profit Corporation Law and is a local development corporation pursuant to Section 1411 of the Not-for-Profit Corporation Law. The Corporation is a Type C Corporation as described in Section 201 of the Not-for-Profit Corporation Law.
3. The purposes for which the Corporation is formed are as follows:
  - a. the exclusively charitable or public purposes of relieving and reducing adult unemployment, promoting and providing for additional and maximum adult employment, bettering and maintaining adult job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, aiding that part of the Watershed of the City of New York located West of the Hudson River (the "West of Hudson Watershed") by attracting new commerce and industry to such area and by encouraging the development of, or retention of, commerce and industry in such area, and lessening the burdens of government and acting in the public interest and all other lawful functions all in a manner which seeks to protect water quality in the West of Hudson Watershed;
  - b. to administer those Watershed Protection and Partnership Programs ("Watershed Protection and Partnership Programs), which are necessary to maintain and enhance water quality in the West of Hudson Watershed and the economic and social character of the Watershed communities, and that benefit the West of Hudson Watershed, as more fully described in Article V of the New York City Watershed Memorandum of Agreement (November, 1996) (the "Watershed Agreement").
  - c. to make decisions on funding and implementation of the Watershed Partnership and Protection Programs consistent with the terms and provisions of the Watershed Agreement; and
  - d. to undertake any other activities consistent with the promotion and protection of the economic

development of, and the protection of water quality in, the communities located in the West of Hudson Watershed.

4. In furtherance of its corporate purposes, the Corporation shall have all the powers set forth at Sections 202(a) and 1411(c) of the Not-for-Profit Corporation Law, and in addition, shall have the power to directly serve as program manager of and to administer and disburse all funds allocated to the following Watershed Partnership and Protection Programs consistent with the Watershed Agreement:

- a. Septic System Rehabilitations and Replacements;
- b. Stormwater Retrofits;
- c. Sand and Salt Storage Facilities;
- d. West of Hudson Future Stormwater Controls;
- e. Alternate Design Septic Systems;
- f. Public Education;
- g. West of Hudson Economic Development Study;
- h. Catskill Fund for the Future;
- i. that part of the New Sewage Treatment Infrastructure Facilities program utilized for the creation and maintenance of Septic Maintenance Districts; and
- j. Local Consultation on Land Acquisition;
- k. the Tax Consulting Fund.

5. The Corporation shall also have the power to serve as program manager of and disburse all funds allocated to:

- a. such other funds or programs which may be assigned to the Corporation from the Coalition of Watershed Towns; and
- b. such other funds or programs as may be established in the future to protect or enhance water quality and aid in the economic revitalization in West of Hudson Watershed.

6. Without limiting the powers set forth above, the Corporation shall have the power to:

- a. enter into arrangements by formal contract or otherwise with the City of New York, the United States of America, the State of New York, county governments, or other

governmental or quasi-governmental agencies, and/or individuals or corporations, institutions or other organizations to develop, test, demonstrate, implement, evaluate, and/or promote the individual programs stated above and other measures that are necessary in order to administer the Watershed Partnership and Protection Programs;

- b. enter into arrangements by formal contract or otherwise with counties, towns or villages in the West of Hudson Washed which are parties to the Watershed Agreement to secure participation in the Watershed Protection and Partnership Programs;
- c. coordinate the efforts of government agencies private participants to maintain and enhance viability of the Watershed Protection and Partnership Programs;
- d. solicit, receive, and accept funds from federal, state and local governmental agencies and from private foundations, organizations, and individuals, and expend or authorize expenditure of such funds in furtherance of the purposes of the Corporation;
- e. do everything necessary, incidental and proper for the complete accomplishment of the foregoing purposes, including specifically, but without exclusion the acquisition or grant, by lease or otherwise, of real property and the maintenance, improvement, development, employment, leasing, and sale or other dispositions thereof;
- f. to convene committees and subcommittees;
- g. to have a corporate seal and to adopt by-laws;
- h. to sue and be sued;
- i. to elect, retain and compensate officers, employees, agents, attorneys, accountants and other professionals;
- j. to extend loans on an interest-bearing or interest-free basis, and to issue grants;
- k. to borrow money and to issue negotiable bonds, notes and other obligations therefor; and
- l. to acquire, lease, rent or dispose of real and personal property.

7. The office of the Corporation in the State of New York shall be located in the Town of Middletown, in the County of Delaware.

8. The names and addresses of the initial directors of the Corporation are as follows:

Representing Delaware County:

Perry Shelton  
NYS Rt. 206  
Trout Creek, NY 13847

Alan Rosa  
Dry Brook Road  
Arkville, NY 12406

Charles LaFever  
HC 65  
Bovina-New Kingston Road  
Bovina Center, NY 13740

Thomas Hynes  
Main Street  
Roxbury, NY 12474

Joseph Hanley  
RR #3, Box 368  
Upper L~mis Brook Road  
Walton, NY 13856

David Anderson  
Box 27, RD #2  
Arbor Hill Road  
Delhi, NY 13753

Representing Ulster County:

Clayton Brooks  
Sundown Road  
Sundown, NY 12782

Edward Jennings  
Smith Road  
Wawarsing, NY 12489

Representing Greene County:

Anthony C. Bucca  
Haines Road  
Haines Falls, NY 12436

Patrick Meehan  
County Rt. 56  
Maplecrest, NY

Representing Schoharie County:

James Brown  
Saurbacker Road  
Gilboa, NY

Representing Sullivan County:

Georgianna Lepke  
168 Mutton Hill Road  
Neversink, NY 12765

Representing the Mayor of the City of New York:

Joel A. Miele, Sr., P.E.  
New York City Department of Environmental Protection  
59-17 Junction Boulevard  
Corona, NY 11368-5107

Representing the Governor of the State of New York:

Erin Crotty  
Office of the Governor  
Executive Chamber, Rm. 242  
Capitol Building  
Albany, NY 12224

9. The Secretary of State of the State of New York is hereby designated the agent of the Corporation upon whom process against it may be served. The post office address to which the Secretary of State shall mail a copy of any process against the Corporation served upon it as agent of the Corporation is: Whiteman Osterman & Hanna, One Commerce Plaza, Albany, New York 12260.

10. The Corporation is not formed for pecuniary profit or for financial gain. All income and earnings of the Corporation shall be used exclusively for its corporate purposes or accrue and be paid to the New York Job Development Authority or its successors. No part of the income or earnings of the Corporation shall inure to the benefit or profit of any board member or private person, corporate or individual (except that reasonable compensation may be paid for services rendered to or for the Corporation). Subject to subparagraph (j) of Article 5 of this certificate of incorporation, no member or private person, corporate or individual, shall be entitled to share in the distribution of any of the Corporation's property or assets upon dissolution of the Corporation; provided, however, that the Corporation may repay loans and repay contributions made to it only if and to the extent that any such contribution may not be allowable as a deduction in computing taxable income under the Internal Revenue Code of 1954, or any future Federal tax code. If the Corporation accepts a mortgage loan or loans from the New York Job Development Authority or its successors, the Corporation shall be dissolved in accordance with the provisions of subparagraph (g) of Section 1411 of the Not-for-Profit Corporation Law, subject, however, to the repayment or other discharge in full by the Corporation of all such loans.

11. The Corporation shall consult with and advise the New York City Department of Environmental Protection in connection with the implementation and administration of the following Watershed Protection and Partnership Programs:

- a. New Sewage Treatment Infrastructure Facilities;
- b. the Sewer Extension Program; and
- c. the Stream Corridor Protection Program.

12. Notwithstanding any other provisions of this Certificate of Incorporation, the Corporation is organized exclusively for one or more charitable purposes specified in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and shall not carry on any activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501(c)(3) of the Code, or the corresponding section of any future Federal tax code, or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Code, or the corresponding section of any future Federal tax code.

13. In the event of dissolution, all of the remaining assets and property of the Corporation, after payment of necessary expenses thereof and payment or adequate provision for all known liabilities as may be required by law, shall be distributed as determined by the Board of Directors in a manner consistent with the New York State Not-For-Profit Corporations Law, to such organizations as shall qualify under Section 501(c)(3) of the Code, or corresponding provisions of any subsequent Federal tax laws, or to the Federal government or State or local government for a public purpose, subject to the approval of a Justice of the Supreme Court of the State of New York.

14. No substantial part of the activities of the Corporation shall be carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided by Section 501(h) of the Code) or participating in, or intervening in (including by the publication or distribution of statements), any political campaign on behalf of, or in opposition to, any candidates for public office.

15. In the event that in any year the Corporation shall be a private foundation as that term is defined in Section 509 of the Code:

- a. The Corporation shall distribute its income for such taxable year at such time and in such manner as not to subject it to tax under Section 4942 of the Code; and
- b. The Corporation shall not:
  - (i) Engage in any act of self-dealing as defined in Section 4941(d) of the Code;
  - (ii) Retain any excess business holdings as defined in Section 4943(c) of the Code;
  - (iii) Make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; or

- (iv) Make any taxable expenditures as defined in Section 4945(d) of the Code.

16. Nothing herein shall authorize the Corporation, directly or indirectly, to engage in or include among its purposes any of the activities described in Section 404(b) through (v) of the Not-for-Profit Corporation Law, or to operate or maintain a public library, museum or historical society.

17. The Corporation shall at all times be bound by, and subject to the following laws as described below: (a) the New York State Open Meetings Law (Public Officers Law, Article 7), as amended to the same extent as a "public body" except to the public notice and enforcement requirements of sections 104 and 107 of the Public Officer's Law, respectively; (b) sections 64, 67, 69-a, 70,73(5) and 76 of the New York State Ethics in Government Act (Public Officers Law, Article 4), and sections 87 and 89(3) of the New York State Freedom of Information Law (Public Officers Law, Article 6), as amended, to the same extent as an agency.

18. The directors of the Corporation shall at all times be limited to the following:

- a. Twelve (12) directors who each shall be publicly elected officials and residents of towns located in the West of Hudson Watershed and representing the West of Hudson Watershed communities as follows:

- Six (6) directors from Delaware County;
- Two (2) directors from Greene County;
- Two (2) directors from Ulster County;
- One (1) director from Schoharie County; and
- One (1) director from Sullivan County;

- b. One (1) director, who shall be appointed by the Governor of the State of New York;

- c. one (1) director who shall be a full-time resident of a Town partially or wholly located in the West of Hudson Watershed and shall be chosen by the Governor of the State of New York from a listing of three (3) nominees submitted to the Governor collectively by representatives of Riverkeeper, Inc., New York Public Interest Research Group, Catskill Center for Conservation and Development, Trust for Public Land, and Open Space Institute; and

- d. One (1) director, who shall be an employee of the City of New York, appointed by the Mayor of the City of New York,

19. No director or officer shall be personally liable to the Corporation in the Corporation's own behalf or for the benefit of the Corporation's creditors for damages for any breach of duty as a director or officer; provided, however, that the foregoing shall not eliminate or limit the liability of a director or officer if a judgment or other final adjudication adverse to such director or officer establishes that such director's or officer's acts were committed in bad faith or were the Certificate of Incorporation and By-Laws

result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that such officer or director personally gained in fact a financial profit or other advantage to which he or she was not legally entitled, or that such director's or officer's acts violated Section 719 of the Not-for-Profit Corporation Law.

20. Subject to the provisions of Article 7 of the Not-For-Profit Corporation Law, If a director or officer of the Corporation is made, or threatened to be made, a party to any civil or criminal action or proceeding (including without limitation, actions or proceedings of an administrative or investigative nature) in any matter arising from the performance by such director or officer of his or her duties for or on behalf of the Corporation, then, to the full extent permitted by law, the Corporation shall:

a. Promptly upon written request to the Corporation by, or on behalf of, any director or officer therefor, undertake the defense of any such action or proceeding for the benefit of such director or officer, at the Corporation's expense, subject to the right granted to such director or officer hereby to select legal counsel of his or her reasonable choice and/or to participate in his or her own defense, and subject also to receipt of the undertaking specified by paragraph (c) of section 723 of the Not-for-Profit Corporation Law, to repay such amount as, and to the extent required by, paragraph (a) of section 725 of the Not-for-Profit Corporation Law, as such statutes may be amended; and

b. Indemnify such director or officer for all sums paid by him or her in the way of judgments, fines, amounts paid in settlement, and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, subject to the proper application of credit for any sums advanced to the director or officer pursuant to clause (a) of this paragraph.

Such right of indemnification shall be a contract right that may be enforced in any manner desired by such director or officer. Such right of indemnification shall not be exclusive of any other right that such director or officer may have or hereafter acquire. Without limiting the generality of the foregoing, such director or officer shall be entitled to his or her rights of indemnification under any by-law, agreement, resolution of members, resolution of Directors, provision of law or otherwise, as well as his or her rights under this provision.

21. The Board of Directors may adopt by-laws with respect to indemnification to provide at all times the fullest indemnification permitted by the Not-for-Profit Corporation Law, as amended from time to time.

22. To the extent not prohibited by the Not-for-Profit Corporation Law, the Corporation may purchase and maintain insurance:

a. To indemnify the Corporation for any obligation that it incurs as a result of the indemnification of directors and officers; and



b. To indemnify directors and officers.

23. The by-laws of the Corporation, not inconsistent with this certificate, may be adopted, amended or repealed by the Board of Directors.

**IN WITNESS WHEREOF**, this Certificate has been subscribed this 5th day of November, 1996, by the undersigned who affirms that the statements made herein are true under the penalties of perjury.

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Jeffrey S. Baker  
Sole Incorporator  
Whiteman Osterman & Hanna  
One Commerce Plaza  
Albany, New York 12260

BY-LAWS  
OF  
CATSKILL WATERSHED CORPORATION

as Amended January 3, 1997

A New York Not-For-Profit Corporation

ARTICLE I  
OFFICES; PURPOSES

*SECTION 1. PRINCIPAL OFFICE*

The principal office of the Corporation for the transaction of its business shall be in the Town of Middletown, Delaware County.

*SECTION 2. OTHER OFFICES*

The Corporation may also have offices at such other places, within or without the State of New York, where it is qualified to do business, as its business may require and as the Board of Directors may designate from time to time.

*SECTION 3. OBJECTIVES AND PURPOSES; POWERS*

The Corporation shall have such purposes and powers as are set forth in its certificate of incorporation ("Certificate of Incorporation").

ARTICLE II  
MEMBERS

*SECTION 1. QUALIFICATIONS; RESIGNATION*

There shall be only one class of members. Only towns located in the region known as the West of Hudson Watershed, being those towns that lie wholly or have 100 or more acres within the boundaries of the Watershed of the City of New York located West of the Hudson River, and that sign and remain parties to the Memorandum of Agreement (as hereinafter defined), shall be eligible for membership in the Corporation. A member may resign from membership in the Corporation solely upon written notice to the Secretary of the Corporation following the adoption by such town's governing board of a resolution authorizing such resignation, effective upon a date set forth in such notice that shall be no earlier than the date of such resolution. Members shall be represented by the Supervisors of the member towns.

As used herein, the term "Memorandum of Agreement" shall mean the New York City Watershed Memorandum of Agreement, dated December, 1996, by and among the Corporation, the United States Environmental Protection Agency, the State of New York, The City of New York, the Coalition of Watershed Towns, certain municipalities located in the Watershed of The City of New York, Putnam County, Westchester County, and certain environmental organizations.

*SECTION 2. MEETINGS OF MEMBERS*

All meetings of members shall be held in the County of Delaware, State of New York, at such place as may be fixed from time to time by the Board of Directors, or at such other place within the State of New York as shall be

designated from time to time by the Board of Directors and stated in the notice of the meeting; provided, however, that the first annual meeting for the election of directors by members shall be held no later than ninety (90) days following the effective date of the Memorandum of Agreement. Meetings of members for any other purpose may be held at such time and place within the State of New York as shall be stated in the notice of the meeting or any duly executed waiver of notice thereof.

### *SECTION 3. ANNUAL MEETINGS*

Annual meetings of members shall be held on such date and at such time as shall be designated from time to time by the Board of Directors and stated in the notice of the meeting, at which they shall elect a board of directors in the manner set forth in Article VII of these By-laws, and transact such other business as the Board of Directors determines may properly be brought before the meeting.

### *SECTION 4. SPECIAL MEETINGS*

Special meetings of the members may be called by the board of directors or by the president or secretary. Business transacted at a special meeting of the members shall be confined to the purpose or purposes set forth in the notice of such meeting.

### *SECTION 5. NOTICE OF MEMBERS' MEETINGS*

Written notice, stating the place, date and hour of the meeting, and the purpose or purposes for which the meeting is called, shall be given either personally or by mail, or (if an e-mail address or telephone facsimile number is provided to the Corporation by the member in writing expressly authoring notice by such means, and such authorization has not been revoked by written notice mailed to the Corporation at least ten (10) working days prior to the effective date of any notice given by such means), by e-mail or telephone facsimile to each member entitled to vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of the meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the member at its address as it appears on the records of the Corporation. Written notice shall also be published in a manner consistent with the New York State Open Meetings Law. No action may be taken on any matter that was not set forth in the Notice of Meeting.

### *SECTION 6. QUORUM OF MEMBERS*

Unless the Certificate of Incorporation provides otherwise, and except as provided in Article VII, two-thirds (2/3) of the members entitled to vote thereat, present in person or represented by proxy, shall constitute a quorum at a meeting of members for the transaction of any business.

### *SECTION 7. ADJOURNED MEETINGS*

The members at a meeting may adjourn the meeting despite the absence of a quorum. When a determination of members of record entitled to notice of, or to vote at, any meeting of members has been made, such determination shall apply to any adjournment thereof, unless the Board of Directors fixes a new record date for the adjourned meeting. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting any business may be transacted that might have been transacted at the original meeting. If the adjournment is for more than thirty days, or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each member of record entitled to vote at the meeting.

### *SECTION 8. LIST OF MEMBERS*

The Secretary of the Corporation shall prepare and make, at least ten (10) days before every meeting of members, a complete list of the members entitled to vote at such meeting, arranged by county in alphabetical order showing the address of each member. Such list shall be open to the examination of any member, for any purpose germane to the meeting, during ordinary business hours, for a period of at least ten (10) days prior to the meeting, either at a place within the city where the meeting is to be held, which place shall be specified in the notice of the meeting, or, if not so

specified, at the place where the meeting is to be held. The list shall also be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any member who is present-

#### *SECTION 9. VOTING*

(a) Unless otherwise provided in the Certificate of Incorporation or the New York Not-For-Profit Corporation Law, the right of members to vote shall be limited as set forth herein.

(b) Unless otherwise provided in the Certificate of Incorporation, all elections of directors shall be by written ballot. Except as otherwise required by applicable law or as provided in the Certificate of Incorporation, at each and every meeting of the members, every member shall be entitled to vote in person represented by the Town Supervisor or by proxy appointed by an instrument in writing. Each member town shall be entitled to one vote. Directors shall be elected in the manner prescribed at Article VII of these By-laws by a plurality of votes cast at a meeting of the members entitled to vote in the election, and any other corporate action to be taken by vote of the members shall be authorized by a majority of the votes cast at a meeting of members by the members entitled to vote thereon.

#### *SECTION 10. PROXIES*

Each member entitled to vote at a meeting of members or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for him/her by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

#### *SECTION 11 MEMBERSHIP YEAR*

The membership year shall coincide with the calendar year for all classes of members.

#### *SECTION 12. AMENDMENTS*

(a) Amendments of the Articles of Incorporation and the By-Laws require the affirmative vote of two-thirds (2/3) of the members entitled to vote and must be considered and approved at two (2) consecutive meetings of the members. Any proposed amendment must be included in the notice of the meeting before it can be voted upon.

(b) Anything in sub-section (a) above to the contrary notwithstanding,

(i) any proposed amendment to these By-Laws which would

(I) increase the number of directors; or

(II) reduce the number of directors required for a quorum for the transaction of business by the directors; or

(III) reduce the number of votes needed to approve any corporate action at a meeting of the Board of Directors;

shall not take effect without the prior written approval of the Governor of the State of New York and Mayor of the City of New York; and

(ii) any proposed amendment to these By-Laws which would be inconsistent with the terms of the Memorandum of Agreement shall not take effect without the prior written approval of all parties to the Memorandum of Agreement.

The provisions of this sub-section (b), including this sentence, may not be amended without the prior written approval of all parties to the Memorandum of Agreement.

## ARTICLE III

### DIRECTORS

#### *SECTION 1. POWERS*

Subject to the provisions of the New York Not-For-Profit Corporation Law and any limitations in the Certificate of Incorporation and these By-laws, the activities and affairs of this Corporation shall be conducted and all corporate powers shall be exercised by, or under the direction of, the Board of Directors.

#### *SECTION 2. COMPOSITION OF THE BOARD*

(a) Subject to the Certificate of Incorporation, the Board of Directors shall be appointed or elected as provided in Article VII of these By-laws.

(b) The Board of Directors shall be composed of the following members: three (3) appointed directors ("Appointed Directors"), two (2) of whom shall be appointed by the Governor of the State of New York and one (1) who shall be appointed by the Mayor of the City of New York, and twelve (12) Regional Directors elected by the town supervisors from each of the regions specified below.

(c) The regions to be represented and the number of directors to be elected from that region ("Regional Directors") are as follows: six (6) directors from Region A/Delaware County; two (2) directors from Region B/Greene County; one (1) director from Region C/Schoharie County; one (1) director from Region D/Sullivan County; and two (2) directors from Region E/Ulster County.

(d) Collectively, the Appointed Directors and the Regional Directors shall be known as the Board of Directors. As used in these By-laws, the term "entire Board" means the total number of Directors entitled to vote that the Corporation would have if there were no vacancies.

#### *SECTION 3. DUTIES*

It shall be the duty of the Directors to:

- (a) Perform any and all duties imposed on them collectively or individually by law, by the Certificate of Incorporation or by these By-laws, including, if appropriate, amendments of these By-laws.
- (b) Appoint and remove, employ and discharge, and, except as otherwise provided in these By-laws, prescribe the duties and fix the compensation, if any, of all officers, agents and employees of the Corporation.
- (c) Supervise all officers, agents and employees of the Corporation to assure that their duties are performed properly.
- (d) Meet at such times and places as required by these By-laws.
- (e) Register their addresses with the Secretary of the Corporation. Notices of meetings mailed or delivered by facsimile to the Directors at such addresses shall be valid notice thereof.

#### *SECTION 4. COMPENSATION*

The Board of Directors shall establish the compensation, if any, that shall be paid to the Directors. Directors shall be allowed and paid their actual and necessary expenses incurred in attending meetings of the Board of Directors. In addition, they shall be allowed reasonable advancement or reimbursement for expenses incurred in the performance of their regular duties as specified in Section 3 of this Article. Directors may not be compensated for rendering services to the Corporation in any capacity other than Director unless such other compensation is reasonable and is allowable under the Certificate of Incorporation and By-Laws

provisions of Section 5 of this Article Directors who are also employees of the federal government, State or City of New York shall not be compensated under the provisions of this Section.

#### *SECTION 5. RESTRICTION REGARDING INTERESTED DIRECTORS*

(a) Neither the Corporation nor any of its directors, officers, members, partners or employees shall have any private interest nor shall they acquire any private interest, directly or indirectly, in any contracts or subcontracts that would or may conflict in any manner or degree with the performance of their duties to the Corporation as provided herein or as otherwise provided by law.

(b) An employee, officer or director of the Corporation, upon learning that any project proposed for funding from the Catskill Fund for the Future, as defined in Article IX, will directly benefit himself/herself or a member of his/her family, or will directly benefit any firm in which he/she or any of the foregoing persons holds a financial interest, shall disclose his/her association to the Board of Directors of the Corporation and refrain from participating in any consideration, review or approval of the project at issue. As used in this Section 5, the term "family" shall refer to an individual's parents, grandparents, siblings, spouse, children or grandchildren, or the spouse of any of the foregoing.

#### *SECTION 6. PLACE OF MEETINGS*

Annual, regular or special meetings of the Board may be held at any place within the State of New York.

#### *SECTION 7. REGULAR, SPECIAL AND ANNUAL MEETINGS*

A meeting of the Board of Directors shall be held at least once a year immediately following the annual meeting of members, for the election of officers and for the transaction of such other business as may properly come before the meeting. Such annual meetings shall be noticed in the same manner as special meetings. Special meetings of the Board may be called by any two Directors and may be held at any place within the State of New York that has been designated in the notice of the meeting. Notice of a special meeting shall specify the purpose of such meeting. If not specified in the notice of the meeting all meetings shall be held at the principal office of the Corporation. All meetings of the Board of Directors shall be conducted in accordance with the New York State Open Meetings Law (Public Officers Law, Article 7).

#### *SECTION 8. NOTICE OF MEETINGS*

Regular meetings of the Board shall be held upon one week's notice by first class mail and notice to the news media. Such notice shall also be posted at least seventy-two (72) hours prior to said meeting at the office of the corporation. Special meetings of the Board shall be held upon four (4) days notice by first-class mail or forty-eight (48) hours notice delivered personally or by telecopy. If sent by mail or telecopy, the notice shall be deemed to be delivered upon its deposit in the mails or upon confirmation that the telecopy has been completed. Such notices shall be addressed to each Director at his or her address as shown on the books of the Corporation. Notice of the time and place of holding an adjourned meeting need not be given to absent Directors if the time and place of the adjourned meeting are fixed at the meeting adjourned and if such adjourned meeting is held no more than twenty-four (24) hours from the time of the original meeting. Notice shall be given of any adjourned regular or special meeting to Directors absent from the original meeting if the adjourned meeting is held more than twenty-four (24) hours from the time of the original meeting.

#### *SECTION 9. CONTENTS OF NOTICE*

Notice of meetings not herein dispensed with shall specify the place, day and hour of the meeting. The purpose of a Board meeting, other than a special meeting, need not be specified in the notice.

#### *SECTION 10. QUORUM FOR MEETINGS*

A quorum shall consist of two-thirds of the Board of Directors. Except as otherwise provided in these By-laws, in the Certificate of Incorporation of this Corporation, or by law, no business shall be considered by the Board at any meeting at which a quorum is not present. The only motion the President shall entertain at such meeting is a motion to adjourn. A majority of the Directors present at such meeting may adjourn the meeting from time to time until the time Certificate of Incorporation and By-Laws

fixed for the next regular meeting of the Board. At the adjourned meeting, any business may be transacted that might have been transacted at the original meeting. When a meeting is adjourned for lack of quorum, it shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted at such a meeting, other than by announcement of the meeting at which the adjournment is taken, except as provided in Section 8 of this Article. The Directors present at a duly called and held meeting at which a quorum is initially present may continue to do business notwithstanding the loss of a quorum at the meeting due to a withdrawal of Directors from the meeting, provided that any action thereafter taken must be approved by at least a majority of the required quorum for such meeting or such greater percentage as may be required by law, the Certificate of Incorporation or these By-laws.

#### *SECTION 11. BOARD ACTION*

Every act or decision done or made by at least ten (10) Directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, unless the Certificate of Incorporation, these By-laws or provisions of the New York Not-For-Profit Corporation Law require a greater percentage of votes for approval of a matter by the Board.

#### *SECTION 12. LIMITATION ON THE PARTICIPATION OF CERTAIN MEMBERS*

The three (3) Directors appointed by the Governor and the Mayor shall not participate in any discussion or vote on any issue regarding litigation involving the City or the State. The Director appointed by the Mayor shall not participate in any discussion or decision regarding use or allocation of the Tax Consulting Fund (as defined in the Memorandum of Agreement).

#### *SECTION 13. CONDUCT OF MEETINGS*

Meetings of the Board of Directors shall be presided over by the President of the Corporation or, in his or her absence, by the vice President of the Corporation, or in the absence of each of these persons, by a Chair chosen by a majority of the Directors present at the meeting. The Secretary of the Corporation shall act as secretary of all meetings of the Board, provided that in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting.

#### *SECTION 14. VACANCIES*

Vacancies on the Board of Directors shall exist (1) on the death, resignation or removal of any Director, and (2) whenever the number of authorized Directors is increased. The Board of Directors may declare vacant the office of a Director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Section 717 of the New York Not-For-Profit Corporation Law.

Any Director may resign effective upon giving written notice to the President or the Secretary of the Corporation, unless the notice specifies a later time for the effectiveness of such resignation. No Director may resign if the Corporation would then be left without a duly elected Director or Directors in charge of its affairs, except upon notice to the Attorney General of the State of New York.

Vacancies on the Board shall be filled in accordance with the nomination and election process set forth Article VII of these By-laws.

A Director elected or appointed to fill a vacancy shall hold office until the next annual meeting at which the election of Directors is in the regular order of business, and until his successor is elected or appointed and qualified. The foregoing shall not apply to a vacancy in a director seat chosen by the Governor of the State of New York or the Mayor of the City of New York. Such vacancies shall be filled at the discretion of the Governor and Mayor.

#### *SECTION 15. ALTERNATES*

Any Appointed Director, other than the Appointed Director described at Section 1 (b) of Article VII of these By-laws, may, Certificate of Incorporation and By-Laws

to the extent permitted by law, appoint one or more alternate directors to act in his/her place by filing a written instrument of appointment with the Secretary of the Corporation. In the absence of any Appointed Director from a meeting of the Board of Directors, his/her alternate may upon written notice to the Secretary of the Corporation, attend such meeting and exercise the same rights, powers and privileges as such Appointed Director. Any such written instrument of appointment shall remain in effect until the earlier of (i) the date such instrument is revoked in writing by the Appointed Director who executed such instrument, or (ii) the date such Appointed Director ceases to be a director of the Corporation.

## ARTICLE IV

### OFFICERS

#### *SECTION 1. NUMBER OF OFFICERS*

The officers of this Corporation shall be a President, a Vice President, a Secretary, and a Treasurer. The Corporation may also have, as determined by the Board of Directors, one or more Vice Presidents, and one or more Assistant Secretaries, Assistant Treasurers or other officers. Any number of offices may be held by the same person except that the Secretary may not serve concurrently as the President

#### *SECTION 2. QUALIFICATION, ELECTION, AND TERM OF OFFICE*

A member of the Board of Directors only may serve as an officer of this Corporation. Officers shall be elected by the Board of Directors, at the annual meeting of Directors, and shall hold office for one year and until their respective successors shall be elected and qualified.

#### *SECTION 3. SUBORDINATE OFFICERS*

The Board of Directors may appoint such other officers or agents as it may deem desirable, and such officers shall serve such terms, have such authority and perform such duties as may be prescribed by the Board of Directors.

#### *SECTION 4. REMOVAL AND RESIGNATION*

Any officer may be removed, either with or without cause, by the Board of Directors, at any time. Any officer may resign at any time by giving written notice to the Board of Directors or to the President or Secretary of the Corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later date specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. The provisions of this Section shall be superseded by any conflicting terms of a contract between the Corporation and an officer of the Corporation that has been approved or ratified by the Board of Directors and that relates to the employment of such officer.

#### *SECTION 5. VACANCIES*

Any vacancy caused by the death, resignation, removal, disqualification, or otherwise, of any officer shall be filled by vote of the Board of Directors as provided in Section 11 of Article III. In the event of a vacancy in any office other than that of President, such vacancy may be filled temporarily by appointment by the President until such time as the Board shall fill the vacancy. Vacancies occurring in offices of officers appointed at the discretion of the Board may or may not be filled, as the Board shall determine.

#### *SECTION 6. DUTIES OF PRESIDENT*

The President shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, supervise and control the affairs of the Corporation and the activities of the officers. He or she shall perform all duties incident to his or her office and such other duties as may be required by law, by the Certificate of Incorporation, or by these By-laws, or that may be prescribed by the Board of Directors. Unless another person is specifically appointed as Chair of the Board of Directors, the President shall preside at all meetings of the Board of Certificate of Incorporation and By-Laws



Directors. Except as otherwise expressly provided by law, by the Certificate of Incorporation or by these By-laws, the President shall, in the name of the Corporation, execute such deeds, mortgages, bonds, contracts, checks or other instruments that may be authorized by the Board of Directors.

#### *SECTION 7. DUTIES OF VICE PRESIDENT*

In the absence or disability of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions on, the President. The Vice President shall have other powers and perform such other duties as may be prescribed by law, by the Certificate of Incorporation, or by these By-laws, or as may be prescribed by the Board of Directors.

#### *SECTION 8. DUTIES OF SECRETARY*

The Secretary shall:

- (a) certify and keep at the principal office of the Corporation the original or a copy of these By-laws, as amended to date;
- (b) keep at the principal office of the Corporation or at such other place as the Board may determine, a book of minutes of all meetings of the members, all meetings of the Directors, and, if applicable, meetings of committees of Directors, recording therein the time and place of holding, whether regular or special, how called, how notice thereof was given, the names of those present at the meeting, and the proceedings thereof;
- (c) ensure that all notices are duly given in accordance with the provisions of these By-laws or as required by law;
- (d) be custodian of the membership ledger of the Corporation, the corporate records of the Corporation and of the corporate seal of the Corporation, if one is designated by the Board of Directors, and ensure that the seal is affixed to all duly executed documents, the execution of which on behalf of the Corporation under its seal is authorized or required by law, these By-laws or by the Board of Directors;
- (e) exhibit at all reasonable times to any Director of the Corporation, or to his or her agent or attorney, on request therefor, the By-laws and the minutes of the proceedings of the members or of the Directors of the Corporation; and
- (f) in general, perform all duties incident to the office of the Secretary and such other duties as may be required by law, by the Certificate of Incorporation, or by these By-laws, or that may be assigned to him or her from time to time by the Board of Directors.

#### *SECTION 9. DUTIES OF TREASURER*

The Treasurer shall:

- (a) supervise the charge and custody of all funds and securities of the corporation, and the deposit of all such funds in the name of the Corporation in such banks, trust companies, or other depositories as shall be selected by the Board of Directors;
- (b) keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements. The books of account shall be open to inspection by any Director at all reasonable times;

- (c) deposit or cause to be deposited all money and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board of Directors;
- (d) disburse or cause to be disbursed the funds of the Corporation as may be ordered by the Board of Directors;
- (e) render to the President and Directors, whenever they request it, an account of all transactions of the Corporation; and
- (f) have other powers and perform such other duties as may be prescribed by the Board.

#### *SECTION 10. COMPENSATION*

The salaries of the officers, if any, shall be fixed from time to time by resolution adopted by Directors as provided in Article III, Section 11, and no officer shall be prevented from receiving such salary by reason of the fact that he or she is also a Director of the Corporation; provided, however, that such compensation paid a Director for serving as an officer of this Corporation shall only be allowed if permitted under the provisions of Article III, Section 4 of these By-laws. In all cases, any salaries received by officers of this Corporation shall be reasonable and given in return for services actually rendered the Corporation that relate to the performance of the charitable or public purposes of this Corporation.

### ARTICLE V

#### LIABILITY

#### *SECTION 1. STANDARD OF CARE*

Each director and officer shall perform his or her respective duties as a member of the Board and/or as an officer in good faith, and with that degree of diligence, care and skill, including reasonable inquiry, as an ordinarily prudent person would exercise under similar circumstances in like positions.

In performing the duties of a Director, a Director shall be entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

- (a) one or more officers or employees of the Corporation whom the Director believes to be reliable and competent in the matters presented;
- (b) counsel, public accountants or other persons as to matters that the Director reasonably believes to be within such person's professional or expert competence; or
- (c) a committee of the Board upon which the Director does not serve, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence,

so long as in any such case, the Director acts in good faith with the degree of care specified in the first paragraph of this Section, and without knowledge that would cause such reliance to be unwarranted.

Except with respect to assets held by the Corporation for use or used directly in carrying out the Corporation's purposes, in investing, reinvesting, purchasing, acquiring, exchanging, selling and managing the Corporation's investments, the Board shall avoid speculation, looking instead to the permanent disposition of the funds, considering the probable income, as well as the probable safety of the Corporation's capital. No investment violates this section if it conforms to provisions authorizing such investment contained in an instrument or agreement pursuant to which the assets were contributed to the Corporation.

## *SECTION 2. PROHIBITED TRANSACTIONS*

### (a) Loans

Except as provided herein, this Corporation shall not make any loan of money or property to a Director or Officer, or to an employer of a Director or Officer, or guarantee the obligation of, any Director or Officer or family member of any Director or Officer, provided, however, that the Corporation may advance money to a Director or Officer of this Corporation for expenses reasonably anticipated to be incurred in performance of the duties of such Officer or Director so long as such individual would be entitled to be reimbursed for such expenses absent that advance. This provision shall not prohibit such a loan or guarantee if approved by the Board of Directors in accordance with Section 715 of the New York Not-for-Profit Corporation Law. As used herein, the term "family" shall have the meaning ascribed in Article III, Section 5 of these By-laws.

### (b) Self-Dealing.

Except as provided below, the Board shall not approve a "self-dealing transaction." A "self-dealing transaction" is a contract or transaction to which the Corporation is a party and (i) in which one or more of the Directors or Officers has a substantial financial interest, (ii) to which one or more of the Directors or Officers is a party, or (iii) to which any other corporation, firm, association or other entity in which one or more of the Directors or Officers are directors or officers or have a substantial financial interest, is a party. A contract or transaction between the Corporation and a member municipality shall not be considered a "self-dealing" transaction. This provision shall not prohibit such a transaction if approved by the Board of Directors in accordance with Section 715 of the New York Not-for-Profit Corporation Law.

## *SECTION 3. NON-LIABILITY OF DIRECTORS AND OFFICERS*

No Director or Officer shall be personally liable to the Corporation in the Corporation's own behalf or for the benefit of the Corporation's creditors for damages for any breach of duty as a Director or Officer; provided, however, that the foregoing shall not eliminate or limit the liability of a Director or Officer if a judgment or other final adjudication adverse to such Director or Officer establishes that such Director's or Officer's acts were committed in bad faith or were the result of active and deliberate dishonesty and were material to the cause of action so adjudicated, or that such Director or Officer personally gained in fact a financial profit or other advantage to which he or she was not legally entitled, or that such Director's or Officer's acts violated Section 719 of the New York Not-For-Profit Corporation Law.

## *SECTION 4. INDEMNIFICATION BY CORPORATION OF DIRECTORS AND OFFICERS*

If a Director or Officer of the Corporation is made, or threatened to be made, a party to any civil or criminal action or proceeding (including without limitation, actions or proceedings of an administrative or investigative nature) in any matter arising from the performance by such Director or Officer of his or her duties for or on behalf of the Corporation, then, to the full extent permitted by law, the Corporation shall:

(a) Promptly upon written request to the Corporation by, or on behalf of, any Director or Officer therefor, undertake the defense of any such action or proceeding for the benefit of such Director or Officer, at the Corporation's expense, subject to the right granted to such Director or Officer hereby to select legal counsel of his or her reasonable choice and/or to participate in his or her own defense, and subject also to receipt of the undertaking specified by paragraph (c) of section 723 of the New York Not-For-Profit Corporation Law, to repay such amount as, and to the extent required by, paragraph (a) of section 725 of the New York Not-For-Profit Corporation Law, as such statutes may be amended; and

(b) Indemnify such Director or Officer for all sums paid by him or her in the way of judgments, fines, amounts paid in settlement, and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of such action or proceeding, or any appeal therein, subject to the proper application of credit for any sums advanced to the Director or Officer pursuant to clause (a) of this paragraph.

Such right of indemnification shall be a contract right that may be enforced in any manner desired by such Director or Officer. Such right of indemnification shall not be exclusive of any other right that such Director or Officer

may have or hereafter acquire. Without limiting the generality of the foregoing, such Director or Officer shall be entitled to his or her rights of indemnification under the Certificate of Incorporation, any agreement, resolution of members, resolution of Directors, provision of law or otherwise, as well as his or her rights under this bylaw.

#### *SECTION 5. INSURANCE FOR INDEMMFICATION OF DIRECTORS AND OFFICERS*

To the extent not prohibited by the New York Not-For-Profit Corporation Law, the Corporation may, by resolution, purchase and maintain insurance:

(a) To indemnify the Corporation for any liability that it may incur as a result of the indemnification of directors and officers; and

(b) To indemnify directors and officers against any liability, whether or not the Corporation would have the power to indemnify such Director or Officer against such liability under the provisions of Section 722 of the New York Not-For-Profit Corporation Law.

### ARTICLE VI

#### COMMITTEES

##### *SECTION 1. COMMITTEES*

The Corporation shall have committees as may from time to time be designated by resolution of the Board of Directors or as may be requested by the Executive Committee of the Watershed Protection and Partnership Council established pursuant to the Memorandum of Agreement. Such committees may consist of persons who are not also members of the Board. These committees shall act in an advisory capacity to the Board only, shall not vote in any Board action and shall be clearly titled as advisory committees.

### ARTICLE VII

#### APPOINTMENTS, ELECTIONS AND TERMS OF OFFICE

##### *SECTION 1. APPOINTED DIRECTORS*

Subject to the Certificate of Incorporation, three (3) directors shall be appointed in the following manner:

- (a) One (1) director, who shall be appointed by the Governor of the State of New York;
- (b) One (1) director appointed by the Governor of the State of New York, who shall be a full-time resident of a town partially or wholly located in the West of Hudson Watershed and shall be chosen by the Governor from a listing of three (3) nominees submitted to the Governor collectively by representatives of Riverkeeper, Inc., New York Public Interest Research Group, Catskill Center for Conservation and Development, Trust for Public Land, and Open Space Institute; and
- (c) One (1) director, who shall be an employee of the City of New York, appointed by the Mayor of the City of New York.

##### *SECTION 2. ELECTED DIRECTORS*

Subject to the Certificate of Incorporation, twelve (12) directors shall be nominated and elected in the following manner:

- (a) Only towns in the West of Hudson Watershed that have signed the Memorandum of Agreement may Certificate of Incorporation and By-Laws

vote for the Directors of the Corporation;

- (b) Each director must be a publicly elected official at the time of his or her election in, and must be a resident of, a town that is located partially or wholly in the West of Hudson Watershed and representing the West of Hudson Communities in the proportions set forth in Article III, Section 2 of these By-laws, and that has signed and continues to be a party to the Memorandum of Agreement. No town shall be the residence of more than one (1) director.
- (c) At least 60 days prior to the annual meeting, the town supervisors for the particular regions for which representation on the Board is due to become vacant by virtue of Section 3 of this Article VII, will present to the Board of Directors the names of qualified individuals who they recommend for election. Such town supervisors each shall nominate one person for each Board member position to be filled, with representation from the appropriate regions of the State listed in Article III, Section 2 of these By-laws, specifying with respect to each nominee in which of the four (4) classes of Directors described in Article III, Section 3 such nominee would serve if elected.
- (d) A slate of potential candidates shall be prepared at least 50 days prior to the Annual Meeting. The Secretary of the Corporation shall cause the proposed slate of Board members to be mailed to the appropriate town supervisors at least 50 days prior to the Annual Meeting.
- (e) The Secretary shall cause a ballot to be mailed to the town supervisors of towns that are members at least 45 days prior to the Annual Meeting. To be counted, completed ballots must be mailed to the principal office of the Corporation no later than 15 days prior to the Annual Meeting. For the purpose of this procedure, the date of the post office postmark on the envelope containing a nomination or ballot returned to the Corporation's principal office is deemed the date of mailing of the nomination or ballot, respectively.
- (f) Each town supervisor of a member town within a region eligible to vote in the election may cast one (1) vote in favor of a nominee of his/her choice for each vacant position representing his/her region intended to be filled at such annual meeting.
- (g) The Secretary shall cause the results of the election to be announced at the Annual Meeting.

### *SECTION 3. CLASSIFICATION OF DIRECTORS AND TERMS OF OFFICE*

- (a) Terms of office for the appointed directors are as follows: The Directors appointed by the Governor in accordance with Section 1 of this Article VII shall serve terms of four (4) years. The Director appointed by the Mayor in accordance with Section 1 of this Article VII shall serve a term of (2) years from the initial appointment, upon the expiration of which, the next Director appointed by the Mayor shall serve a term of (4) years. The Appointed Directors shall be appointed at the same time as the annual meeting. The first Director appointed by the Governor pursuant to Section 1 (b) of this Article VII may be appointed before the first annual meeting.
- (b) The twelve (12) Regional Directors shall be divided into four classes in respect of term of office, each class to contain the number of directors as set forth below. Of the first Board of Directors, the directors of the first class shall serve until the annual meeting of members held in the year following their election, the directors of the second class shall serve until the annual meeting of members held two years following their election, the directors of the third class shall serve until the annual meeting of members held three (3) years following their election, and the directors of the fourth class shall serve until the annual meeting of members held four (4) years following their election; provided, however, that in each case directors shall continue to serve until their successors shall be elected and shall qualify. At each annual meeting of members following election of the first Board of Directors, directors shall be elected to serve until the annual meeting held four (4) years next following and until their successors shall be elected and qualify.
  - (i) The first class of the elected Board of Directors shall consist of three (3) members from Region

A/Delaware County;

- (ii) The second class of the elected Board of Directors shall consist of one (1) member from Region B/Greene County; one (1) member from Region D/Sullivan County; and one (1) member from Region E/Ulster County;
- (iii) The third class of the elected Board of Directors shall consist of three (3) members from Region A/Delaware County and one (1) member from Region B/Greene County; and
- (iv) The fourth class of the elected Board of Directors shall consist of one (1) member from Region C/Schoharie County and one (1) member from Region E/Ulster County.

## ARTICLE VIII

### GRANTS ADMINISTRATION

#### *SECTION 1. PURPOSE OF GRANTS*

This Corporation shall have the power to make grants or loans and to render other financial assistance for the purposes expressed in the Certificate of Incorporation of this Corporation.

## ARTICLE IX

### CATSKILL FUND FOR THE FUTURE

#### *SECTION 1. ALLOCATION OF THE CATSKILL FUND FOR THE FUTURE*

(a) The Catskill Fund for the Future ("the Catskill Fund"), established pursuant to paragraph 135 of the Memorandum of Agreement, is intended to assist in the economic revitalization of the Catskill Watershed communities, in a manner consistent with the protection of water quality in the West of Hudson Watershed, through the funding of Qualified Economic Development Projects; as defined in the Memorandum of Agreement. The Board shall disburse the Catskill Fund to projects with a reasonable likelihood of success and in the case of monies disbursed in the form of a loan, a reasonable ability to repay the loans. The Board shall manage the Catskill Fund with the goal of maintaining it in perpetuity for the benefit of the Catskill Watershed communities. Subject to the terms of the Memorandum of Agreement, the Board shall establish the criteria and terms for loans and grants from the Catskill Fund.

(b) In addition to the foregoing, the Catskill Fund shall be allocated in a manner that recognizes the relative size of each county in the West of Hudson Watershed. Subject to subparagraph (d) of this Section 1, the Board shall make allocation decisions in a manner consistent with the following percentages:

Delaware	52.5%
Greene	19%
Schoharie	4.5%
Sullivan	5%
Ulster	21%

The foregoing percentages reflect the average of the percentage of land area and approximate population within the Watershed. Such population figures are based upon the 1990 Census Block Map. The Board shall adjust the allocation percentages within six (6) months of the publication of each decennial census by amendment of this By-law.

(c) The Board should attempt to meet the allocation percentages on an annualized basis. If in any given year there are insufficient Qualified Economic Development Projects to utilize a County's allocation percentage, the unutilized portion may be carried as a credit into future years.

(d) The Catskill Fund is intended to provide economic assistance to the West of Hudson Watershed as a region. The allocation percentages are intended as guidelines to assure that the funds are disbursed in an equitable manner throughout the counties that comprise the Watershed, assuming Qualified Economic Development Projects have been proposed. The allocation percentages do not and are not intended to provide a legal cause of action for any county, town or village to challenge a decision based on a claim that the allocation percentages were not followed.

(e) The Board may not allocate more than 20% of the available Fund in any given year to grants. Grant decisions shall be considered part of the overall allocation percentages. Grants may be given for any Qualified Economic Development Projects, including projects proposed by municipalities.

## ARTICIE X

### MISCELLANEOUS

#### *SECTION 1. INTERPRETATION*

To the extent that any provision of these By-laws may conflict with any provision of the Certificate of Incorporation, the Certificate of Incorporation shall govern.

#### *SECTION 2 CERTAIN LAWS MADE APPLICABLE*

The Corporation shall at all times be bound by, and subject to the following laws: (a) the New York State Open Meetings Law (Public Officers Law, Article 7), as amended to the same extent as a "public body" except to the public notice and enforcement requirements of sections 104 and 107 of the Public Officer's Law, respectively; (b) sections 64, 67, 69-a, 70, 73(5) and 76 of the New York State Ethics in Government Act (Public Officers Law, Article 4), and sections 87 and 89(3) of the New York State Freedom of Information Law (Public Officers Law, Article 6), as amended, to the same extent as an agency.

#### *SECTION 3. ASSUMPTION OF CERTAIN OBLIGATIONS*

Upon the assignment by the Coalition of Watershed Towns (as defined in the Memorandum of Agreement) to the Corporation of any of the obligations, commitments, rights or interests given to the Coalition of Watershed Towns in accordance with the Memorandum of Agreement, the Corporation shall adopt a resolution authorizing the Corporation to assume and diligently perform such obligations and commitments in accordance with the Memorandum of Agreement, the Certificate of Incorporation, these By-laws and applicable laws, rules and regulations. Notwithstanding any other legal or equitable rights or remedies the Corporation may have, the Corporation may defend and enforce its fights and interests assumed hereunder pursuant to Section 181(a), (b) and (c) of the Memorandum of Agreement, or by such other means allowed by law.