

BY-LAWS
Department of New York
Veterans of Foreign Wars of the United States

**As revised and adopted by the 91st Annual Department Convention at
Rochester, New York, June 24-27, 2010.**

ARTICLE 1

Name

Sec 1.00 By virtue of and in accordance with the Charter granted November 27, 1920, as last amended to 8/29/03 and effective 9/28/03 this organization shall be known as the Department of New York, Veterans of Foreign Wars of the United States.

ARTICLE II

Authority

Sec 1.00 The supreme power of this Department shall be vested in the National Convention of the Veterans of Foreign Wars of the United States and shall, at all times, be governed by the Congressional Charter and By-Laws adopted by said National Convention, mandates of the National Council of Administration, and lawful orders of the Commander-in-Chief.

Sec. 2.00 Subject to the provisions of the Congressional Charter and By-Laws, the government of the Department shall be vested in a Department Convention, Department Council of Administration, and lawful orders of the Department Commander.

ARTICLE III

Section Numbering

Sec. 1.00 The decimal system shall be followed in numbering all sections of these By-Laws.

ARTICLE IV

Convention Location

Sec. 1.00 The Department Convention shall convene each year no earlier than ninety (90) days prior to the Convention of the National Convention and shall conclude no later than thirty (30) days prior to the convening of the National Convention.

Sec. 2.00 (Selection of site) Commencing with the 1991 Department Convention, the site of the 1992 and subsequent Department Conventions and the dates therefore shall be determined by resolution duly adopted by the Department Convention. The Department Convention may award Department Conventions up to (2 years in advance of the next Department Convention). In awarding Department Conventions, the Department Convention shall consider only bids submitted to the State Adjutant and reviewed by the State Council of Administration as hereinafter stated.

Sec. 3.00 (Bids for Department Conventions) The State Council of Administration shall approve the application form to be made available by the State Adjutant to subordinate units of the Department interested in hosting a future Department Convention. All such bids shall be submitted to the State Adjutant at State Headquarters at least ten (10) days

prior to the convening of the Mid-Winter Conference of the State Council of Administration, who shall forward all bids to the Convention Director.

Sec. 4.00 (Recommendation to Department Convention) Commencing with the 1991 Spring Meeting of the State Council of Administration, all bids submitted for the 1992 and future Department Conventions shall be reviewed by the State Council of Administration. The Site Selection Committee shall select its choice which shall be submitted by the State Commander to the next Department Convention.

Sec. 401 (A) The Department of New York Veterans of Foreign Wars of the United States may in connection with the current year's State Convention, enter into an agreement with a qualified promoter of its choice for the solicitation of funds throughout the State of New York. From the net proceeds derived from such solicitation, the Department of New York shall allocate to the Convention Corporation hosting the current year's State Convention 60% of such net proceeds, however such net proceeds shall never exceed the sum of FIFTEEN THOUSAND (\$15,000.00) DOLLARS. These funds shall be distributed to the Convention Corporation when the applicable sections of Department By-Laws for Conventions have been fully complied with.

Sec. 4.01 (B) 40% of the net proceeds, as aforesaid the Department of New York shall expend no more than the sum of FIFTEEN HUNDRED (\$1,500) DOLLARS for dais guests' tickets at the Commander's and Auxiliary Presidents annual Dinner-Dance. Such tickets shall be allocated as follows: 28 Department guests; 12 Auxiliary guests; 10 guests of local Convention Corporation for a total of 50 guests. The cost of each ticket to the Department shall not exceed the sum of THIRTY (\$30) DOLLARS. In addition, the Department shall also expend no more than FIVE HUNDRED (\$500) DOLLARS to cover the costs for the Incorporation of the Convention Corporation, and no more than FIFTEEN HUNDRED (\$1,500) DOLLARS in connection with the expense of the reception for the incoming Commander and the incoming President of the Ladies Auxiliary, to be held following the Department Convention. In addition to the aforesaid, the Department of New York shall arrange and have issued through its existing liability insurance policy, so as to cover the Convention Corporation, and the Department of New York and all other units as may be affected, liability coverage for any personal injury claims that may ensue as a result of the Convention Corporation's activities in connection with the Convention and the Department of New York. The Department of New York shall pay full premium for the issuance of the said liability coverage rider.

Sec. 4.01 (C) Such part of the sum received by the Department as is unused in paragraph (B) shall be allocated by the Department to the Department Convention Committee to cover the expenses of the Director and the Committee in the performance of their duties, as it set forth in Article VIII Section 7:00 of these By-Laws.

Sec. 401 (D) In the event that the Department shall receive an annual sum of less than SIXTY FOUR HUNDRED (\$6,400) DOLLARS as its share of the proceeds from the aforesaid funds raised, the sums as set forth in subparagraph (B) herein-above set forth shall be reduced in proportion to the total amount received by the Department.

Sec. 401 E The Convention Corporation shall have the right to publish a journal with ads placed by a Post, County Council, District or Candidate, or any other subdivision of the

Veterans of Foreign Wars of the United States, including the Ladies Auxiliary to the Department of New York.

Sec. 5.00 (Default by Convention Corporation and /or City) In the event the Convention Corporation and /or Convention city cannot or will not fulfill its obligations to the Department of New York for the Department Convention, the Convention Site Committee is authorized and empowered to enter into agreements awarding said Convention to another location with the prior approval of the State Council of Administration.

Sec. 6.00 (Good Faith Deposit) The entity awarded a Department Convention, shall, at least one year prior to the opening date of the said Convention, deposit with the State Quartermaster the sum of no less than TWENTY FIVE HUNDRED (\$2500) DOLLARS, the exact amount to be set forth in the resolution awarding the convention and an indemnification and save harmless agreement holding the Department of New York, Veterans of Foreign Wars of the United States, Inc. harmless with respect to any and all actions, causes of action, suits, debts, dues, sums of money, accounts, damages, judgements, claims of any nature ensuing as the result of such Convention then pending, or for which any nature may be made at any future date.

Sec. 6.01 (File Statement) Within One Hundred and Twenty (120) days following the close of the Department Convention, the Department Convention Corporation shall file with the State Adjutant a detailed financial statement of receipts and disbursements.

Sec. 6.02 (Disposition of Deposit) Upon completion of the foregoing and the payment of all Convention Accounts, the Department of New York, Veterans of Foreign Wars of the United States, Inc. shall return to the entity making the aforesaid deposit the full amount thereof without interest.

Sec. 6.03 (Settlement of obligations) If for any reason the County Council, Chamber of Commerce, and/or Municipality does not reasonably fulfill all of the aforementioned obligations, said sum, or so much thereof as is required to pay in full or settle such obligations, shall be retained by the Department of New York, Veterans of Foreign Wars of the United States Inc.

Sec. 6.04 (Convention Parade) The Convention Corporation shall have the option of determining whether or not there will be a Convention Parade. In the event that the Convention Corporation elects not to have a parade, the Convention Corporation shall set aside a fund in the sum of not less than what would have been allocated for the cost of a parade. Such monies as are allocated shall be used exclusively as awards or prizes to Posts, County Councils, and Districts as shall partake in the opening ceremonies of the Convention and shall be in the nature of competition as among the Posts, County Councils and Districts who are involved in the opening ceremonies.

The nature of the competition shall be left to the discretion of the Convention Corporation, as well as the amount of such awards and/or prizes.

In the event that the Convention Corporation elects not to have a parade, it shall notify the State Commander and the State Adjutant of its decision at least one year prior to the annual Convention dates, so that notices of the same can be circulated among the Post, County Councils and Districts in the Department.

Sec. 6.05 The Department Convention Corporation is responsible for providing necessary accommodations to conduct meetings, dinners, etc and provide a suitable room to host a reception prior to the State Commander and State Auxiliary President's dinner.

ARTICLE V Convention Voting

Sec. 1.00 County Council Commanders shall cast the votes registered from their respective Counties Council, in order to expedite the voting on a roll call, but this shall not prohibit a post or delegate or alternate from having their votes cast for or against the pending matter.

ARTICLE VI Department Districts and County Councils

Sec. 1.00 The Districts of the Department shall be eight (8) in number and shall be defined by Counties, as follows:

District No. 1 – Kings, Queens, Nassau and Suffolk

District No. 2 – Dutchess, New York, Orange, Putnam, Richmond, Rockland, Sullivan, Ulster and Westchester.

District No. 3 – Albany, Columbia, Delaware, Fulton, Greene, Hamilton, Montgomery, Oswego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren and Washington.

District No. 4 – Clinton, Essex, Franklin, Herkimer, Jefferson, Lewis, Madison, Oneida and St. Lawrence.

District No. 5 – Broome, Cayuga, Chemung, Chenango, Cortland, Onondaga, Oswego, Schuyler, Steuben, Tioga and Tompkins.

District No. 6 – Alleghany, Cattaraugus, Chautauqua and Erie.

District No. 7 – Genesee, Livingston, Niagara, Orleans and Wyoming.

District No. 8 – Monroe, Ontario, Seneca, Wayne and Yates.

Sec. 2.00 County Councils - Formation, Chartering (was Article III Sec 3.01)

When five (5) or more Posts of the Veterans of Foreign Wars of the United States have been organized in a county, the Department Council of Administration may approve and supervise the organization of a County Council; provided, however, that two-thirds (2/3) of the Posts in the county affected shall have signified their intention, by resolution, to become members of such Council, and these Posts and other Posts who choose to belong shall compose and be the said County Council. Charters of County Councils shall be authorized and granted by the Department Commander, bear the date of approval and be signed by the Department Commander and Department Adjutant and shall be issued on forms furnished at an expense of twenty five dollars (\$25) to the County Council. No County Council shall be recognized or function as such unless acting under an unforfeited charter. The County Councils are authorized in the Department of New York.

Sec. 2.01--Composition of County Council. (was Article III Sec 3.02)

The County Council shall consist of:

1. Post Commanders of Posts in County Councils. In the absence of the Post Commander, the Post Senior Vice Commander, or, in his absence, the Post Junior Vice Commander may function as a member of the County Council.
2. Delegates shall be elected by the Posts.
3. The National Council Member, Past Commanders-in-Chief, Past Department Commanders, Past District Commanders, and Past County Council Commanders who are in good standing of a Post which is a member of the County Council.
4. The immediate Past Commander of each Post in the County Council. In the absence of the immediate Past Commander due to recall to military service, failure to remain a member in good standing of the Post, or death, the next immediate Past Commander shall be entitled to all the privileges and voting powers of such absentees.
5. The County Council Commander and all elective officers of the Council, and the County Council Adjutant.
6. All District Commanders throughout the County Council.

Sec. 2.02--Affiliation; Disaffiliation. (was Article III Sec 3.03)

Unless otherwise provided in Department By-Laws, Posts may vote not to affiliate with a County Council and may vote to disaffiliate from a County Council with which it is affiliated. Such vote may be conducted at a regular meeting only if notice of intent to do so has been given at a prior regular meeting, or at a special meeting called for that purpose. With respect to a vote to disaffiliate, reasonable notice of such proposed action must be given to the Department Commander and County Council Commander. A vote to affiliate requires a majority vote. A vote to disaffiliate requires a two-thirds (2/3) vote. A Post or Posts in a county where a Council cannot be organized may affiliate with the nearest Council by application to and acceptance in said Council, subject to the approval of the Department Council of Administration.

Sec. 2.03--County Council By-Laws. (was Article III Sec 3.04)

A County Council may fix By-Laws to govern the Council, provided such by-laws do not conflict with the Congressional Charter, By-Laws, Manual of Procedure, Ritual or laws and usages of the Veterans of Foreign Wars of the United States or by-laws of the Department of New York. By-Laws approved by a County Council shall be forwarded to the Department Adjutant for approval prior to becoming effective.

Sec. 2.04--Regular and Special Meetings; Quorum; Authorized Attendees. (was Article III Sec 3.05)

County Councils shall hold at least one (1) regular meeting each quarter. The County Council Commander shall call a special meeting upon the vote of a majority of the Council members present at a regular meeting. The County Council Commander may call a special meeting whenever, in his judgment, it shall appear to be for the best interests of the members within the jurisdiction of the Council. Special meetings will be called as follows: When a special meeting is called the County Council Adjutant shall give notice, in writing, to Post Commanders within the Council and Council officers of the time and place of any special meeting and of the business to be transacted, such notice to be delivered in a manner reasonably calculated to reach each Commander and officer at least

forty-eight (48) hours in advance of the time set for the meeting. No business shall be transacted at any special meeting except that business specified in the notice. County Council By-Laws shall specify the minimum number of delegates required to constitute a quorum at a regular or special meeting. In the event that a quorum is not specified in such By-Laws, the minimum number of delegates required to constitute a quorum for the transaction of business at a regular or special meeting shall not be less than one delegate each from one-fourth (1/4) of the Posts in the Council. For purposes of this section, a Post Commander shall be considered a delegate. Any member in good standing or one on official business may visit a County Council meeting, however, such visitor shall have no voice in business discussions unless requested by the Commander, and shall have no voting privileges. Those on official business shall be recognized by the Commander for the conduct of business.

Sec. 2.04--Change of Name. (was Article III Sec 3.08 - 306, 307 Vacant)

A County Council may change its name by a two-thirds vote of members present at a regular or special meeting called for such purpose, of which meeting and proposed action at least thirty days notice in writing has been given to all members, and provided that such change shall be approved by the Department Commander and the Department Council of Administration. Request for permission for change of name shall be submitted through the District and forwarded to the Department Adjutant. When permission for change of name has been granted by the Department Commander and Department Council of Administration, such County Council shall be issued a new charter at the expense of One Hundred (\$100) Dollars and the expense shall be paid by the County Council.

Sec. 2.05--Surrender or Forfeiture of Charter. (was Article III Sec 3.09)

Voluntary Surrender. A County Council may voluntarily surrender its charter only upon a vote at a regular or special meeting of the County Council conducted in accordance with the procedures herein set forth. A proposition to surrender the charter must be made at a stated or special meeting of the County Council at least four (4) weeks before the proposal is to be considered. Due notice of the proposition must be given in writing to every Post in the County Council, and to the District and Department Commanders. If a majority of the Posts vote to surrender the charter, the County Council Commander shall, within thirty (30) days, request that the Department Commander cancel the charter, unless during the thirty (30) day period the County Council Commander receives a demand in writing from two-thirds (2/3) of the Posts in the County Council to continue the County Council.

Disposition of Property. In the case of surrender or forfeiture of a charter, all of the property of the County Council, including real property, books of record and papers and money belonging to it, shall be immediately recovered by the Department Commander and shall be turned over to the Department Quartermaster in trust for disposition as directed by the Department Council of Administration for the purposes set forth in the Congressional Charter. In case of surrender or forfeiture of a charter, the Department Council of Administration in the case of trust funds or trust property, or both, shall carry out the intent and purpose of such trust to the extent of such funds or property, or both.

Sec. 2.06--Suspension and Revocation of Charter. (was Article III Sec 3.10)

(a) Actions by the Department Commander--Suspension. The Department Commander may, upon his own initiative or upon the recommendation of the District Commander, suspend the charter of a County Council for a period of up to sixty (60) days for violation of the Congressional Charter, By-Laws, Manual of Procedure, Ritual or laws and usages of the Veterans of Foreign Wars of the United States, for refusal to comply with the lawful orders of the Department Commander, State Convention, Department Council of Administration, or for such other conduct by the County Council, or its officers acting on behalf of the County Council, as the Department Commander, in his sole discretion, believes inimical to the best interest of the Veterans of Foreign Wars of the United States. While under suspension, no meeting shall be held in the name of the County Council except for the sole purpose of the discussion of the cause, effect or removal of the penalty. No funds of the County Council shall be expended nor any obligation incurred during and while the order of suspension is in force.

(b) **Actions by the Department Commander--Revocation.** The Department Commander may cancel or revoke the charter of a County Council for violation of the Congressional Charter, By-Laws, Manual of Procedure, Ritual or laws and usages of the Veterans of Foreign Wars of the United States or for refusal to comply with the lawful orders of the Department Commander, State Convention, or Department Council of Administration. Before the Department Commander may cancel or revoke the charter of a County Council, the County Council Commander shall be notified in writing of the proposed cancellation or revocation and of the grounds therefore. Said notice may be delivered personally by persons designated by the Department Adjutant or may be delivered by regular United States mail at the last known address of the Commander. Unless the County Council notifies the Department Commander in writing within fifteen (15) days of the personal delivery or mailing of the aforementioned notice from the Department Adjutant that the County Council desires a hearing, the cancellation or revocation of charter shall be effected. In the event that the County Council does request a hearing, said hearing shall be held within thirty (30) days of the receipt of the notice that the Council desires a hearing, at a time and place and in a manner designated by the Department Commander, and shall be before the Department Commander or his designated representative. Representatives of the County Council shall be permitted to present evidence in its behalf. The hearings shall be recorded and, in the event that the Department Commander is not present, made available to the Department Commander. The Department Commander shall thereafter, and within thirty (30) days, decide the matter. If the County Council is not already under a suspension at the time that the notice of proposed cancellation or revocation is given, the County Council shall thereafter be under suspension as provided above and the Department Commander shall establish a trusteeship.

(c) **Appeal to the Department Council of Administration.** In the event that the Department Commander should determine, after hearing, that the County Council charter should be canceled or revoked, the County Council may appeal said cancellation or revocation to the Department Council of Administration. Such an appeal shall be in the manner prescribed for an appeal to the Department Council of Administration under Section 109 of the National By-Laws and the Manual of Procedure.

(d) Actions by the Department Commander--Suspension. The Department Commander, with the consent of the Department Council of Administration, may suspend the Charter of the County Council for a period between Department Conventions for violation of the Congressional Charter, By-Laws, Manual of Procedure, Ritual or laws and usages of the Veterans of Foreign Wars of the United States, for refusal to comply with the lawful orders of Department Commander, Department Convention or Department Council of Administration, or for such other conduct by the County Council, or its officers acting on behalf of the County Council, as the Department Commander believes inimical to the best interest of the Veterans of Foreign Wars of the United States. While under suspension, no meetings shall be held in the name of the County Council, except for the sole purpose of the discussion of the cause, effect or removal of the penalty. No funds of the County Council shall be expended nor any obligation incurred during and while the order of suspension is in force and effect except as shall be expended or obligated by the trustees appointed as provided in subsection (g).

(e) Actions by the Department Convention--Revocation. The Department Convention may request the Department Commander to cancel or revoke the charter of a County Council for violation of the Congressional Charter, By-Laws, Manual of Procedure, Ritual or laws and usages of the Veterans of Foreign Wars of the United States or for refusal to comply with the lawful orders of the Department Commander, Department Convention or Department Council of Administration. Before the Department Convention may request the Department Commander to cancel or revoke the charter of a County Council, the County Council Commander shall be notified in writing of the proposed request for cancellation or revocation and of the grounds therefor. The notice may be delivered personally by persons designated by the Department Adjutant or may be delivered by regular United States mail at the last known address of the County Council Commander. Unless the County Council notifies the Department Commander in writing within fifteen (15) days of the personal delivery or mailing of the aforementioned notice that the County Council desires a hearing at the Department Convention, the request for cancellation or revocation of charter shall be effected. In the event that the County Council does request a hearing before the Department Convention, the County Council shall be permitted to present evidence in its behalf. After such hearing, the Department Convention shall vote, and if a majority of the votes favor cancellation or revocation of the charter, the Department Commander shall cancel or revoke said charter. If the County Council is not already under a suspension at the time the notice of proposed cancellation or revocation is given, the County Council shall thereafter be under suspension as provided above and the Department Commander shall establish a trusteeship.

(f) Appeal to the Department Commander. In the event that the Department Convention determines that the County Council charter should be canceled or revoked, the County Council may appeal the request for cancellation or revocation to the Department Commander. Such an appeal shall be in the manner prescribed for an appeal to the Department Commander in Section 109 of the National By-Laws and the Manual of Procedure.

(g) Establishment of Trusteeship. Upon the imposition of any suspension under this section, the Department Commander shall establish a trusteeship consisting of from three to fifteen trustees chosen by the Department Commander. Pursuant to a written grant of

powers and limitations, such trustees shall carry on the business and affairs of the County Council during the period of suspension. The business and affairs of the Council shall be limited to current veterans activities. The acts and actions of the trustees shall be subject to the approval or disapproval of the Department Commander. The trustees shall submit to the Department Commander a monthly written report of the situation in, and the activities of, the Council under suspension.

(h) The provisions of this Section shall not apply to cancellations or revocations resulting when the number of Posts in good standing in a County Council is less than three (3) in number.

(i) In the event of cancellation or revocation of a County Council charter, disposition of its property and trust funds shall be as provided for surrender or forfeiture of charter.

Sec. 207--Defunct County Councils. (was Article III Sec 3.11)

When the Posts in good standing in a County Council are less than three (3) in number, the Council's charter shall be canceled by the Department Commander. In the event of such a cancellation, disposition of the property and trust fund of the Council shall be in the manner prescribed in Section 309.

Sec. 208--Arrearages. (was Article III Sec 3.12)

The Commander of a County Council in arrears for poppy money, supply money or other financial obligations, or failing to have the office of Quartermaster bonded or failing to submit quarterly audits or County Council Election Report shall be deprived of all representation in District meetings and conventions and Department conventions. Such representation shall be restored promptly upon proper adjustment of deficiencies.

Sec. 209--County Council Dues. (was Article III Sec 3.13)

Each County Council may assess annual dues based upon the delegate representation to the Council to which the Post is entitled; providing, however, that in no instance shall said annual dues be in excess of the sum of \$3.50 per elective Council delegate.

Sec. 210--Solicitation of Funds. (was Article III Sec 3.14)

County Councils shall be permitted to solicit funds or donations using professional solicitors, as prescribed in the manual of procedure section 414 (Changing District to County Council).

Sec. 211--Eligibility to Office. (was Article III Sec 3.15)

Any member in good standing in a Post in the County Council shall be eligible to any office in the County Council; provided no member shall hold two elective County Council offices at the same time but may hold one elective and one or more appointive offices. County Council officers, elected or appointed, shall be eligible to hold office in a higher or lower body, and such offices may be held concurrently.

Sec. 212--Elected and Appointed Officers; Chairmen and Committees. (was Article III Sec 3.16)

The elected officers of a County Council shall be a County Council Commander, Senior Vice Commander, Junior Vice Commander, Quartermaster, Judge Advocate, Surgeon, Chaplain and three (3) Trustees. The Trustees shall be elected for terms of one (1), two

(2) and three (3) years, and thereafter one (1) Trustee shall be elected each year for a term of three (3) years. The County Council Commander shall appoint the Adjutant and other officers, committee chairmen and committees as may be required by Department, District and County Council By-Laws, and may appoint such other officers, committee chairmen and committees as he deems appropriate to properly conduct the business of the County Council. The County Council Commander retains authority to remove officers, committee chairmen and committees appointed by him at any time. County Council officers, elected and appointed, shall submit proof of eligibility to the County Council Adjutant. County Council officers shall not be installed or assume the duties of their office until proof of eligibility has been submitted and properly reviewed. Such proof of eligibility shall be open to and reviewed by the County Council Commander, Adjutant and Quartermaster prior to installation to office. In the event an elected or appointed officer fails to submit proof of eligibility within sixty (60) days of election or appointment, any right of the officer to hold the office shall be forfeited, the office declared vacant and the eligibility qualifications of such officer shall be questioned in accordance with the provisions of Section 108 of the National By-Laws.

Sec. 213--Nomination, Election, Installation and Term of Office. (was Article III Sec 3.17)

Elective County Council officers shall be nominated, elected and installed at the first meeting after April 30, in the manner prescribed in the Manual of Procedure. An officer elected and assuming the duties of his office shall continue to hold office for the period for which elected and until his successor assumes the duties of the office, unless the office is declared vacant under the provisions of Sections 316 or 320 of these By-Laws. Appointed officers and appointed committee members shall hold office during the pleasure of the appointing officer. An officer or committee member must remain in good standing in a Post in the County Council, otherwise he forfeits the office and the office shall be vacated.

Sec. 214--Officers and Chairmen, Duties and Obligations. (was Article III Sec 3.18)

County Council officers, elective and appointive, shall have such duties and obligations as prescribed in these By-Laws, the Ritual and Manual of Procedure.

Sec. 215 VACANT (was Article III Sec 3.19)

Sec. 216--Vacancies and Removal of Elective Officers. (was Article III Sec 3.20)

All vacancies in elective County Council offices shall be filled as prescribed in the Manual of Procedure. A County Council may, at a regular meeting, by two-thirds (2/3) vote of the delegates present, declare vacant the position of any elective officer who has absented himself from two (2) consecutive meetings or who has failed to fulfill the duties of his office as outlined in Section 318 of the By-Laws and Manual of Procedure. No County Council delegate may bring a motion before any County Council meeting to vacate any elective County Council office unless written notice of the proposed action has been given to the officer holding such office, the County Council Adjutant and the Department Commander at least seven (7) days prior to the meeting. The notice shall be mailed to such officer by certified or registered mail, addressed to such officer's last known address and shall clearly state the reasons for the proposed action. The County Council Adjutant shall give notice to the County Council delegates prior to the meeting that the matter of declaring the vacancy will be taken up. At the meeting the officer shall

be advised of the facts underlying the proposed action and afforded an opportunity to present evidence in his own behalf. The Department Commander may, with respect to any County Council in the Department, and with the concurrence of a majority vote of the Department Council of Administration, declare vacant the position of any elective County Council officer who fails to fulfill the duties of his office as required by Section. Any elective officer whose office is vacated under the provisions of this Section may appeal such decision under the provisions of Section 109 of the National By-Laws. Any elective County Council officer whose office is vacated under the provisions of this Section shall not be eligible to serve in any County Council office in the administrative year in which the office is vacated.

Sec. 217--Voting. (was Article III Sec 3.21)

Each member of a County Council as those persons are defined in Section 302, except delegates elected by Posts, present at a County Council meeting shall be entitled to one vote, and an individual possessing more than one qualification for membership in the County Council meeting shall have no more than one vote. The delegate or delegates of a Post present at a County Council meeting shall be entitled to vote the full delegate strength to which the Post is entitled. The delegate strength for a Post shall be two (2) delegates for the first fifty (50) members or fraction thereof and one (1) delegate for each additional fifty (50) members or fraction thereof in good standing based on the membership strength of the Post at the time of the County Council meeting. Should there be a division among the delegates representing a Post, each delegate present shall cast his pro rated share of the total voting strength of the Post. For the purpose of this section, a Post Commander shall be considered a delegate. A roll call vote may be required and entered upon the record at the call of any three officers or delegates representing three different Posts.

ARTICLE VII

Per Capita Tax

Sec. 1.00 The per capita tax (dues) of the Department shall be \$8.50 per annum by every member in good standing, except Life Members, which shall include a one year subscription to the New York State Overseas Veteran.

Sec. 2.00 The allocation of Department dues to the Building Fund and other Department funds shall be determined by the State Council of Administration as reflected in the annual Department Budget.

Sec. 3.00 The fiscal year of the Department shall begin July 1st, and end June 30th.

ARTICLE VIII

Committees: Appointments and Duties

Sec. 1.00 The standing committees of the Department shall be as follows: (A) Budget and Finance (B) Veterans Service (C) Legislation (D) Membership (E) Department Convention.

Sec. 2.00 The State Commander shall appoint all Standing Committees and may appoint such other committees as he may deem necessary to carry on and expedite the work of the Department, in addition to such committees as may be authorized by the Department Convention. Chairmen of all committees shall be appointed by the State Commander.

Sec. 3.00 (Budget and Finance Committee) The Budget and Finance Committee shall consist of the Sr. Vice Commander, Jr. Vice Commander, Adjutant, Quartermaster, Judge Advocate, Surgeon and the incoming Commander's Budget Chairman; together with such other members as may be appointed by the Commander. The Budget and Finance Committee shall meet at Department Headquarters no later May 30th, for the fiscal term beginning July 1st and ending June 30th to review and comment on the Department Quartermaster's tentative budget for the financial operations for the next ensuing year. Said budget should be in general conformance with forms provided by National Headquarters and shall set forth all estimated receipts and anticipated expenditures. The Budget shall be in balance. Restricted funds shall be budgeted separately in each instance.

Copies of the proposed budget shall be presented to the members of the incoming Council of Administration not less than 15 days prior to the convening of the Department Convention for the current term.

The tentative budget must be submitted to the Department Council of Administration for consideration and adoption at its first meeting following the Department Convention, or at such other time as may be specified in Department By-Laws.

In the event that the Council of Administration fails to adopt the budget at the aforesaid time and place, the State Commander shall call a special meeting of the Council of Administration, no later than six weeks following the adjournment of the Department Convention for the exclusive purpose of adopting the Department fiscal budget.

Sec. 3.01 (Quarterly audits) The State Council of Administration shall appoint a Certified Public Accountant to audit quarterly the accounts of the State Quartermaster. The report of such audit, together with any recommendations shall be made to National Headquarters, State Council of Administration, Budget and Finance Committee and all Past State Commanders.

Sec. 4.00 (Veterans Service Committee) The Veterans Service Committee shall consist of not less than seven (7) members, to be appointed by the State Commander.

Sec. 5.00 (Legislative) The Committee on Legislation shall consist of at least one member from each of the eight Districts, and shall include the State Judge Advocate, and such other members as the State Commander in his discretion may appoint. The committee shall perform such duties as may be assigned to it by the State Commander by or by Convention enactment. The Chairman shall be appointed by the State Commander.

Sec 6.00 (Membership Committee) (A) The Department Membership Committee shall be appointed by the Department Commander and shall consist of the Commander's designated Membership Team, Chief of Staff and the District Membership Chairmen of each Department District and such other members as shall be designated by the Department Commander. Each of the aforesaid members of the Membership Committee shall be directly responsible to the Department Commander for the membership in the Department.

Sec. 7.00 (Department Convention Committee) (A) The State Convention Committee shall consist of a Convention Director and Assistant Director and one member from each of the eight (8) Districts of the Department of New York all of whom shall be appointed by the State Commander and such additional members as in the discretion of the State Commander deems it advisable to appoint to the said Committee.

(B) It shall be the duty of the Convention Director and the members of the Committee to act as a liaison between the State Council of Administration, the State Commander and the local Convention Corporation and to insure that all the requirements of the Department for a successful Convention have been complied with.

(C) The Convention Director and the Committee shall meet at the Mid-Winter Legislative Conference Meeting to review bids from all subordinate units, for the 1992 State Convention and annually thereafter and to recommend to the State Council of Administration their first and second choices of where the annual Convention location shall be held. In connection with the making of such choices, the Convention Director and Committee shall consider each bid for the Convention place and meet with and interview all persons seeking to be heard with respect to such bid.

(D) The recommendations of the Department Convention Committee shall be implemented as set forth in Article III Section 4.00 of these By-Laws.

(E) In the event of a non-sponsored Convention, they shall, by direction of the State Commander and the Council of Administration, make all the necessary arrangements for the entertaining and holding of a Department Convention, and at their discretion, arrange for and appoint a local committee to assist.

(F) The State Adjutant shall compile and shall make available to all bidders for the Annual Convention requirements, in writing, for submitting a bid for awarding of the State Convention.

ARTICLE IX

Arrearages of Posts

Sec. 1.00 Any Posts in arrears for returns, reports, per capita tax payments, County Council dues, poppy money, or supplies or other financial obligations to the Department, District, and/or County Council, shall be deprived of all representation in the Department, District and County Council Conventions or meetings, until the same are paid.

Sec. 2.00 County Council and District Commanders shall furnish the State Commander, at least one month before the Department Convention, a list of all Posts under their jurisdiction which are in arrears for County Council or District dues, and the amount of the same so that representation will be denied such Posts until the same is paid.

ARTICLE X

Resolutions

Sec. 1.00 (A) All resolutions must be typewritten and submitted in triplicate, in order to receive consideration at the Department Convention. (B) Post under the jurisdiction of a County Council shall clear their resolution through their Council. (C) All resolutions to

be considered by a Department Convention shall be in the hands of the State Adjutant at least fifteen (15) days prior to the convening Convention date, except resolutions proposing amendments to the By-Laws of the Department shall be delivered to the State Adjutant not later than thirty (30) days before the opening date of the Convention, and the State Adjutant shall mail a copy of all proposed amendments, at least fifteen (15) days before the Convention to all State Officers, Past State Commanders, District Commanders, County Council Commanders and Post Commanders, and unless this section is complied with no resolutions shall be considered.

Sec. 2.00 All resolutions (other than emergency) forwarded to the Department for action, from any unit, shall contain a certification signed by the Adjutant, in the following form:

I hereby certify that the foregoing resolution was considered and.....*adopted at a meeting of...held on the...day of..., 20..., according to an entry in the minutes of said meeting.

Dated....., 20....

.....
Adjutant

(All other spaces should be filled. *Insert word "not" if required)

Sec. 3.00 All units shall forward to State Headquarters for consideration, all resolutions introduced at its meetings by a subordinate unit, if certifying whether it was or was not adopted by the major unit, if the resolution requires action on a Department or National basis.

Sec. 3.01 No resolution may be passed, approved, or adopted at any Convention of this Department, or any meeting of the Council of Administration of this Department, unless same is limited to one subject, and said subject must be expressed in the title.

Sec. 3.02 All resolutions submitted to any meeting of a Department Convention or meeting of the Council of Administration of this Department, shall receive a number immediately upon receipt, in numerical sequence, without the addition of any fractional number.

Sec. 4.00 The State Adjutant shall prepare and distribute to all attending a Convention a resume of all resolutions to be presented to the Delegates for action of consideration.

ARTICLE XI Officers' Report

Sec. 1.00 At each annual Convention, each State Officer, Activities Chairman and Standing Committee Chairman, shall submit a written report.

Sec. 2.00 All recommendations contained in State Officers' reports must be accompanied by proper and appropriate resolutions, in order to receive Convention consideration.

Sec. 3.00 The reports of the State Service Officers shall consist solely of statistical matter pertaining to the functions of their offices, and recommendations in such reports shall be submitted to the Convention in resolution form.

Sec. 4.00 The reports of all State Officers, with the exception of the State Commander, State Quartermaster, State Adjutant and the State Service Officers, shall be brief and shall cover only duties of each respective office.

ARTICLE XII

State Commander Automobile

Sec. 1.00 Automobile for State Commander. Subject to the provisions of this article, the State Commander shall be provided for his VFW use during his term one new General Motors vehicle with the Manufacturers sticker price less all incentive not to exceed \$30,000. In the event for any reason the finances of the Department do not, in the sole determination of the State Council of Administration, warrant the providing of such automobile, the State Council of Administration shall have the right to discontinue such provisions and/or change the make and/or whether the automobile is to be new or used. The Department shall be responsible for and shall pay the cost of the operation and maintenance of the automobile for VFW use as aforesaid.

Sec. 2.00 Purchase of Automobile. Subject to the approval of the State Council of Administration the State Adjutant shall negotiate the purchase and the purchase price of the automobile with a General Motors/distributor located in the Albany, New York area. Subject to the approval of the State Council of Administration, the State Adjutant shall also be solely responsible for the trade-in and purchase price of any such replacement automobile. The purchase price of the replacement automobile shall be reduced by the trade-in allowance of the existing automobile.

Sec. 3.00 Equipment. The automobile purchased as aforesaid shall be equipped with only the factory standard equipment and interior. The color shall be a standard factory color. The State Commander shall have the right to select the color provided there are no additional charges for same. The State Commander shall submit in writing to the State Adjutant his selections for the foregoing.

Sec. 4.00 Purchase of the used automobile by the outgoing State Commander. In the event the outgoing State Commander desires to purchase the State Commander vehicle at the close of his term, he shall negotiate directly with the dealer/distributor to whom the automobile is/has been traded. At no time will the Department of New York be involved in or be responsible for or a party to any such proceedings.

ARTICLE XIII

Miscellaneous

Sec. 1.00 A State Directory shall be printed as soon as possible after installation of Posts and County Councils, the expense of which is to be borne by the Department. Such directories shall be considered confidential publications, and the distribution of same shall be under the supervision of the State Commander.

Sec. 2.00 The State Commander shall, immediately after a comrade is installed as a Post Commander, issue a card certifying that such comrade has been duly installed; said cards shall be known as Commanders' Recognition Cards.

Sec.3.00 The State Commander, after entering upon the duties of his office, shall present the retiring State Commander, a fourteen karat gold badge, or other gift, the expense of which shall be borne by the Department.

Sec.4.00 All requests for checking service records of a comrade, who has already been obligated, shall be forwarded to the State Commander for his action.

Sec. 5.00 It shall be permissible for the Convention Corporation to charge a fee, in their discretion, not to exceed four dollars (\$4.00) for advance registration and five dollars (\$5.00) for registration at the Convention Site, for the Convention badge, Program and any other items that they may wish to include in the form of entertainment for the delegates and visitors.

Sec. 6.00 Units under the jurisdiction of the Department of New York, VFW, engaging in any sale of tickets, or solicitation of funds from the general public, shall not use the words "Department of New York" on any such letter heads, tickets, or literature in connection with any sale of tickets and or solicitation of funds. Post, County Councils and Districts shall conduct all functions and transactions in the name of sponsoring unit, and shall at no time, carry on any such activities in the name of the Veterans of Foreign Wars of the United States, without designating the name and location of the sponsoring unit.

Sec. 7.00 In hiring employees of the Department of New York, all applicants for any position shall be given preference in the following manner:

- a) Members of the Veterans of Foreign Wars
- b) Members of the Ladies Auxiliary of the Veterans of Foreign Wars
- c) All other veterans
- d) All other applicants

ARTICLE XIV

Sec. 1.00 The Department of New York shall publish at least four times during any fiscal year a Department Newspaper to be known as "THE NEW YORK STATE OVERSEAS VETERAN."

ARTICLE XV

Sec. 1.00 Two or more Posts in the Department of New York may consolidate as provided in Section 209 of the National By-Laws Manual of Procedure.

ARTICLE XVI

Sec. 1.00 The current By-Laws and/or Manual of Procedure, shall be the authority on any subject or question not covered by these Department By-Laws.

ARTICLE XVIII

Sec. 1.00 A Post in the Department may form a Men’s Auxiliary in accordance with Article XIII of the National By-Laws and Manual of Procedure.

Sec. 2.00 A Post may form a Men’s Auxiliary, to be constituted a subordinate unit, which subordinate unit shall be chartered by the Department. All such Men’s Auxiliary shall be subject to and regulated by the current By-Laws and Manual of Procedure of the Veterans of Foreign Wars of the United States entitled Article XIII – Men’s Auxiliary, and the By-Laws of the Department.

Sec. 3.00 A Men’s Auxiliary may be formed by not less than 25 persons eligible for membership. Such members qualify as eligible to belong to the Men’s Auxiliary, as meet the requirements as provided for in Article XIII Sec. 1302 of the National By-Laws of the Veterans of Foreign Wars.

Sec. 4.00 That there be a per capita tax (dues) of the Department for each member of the Men’s Auxiliary. This per capita tax (Dues) shall be \$2.00 per member, which will become effective on January 1 of the fiscal year 2007-2008.

ARTICLE XVII

Amendments

Sec.1.00 These By-Laws may be amended at any session of a Department Convention by a two-thirds vote of the delegate present and voting provided such amendment has been submitted in the form of a proper resolution conforming to the requirements of Article IX Section 1.00 subdivision © of these By-Laws. No amendment shall be effective until reviewed by the Commander-in-Chief.

Sec.2.00 Wherever these By-Laws or subsequent amendments may be found to be in conflict with the present or any future National By-Laws the latter shall prevail and be binding on this Department as though written herein.

APPROVED _____ **Reviewed for the**
Commander-in-Chief

Allen F. Kent
Adjutant General

FOR THE DEPARTMENT COMMANDER,
Department of New York
Veterans of Foreign Wars of the U.S.

Art Koch, PSC
State Adjutant

STANDING RULES

1:00 At least ten (10) days before the date set for our Department Convention to convene, the Adjutant, or Acting Adjutant, shall supply the Comrade who shall have been appointed Chairman of the Auditor's Report Committee, of full and complete copy of the Auditor's Report, and where money has been withdrawn from the Contingency Fund, a full and complete history of the proceedings by which the withdrawal was made. (General Resolution No. 8 – 41st Department Convention, approved and adopted).

2:00 The Adjutant, or Acting Adjutant, shall have available from the time of arrival at the Convention City, a sufficient number of full and complete condensed copies of the Auditor's Report, for distribution to anyone who being entitled to vote at the Convention, shall request the same. (General Resolution No. 8 – 41st Department Convention, approved and adopted.)

3:00 To protect the Department Contingency Fund from unauthorized borrowing during and between Convention periods, a full and complete record of the proceedings of each and every meeting of the Council of Administration will be mailed within thirty (30) days of said meetings, to all Department Officers, Past Department Commanders, County Council and Post Commanders. (General Resolution No. 9 – 41st Department Convention, approved and adopted.)

4:00 Resolved: That during any fiscal year, no existing item in the expense budget will be increased, nor will a new item be added to the expense budget, unless the motion for the increase or for the new item prescribes the ways and means of obtaining the additional funds required for the intended purpose. (Resolution No. 2-Auditor's Report Committee—approved and adopted by the 41st Department Convention).

July 16, 2010

Kevin Jones, Director, Administrative Operations
VFW National Headquarters
406 West 34th Street
Kansas City, MO 64111

Dear Kevin,

The enclosed revised Department By-Laws is submitted for review. Copies of the Resolution passed at our State Convention amending same are also included. This amendment has been incorporated in the body of the By-Laws.

Sincerely,

Art Koch III, PSC
State Adjutant

AEK/cac