

**CONSTITUTION AND BY-LAWS
OF
THE AMERICAN LEGION**



DEPARTMENT OF MONTANA

Revised June 27, 2018

CONSTITUTION AND BYLAWS
of
THE AMERICAN LEGION
Department of Montana
REVISED EDITION
AMENDED

(Revised June 2018, 100th Annual Convention, Great Falls, MT)

CONSTITUTION OF THE AMERICAN LEGION
DEPARTMENT OF MONTANA

PREAMBLE

For God and Country, we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the Great Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principals of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

ARTICLE I

NAME

Section 1. The name of this association or organization shall be: "The American Legion of Montana" when use of a corporate name is necessary by law.

Section 2. In all other cases, the name shall be The American Legion, Department of Montana, to conform to the charter issued by the National Organization, of which this Department is an integral part¹.

Section 3. The Department of Montana headquarters and principal place of business shall be Helena, Montana.

ARTICLE II NATURE

Section 1. The American Legion is a civilian organization; membership therein does not affect or increase liability for military or police service. Rank does not exist in the American Legion; no member shall be addressed by his or her military or naval title in any convention or meeting of the American Legion.

Section 2. The American Legion shall be absolutely non-political and shall not be used for the dissemination of partisan principles or for the promotion of the candidacy of any person seeking public office or preferment.

Section 3. The jurisdiction of this Department is within the State of Montana and one Post in Calgary, Alberta, Canada.

ARTICLE III ORGANIZATION

Section 1. The American Legion of Montana (American Legion Department of Montana, hereto referred to as “The Department), shall be organized in Posts whose membership shall consist of not less than ten (10) eligible persons; a minimum of ten (10)

¹ The American Legion, a Federal and National Corporation adopted conformably to the Act of Congress of the United States of America of date September 16, 1919. The American Legion of Montana, incorporated under the laws of the State of Montana July 28, 1919.

members shall be maintained each year thereafter, the only exception being the formation of a HEADQUARTERS POST, which shall not require any set number of members for formation or yearly maintenance.

Section 2. Said Posts shall be organized in Districts. The boundaries of said Districts shall be determined and fixed by the Department Executive Committee. Each District shall have District Officers and shall have advisory and supervisory powers over the Posts included within its District, subject to the National and Department Constitution and Bylaws and subject to review by the Department Judge Advocate, and final approval by the Department Convention and/or Department Executive Committee.

Section 3. Such Districts shall be grouped into Zones. Each Zone will consist of two or more Districts as delineated by the Department Executive Committee.

ARTICLE IV ELIGIBILITY

Section 1. Eligibility for membership in The American Legion is defined by the Congressional Charter and Article IV of the National Constitution of The American Legion.

Section 2. There shall be no form or class of membership except an active membership, and dues shall be paid annually or for life.

Section 3. No person may be a member at any one time of more than one Post.

Section 4. No person, who has been expelled by a Post, shall be admitted to membership in any other Post without the consent of the expelling Post, except that where such consent has been asked for and denied by such Post, he or she may then appeal to the Department Executive Committee for permission to apply for membership to another Post, and shall be ineligible for membership until such permission is granted.

Section 5. Each Post shall examine the qualifications of all those who seek membership, has the right to demand the production of applying member's discharge or duly authenticated copy thereof, and shall pay its dues to District and Department on the basis of its enrolled membership, and its voting rights shall be based upon said enrolled membership.

Section 6. Every Post shall have the power to suspend or expel any of its members for violation of its rules or conduct detrimental to The American Legion, upon fair and impartial trial, after due notice thereof has been given together with a copy of the charges made against him, and by whom preferred.

Section 7. No person who is a member of an organization, which has as its aim the overthrow of the United States government by force or violence or who subscribes to the principles of any group opposed to our government, shall be eligible to become or remain a member of The American Legion.

Section 8. Neither this Department of The American Legion, nor any Post chartered there under, shall become involved in any controversy, purported policies of The American Legion or other serious matters without approval of the Department Executive Committee.

ARTICLE V

DEPARTMENT CONVENTION

Section 1. The legislative power of the Department shall be the Department Convention. It will be held annually at a place to be determined by the preceding Department Convention.

Section 2. The annual Department Convention must be held at least thirty (30) days before the National Convention. If no time is determined at the preceding

Department Convention, or if the place selected for the convention is unable to handle the convention, then the Department Executive Committee shall have the power to determine the time or place or both.

Section 3. At all conventions, delegates from twenty-five percent (25%) of the Posts of the Department shall constitute a quorum.

Section 4. All Department officers elected as defined by Article VI, including the Immediate Past Department Commander but excepting the Department Commander, shall be entitled to one vote. In case of tie, the Department Commander may vote. All District Commanders who shall be in good standing with their respective Posts shall be seated as delegates to the Department Convention with one vote.

Section 5. Every Past Department Commander and every Past District Commander shall be entitled to attend all Department conventions and serve on any committee thereof and shall have all rights of a delegate, but may not vote unless he or she is a duly elected delegate from a Post.

Section 6. Voting.

(a) Each Post shall have at least two (2) votes.

(b) Each Post shall have one (1) additional vote for each one hundred (100) members or major portion thereof.

Section 7. The number of votes a Post may cast at the Department Convention must be based upon the paid-up membership for the year, thirty (30) days prior to the convention, as shown by the records of the Department Adjutant, which must be furnished to the Credentials Committee at the convention.

Section 8. Each delegate shall be entitled to one vote. The vote of any delegate absent and not represented by an alternate shall be cast by the majority of delegates

present from his or her Post. Alternates shall have all the privileges of delegates except that of voting.

Section 9. Notice of each regular annual Department Convention shall be given by the Adjutant by written notice in the Department publication (MONTANA LEGIONNARIE) or by mail to each Post at its correct address as shown by the Department records. Such notice shall be addressed in a sealed envelope, postage prepaid, at least thirty (30) days before such Convention. Such notice shall also be mailed at the same time and in the same form to all District Commanders, as shown by the Department records.

Section 10. Delegates to the annual National Convention shall be elected at each annual Department Convention, provided that any additional delegates to which the Department may be entitled at the time of the National Convention or any vacancies may be appointed and filled by the Department Commander.

Section 11. The first three (3) delegates to each annual National Convention shall be and consist of the Department Commander, the Department Adjutant, and the immediate Past Department Commander, and the immediate Past Department Commander shall be the Chair of the delegation.

Section 12. The Commander, Immediate Past Commander and Adjutant attending the National Convention shall receive as per diem for time necessarily traveled to, at and from the convention, such amount as the Department Finance Committee shall fix from time to time, using as its guide the actual or necessary cost of such travel or convention expense. Such actual transportation expense shall be based on the actual cost of such travel and shall be predicated on rates if offered by such carriers as shall be deemed the cheapest or most efficient mode of transportation by the Department Finance Committee. The Finance Committee may provide per diem and travel expenses for such officers or members of The American Legion, Department of Montana, as shall be designated by the Department Executive Committee.

Section 13. All Convention committees shall be appointed by the Department Executive Committee at its meeting held immediately preceding the annual convention. Said committees shall include a Credentials Committee, and a Rules Committee of such number as desired, a Constitution and Internal Affairs Committee and a Resolutions Assignment Committee. At the roll call of the delegation, the chair of any Post delegation may recommend a member or members of his Post delegation to serve on any convention committee, provided said Post does not then have a member on the committee. Prior to the meeting of the Department Executive Committee, at which meeting committees are appointed, each Post will have the right to recommend in writing the names of members for each committee to be appointed.

Section 14. Resolutions emanating from the Posts or Districts must be signed by the District or Post for consideration by Department Convention committees.

ARTICLE VI

DEPARTMENT OFFICERS

Section 1. Each Department Convention shall elect the following named Department Officers, who shall hold office until their successors have been elected and qualified.

- (a) Commander
- (b) Vice Commander
- (c) Four (4) Department Zone Commanders with terms of two (2) years each, staggered so that the terms of two (2) members shall expire each year. No more than one (1) department Zone Commander shall be elected from a designated Zone.
- (d) Historian

Section 2. National Executive Committeeman.

(a) At every Department Convention held in years ending in an odd number, the following Department Officers shall be elected for a term of two years, commencing at the date of their installation and who shall hold office until their successors have been

elected and qualified at the next Department Convention held in a year ending in an odd number: a National Executive Committeeman and an Alternate National Executive Committeeman.

(b) In the event of the death, resignation, or disability of a National Executive Committeeman, the Alternate National Executive Committeeman shall become the National Executive Committeeman for the balance of the term, and the Department Executive Committee shall then elect an Alternate National Executive Committeeman to serve for the balance of the term; provided, that if the vacancy occurs before the Department Convention held in the first year of the two year term, the election by the Department Executive Committee shall be for a term ending immediately upon adjournment of such Convention, and the said Convention shall elect an Alternate National Executive Committeeman to serve for the balance of the term.

Section 3. At a Department Convention prior to the year in which the Department is eligible to have a National Vice-Commander of The American Legion, a vote for such candidate shall be taken by said Department Convention.

ARTICLE VII

DEPARTMENT EXECUTIVE COMMITTEE

Section 1. Between Department Conventions, the administrative power shall be vested in the Department Executive Committee. The Department Executive Committee shall consist of the following *ex officio* members:

- (a) Department Commander
- (b) Immediate Past Department Commander
- (c) Vice-Commander
- (d) The four (4) Department Zone Commanders
- (e) National Executive Committeeman
- (f) Alternate National Executive Committeeman
- (g) Department Historian
- (h) Department Judge Advocate

- (i) Department Parliamentarian
- (j) Department Training Director
- (k) The eleven (11) District Commanders

All of the foregoing shall be voting members of the Department Executive Committee except the Department Judge Advocate, the Department Parliamentarian and the Department Training Director. In the event a District Commander is unable to attend a meeting of the Department Executive Committee, his or her duly elected, appointed and qualified District Vice-Commander may attend such meeting in his or her place.

Section 2. The term of office for all *ex officio* members of the Department Executive Committee shall be while they are serving in the office to which they are elected or appointed.

Section 3. The Department Adjutant shall attend all meetings of the Department Executive Committee and shall act as secretary thereof, without vote.

Section 4. The Department Executive Committee shall, between sessions of the Department Convention, possess all of the administrative duties and powers as may be granted to or enjoined upon it by this Constitution and Bylaws.

Section 5. The Department Executive Committee shall meet per Article I, Section 1 of the Department of Montana Bylaws.

ARTICLE VIII

DISTRICT ORGANIZATION

Section 1. Districts of the Department of Montana shall be composed of the Posts within their respective areas, and such other Posts as the Department Executive Committee may approve. Districts shall have a District Commander, a District Vice-

Commander, a District Adjutant and may have a District Chaplain and such other officers as the District shall determine.

Section 2. All District Officers shall be elected or appointed, as their District Constitution and Bylaws may provide, prior to the annual Department Convention, and shall take office at the same time other Department Officers take office just prior to adjournment of the annual Department Convention. In the event that any District or its elective officers shall fail to elect such District Officers prior to the Department Convention, the incoming Department Commander shall immediately and forthwith, upon his or her election, appoint officers to fill such vacancies as shall then exist, using the recommendation of the Department Zone Commander of the Zone in which the District may be as his or her guide in making such appointments.

Section 3. Each District Commander shall be required to submit a written report on his or her District at the Annual Department Convention and at the Department Fall Conference. An advance copy of this report shall be submitted timely enough to appear in the Department's Convention Reports booklet.

Section 4. All Districts shall be known as District No. (Number) of The American Legion, Department of Montana.

Section 5. All Districts shall hold at least two meetings each calendar year and the Department headquarters may and shall, with the concurrence of District officers, designate and fix the dates upon which such semi-annual District meetings shall be held, but nothing herein shall be construed to prohibit any of the Districts of this Department from holding other meetings at any other time or place fixed and appointed by the officers of such Districts.

ARTICLE IX

POST ORGANIZATION

Section 1. The local unit shall be termed the Post. Designation of a post will be in accordance with the National Constitution and Bylaws.

Section 2. A Post desiring membership must apply to The American Legion, Department of Montana for a charter, and submit with its application its proposed name. All applications must be approved by the Department Executive Committee before any charter shall be recommended for issuance by the National Executive Committee.

Section 3. Each Post shall have a Post Commander, Post Vice-Commander, Post Finance Officer, Post Adjutant and any other Post officers the Post deems necessary.

Section 4. The terms of all Post officers shall begin on or before July 1st.

Section 5. Elections of Post officers shall be held at such time as may be fixed by the Posts prior to the annual Department Convention but early enough so that the names of the Post Officers can be forwarded to the Department Adjutant no later than May 15th for inclusion in the Department roster for the upcoming year.

Section 6. No Post organized within the Department of Montana or any District thereof, which has not paid the legal dues prescribed by either or both, or which refused to obey the lawful mandate, constitution or bylaws of either or both, shall be entitled to official representation at any Department Convention until such delinquencies have been met by compliance therewith.

Section 7. All Posts shall be known as (Name) Post No. (Number) of The American Legion, Department of Montana.

Section 8. No Post shall be named after any living person.

Section 9. The Department Executive Committee shall approve all names and numbers of Posts.

ARTICLE X
FINANCE

Section 1. The Department Convention shall establish an annual per capita dues for the support of the Department of Montana. The amount thereof shall be established by Department Convention Resolution.

Section 2. Each Post of the Department shall annually assess each of its members as dues a sufficient amount to cover National per capita dues, Department per capita dues, District per capita dues, and such additional amount as shall be fixed by such Post for its local dues. Any increase in National per capita dues shall be passed on to the Post effective the same date.

Section 3. Each Post shall, upon collection of such amounts, remit to Department the National and Department per capita dues together with the names of the members from whom such funds have been collected. Remittance of such funds shall be made not less than monthly. The Department shall remit to National their share of the per capita dues so received.

Section 4. The fiscal year of the Department of Montana shall be from July 1st to June 30th of the following year.

Section 5. The Department may derive additional revenue from additional sources as shall be determined by the Department Convention or by the Department Executive Committee.

Section 6. The Finance Committee shall prepare and recommend a budget for the approval of the Department Executive Committee and shall pass upon all expenditures of Department funds, fix salaries of employees, and may provide for a retirement fund for employees of the Department, subject to final approval of the Department Executive Committee. No funds shall be paid out unless so appropriated by the Finance Committee.

ARTICLE XI DISCIPLINE

Section 1. The Department Executive Committee, after notice and hearing, may suspend the charter of any Post that willfully violates this Constitution and for any conduct tending to subvert the legitimate purpose of The American Legion or bring it or its members into disrepute. Such suspension may last until the following Department Convention, where such suspension must be addressed.

Section 2. No Post or District shall publish or distribute any resolution upon the general policies of The American Legion or upon matters concerning the interest of the Department without submitting a copy to the Department Executive Committee and securing approval thereof.

Section 3. All Posts must maintain their charter membership, hold annual election of officers, and carry out programs of The American Legion. (Failure to do so will constitute action to revoke charter). If charter is revoked, the records of the Post, funds on hand and all other assets will revert to and become the property of the Department.

Section 4. No charter may be revoked at a Department Convention unless two-thirds of the Posts present affirm such action.

Section 5. Notice shall be given to the Post in question if revocation is to be submitted at a Department Convention.

**ARTICLE XII
CHANGE OF RESIDENCE**

Any member in good standing in a Post, moving from the location of his or her Post, shall upon request be entitled to certification from the Post stating member's membership and duration thereof.

**ARTICLE XIII
AUXILIARIES**

Section 1. The American Legion recognizes an Auxiliary organization known as "The American Legion Auxiliary".

Section 2. Eligibility for membership in the American Legion Auxiliary shall be as defined by the Congressional Charter and Article XIII of the National Constitution of the American Legion.

Section 3. The Auxiliary shall be governed in the Department by such rules and regulations as may be prescribed by the National Executive Committee, and thereafter approved by the Department.

**ARTICLE XIV
RATIFICATION**

All acts performed and charters heretofore granted by and in the Department of Montana are hereby ratified and confirmed.

**ARTICLE XV
AMENDMENTS**

Section 1. This Constitution may be amended at the annual Department Convention by the following procedure:

(a) Any Delegate may submit a proposed amendment to the Constitution in writing. Such proposed amendment shall be referred to the Constitution and Internal Affairs Committee for presentation to the Convention in such form as that Committee shall deem advisable.

(b) The Constitution and Internal Affairs Committee can also propose amendments.

(c) The proposed amendment shall be submitted for final action and shall be effective upon approval of that Convention by two-thirds vote.

(d) An amendment to raise the Department per capita dues shall become effective the following membership year.

Section 2. A change to the Department of Montana Constitution will be appended to the Constitution as a sequentially numbered amendment.

**ARTICLE XVI
ELECTIONS**

Section 1. Elections shall be by secret ballot unless only one nomination is made and motion carried that a unanimous ballot of election be cast for the candidate.

Section 2. If, after a third ballot for a particular office, no candidate has received a majority of the votes, the candidate receiving the least number of votes will be eliminated from candidacy; that method continuing until one candidate receives a majority vote.

Section 3. When ballots are accepted for an election by a Post Delegate on behalf of that Post, at least one member of that delegation, who is eligible to vote, must remain present for the entirety of the balloting until final selection of the office holder. The same applies to other authorized voting entities.

Section 4. Voting upon the question of expulsion of a member of a Post or of a Post, shall be by secret ballot at the Department Convention.

Section 5. All other voting shall be by a voice vote. A roll call may be requested by any delegate at a Department Convention.

ARTICLE XVII LIABILITIES

Section 1. No Post in the Department shall be liable for more than its per capita dues.

Section 2. The Department shall not be liable for any debt or contract of Posts.

ARTICLE XVIII RULES

Section 1. The rules of parliamentary law and procedure at all Conventions and meetings shall be those set forth in Robert's Rules of Order Newly Revised.

Section 2. In interpreting the Constitution and Bylaws of the Department, a special provision shall overrule a general provision, where an ambiguity exists.

BYLAWS OF THE AMERICAN LEGION

DEPARTMENT OF MONTANA

ARTICLE I

DEPARTMENT COMMITTEES

Section 1. The Department Executive Committee shall meet immediately before and immediately after each Department Convention; any special meetings shall be called upon the written request of ten (10) or more voting members of the Department Executive Committee. Notice of all meetings shall be given by the Department Adjutant by mail to each member of the Committee at least ten (10) days before the meeting, addressed to the address of record of each member. Service of such notice shall be completed upon mailing; provided further that the Department Commander may, in lieu of the above notice to call a meeting, at his/her discretion, submit any matter properly to be passed upon, by mail or e-mail, to each member of the Committee and if the majority of the members of the Committee shall, by mail or e-mail, vote in favor of said proposal, it shall be considered as though adopted in regular meeting.

Section 2. The Standing Committees and Subcommittees of the Department Executive Committee shall be the Standing Committees and Subcommittees of the Department listed below: AMERICANISM, Baseball, Boy Scouts, Boys State, Oratorical; CHILDREN AND YOUTH, Junior Shooting Sports; CONSTITUTION & INTERNAL AFFAIRS; DEPARTMENT CONVENTION, Distinguished Guests; FINANCE; Insurance; Ways and Means; LEGISLATIVE; MEMBERSHIP AND POST ACTIVITIES; Education and Training; Sons of The American Legion; NATIONAL SECURITY, Foreign Affairs, Military Affairs; PAST DEPARTMENT COMMANDERS ADVISORY COMMITTEE; PUBLICATIONS and PUBLIC RELATIONS;

VETERANS AFFAIRS/REHABILITATION, Hospital/Nursing Care/Veterans Home, Veterans Economics.²

Section 3. The Commander may, upon his or her own motion or upon the recommendation of the Department Executive Committee, appoint *ad hoc* or temporary committees and members thereof as he or she deems advisable, and the members of such *ad hoc* or temporary committees shall be approved by the Department Executive Committee.

Section 4. A Department Finance Committee of seven (7) members with terms of five (5) years each, staggered so that the term of one member shall expire each of three years, and two on the remaining two years. The rotation will be such that the years of appointing two members shall never be consecutive. There shall be one member selected from each area or zone with three members at large. The incoming Commander shall appoint one or two member(s) with the approval of the Department Executive Committee. By virtue of his or her position the Department Finance Officer shall also be a voting member of the Department Finance Committee.

(a) The Department Finance Committee shall from time to time direct the Department Adjutant to invest the Department funds not required for immediate use in such securities as will, in their judgment, bring the greatest return consistent with funds security.

(b) At the end of each fiscal year, the Department Finance Committee shall prepare a budget for adoption by the Department Executive Committee for the ensuing year, and no officer shall expend a greater amount than allotted in his or her budget without approval of the Department Finance Committee.

² . UPPER CASE indicates Committees and lower case indicates Subcommittees.

(c) The Finance Committee Chairman will, at the first meeting of the committee after the most recent appointment, appoint two sub-committees of three members each, one being the Ways and Means sub-committee and the other being the Endowment sub-committee, and oversee the operation of both sub-committees.

(d) The Department Ways & Means sub-committee will develop a plan for raising funds for the general fund of the department. It will examine previous efforts, the outcome of such efforts, and recommend the best items to the finance committee and forward them to the Executive Committee and the department for approval.

(e) The Endowment sub-committee will develop means to increase the value of the department endowment, At least one member should be familiar with the establishment of planned giving instruments. The committee is tasked with the growing of the Department Endowment Fund through aggressive solicitation and prudent investment.

Section 5. The Past Department Commanders' Advisory Committee shall consist of all Past Department Commanders of the Department of Montana and shall, on call, advise and assist the Department Commander or the Department Executive Committee on such matters as the Department Commander or Executive Committee shall refer to the Committee. The Department Commander or Executive Committee may select from the Committee, such numbers that he, she or they may determine for a particular project or decision. The Committee shall hold at least two meetings per year but shall receive no mileage or per diem.

Section 6. A Joint Children and Youth Coordinated Committee shall consist of seven (7) members with The American Legion Children and Youth Chair as Committee Chair, the Auxiliary Children and Youth Chair as the Secretary, the American Legion Department Adjutant and Finance Officer, one other member of the Auxiliary Children and Youth Committee, the Education and Scholarship Chair of The American Legion, a representative of the Forty and Eight, and a representative of the Eight and Forty. The Joint Children and Youth Coordinated Committee shall consider all requests for Child Welfare aid and shall determine the grants to be made.

Section 7. The Department Publications and Public Relations Committee shall consist of three (3) members, with the initial appointment one member to be designated to serve for three years, one for two years and one for one year. Thereafter, each Commander shall, within 30 days of his election, appoint one member each year to fill the vacancy for a three-year term. This Committee shall have the responsibility of adopting editorial content and advertising policy for the MONTANA LEGIONNAIRE. It shall have supervisory power over the contracts for publication within the Department including any contracts between the Legion and its Auxiliary, and shall be responsible for the Department website and all other public relations.

Section 8. A Department Convention Committee of three (3) members with terms of three (3) years each, staggered, so that the term of one member shall expire each year and shall be filled by the incoming Commander with the approval of the Department Executive Committee. The Department Adjutant shall be the secretary with no vote. The Department Convention Committee shall formulate a “Standard Rules of Procedure” to govern all future Department Conventions.

Section 9. The Department Baseball Committee shall consist of three (3) members: a General Chairman, for a term of three (3) years who will be charged with full responsibility relating to the overall baseball program; a Vice-Chairman for Class “AA” Baseball who shall be charged specifically with administering the Class “AA” Baseball program, and whose initial appointment shall be for a period of two (2) years; a Vice-Chairman for Class “A” Baseball who shall be charged specifically with administering the Class “A” baseball program and whose initial appointment shall be for a period of one year. Thereafter, as the term of each appointee shall expire, the Department Commander shall appoint a replacement for a term of three (3) years.

Section 10. The Department Membership and Post Activities Committee shall consist of the Zone Commanders and the Department Commander’s appointee who will serve as the committee chair for the American Legion Department of Montana.

Section 11. The Department American Legion Boys State Committee shall consist of (5) five members, a Chair and one member from each of the four zones will be appointed by the Commander. At least two members with experience on the Committee are required. The Chair will be designated when appointed. Furthermore, a Director, recommended by the Committee, but approved by the Convention Executive Committee, will serve for a one-year term, but may be re-appointed on an annual basis by the Executive Committee.

ARTICLE II DUTIES OF OFFICERS

Section 1. Department Commander. The Department Commander shall preside at all Department Conventions, act as Chair of the Executive Committee, sign all checks drawn on the depository and perform such other duties as are usually performed by such officer and as may be prescribed in the Constitution and Bylaws.

Section 2. Department Vice Commander. The Department Vice Commander shall preside and perform the duties in the absence of the Department Commander, and shall perform the duties of a member of the Department Executive Committee. In the event it is not feasible for either the Department Commander or Department Vice Commander to be present (e.g., District Conventions, etc.) then that Department Zone Commander may preside. The Department Vice Commander has direct responsibility for Membership and Membership recruiting and development activities. In the event of the death of the Department Commander or his or her inability to perform the duties of this office, the Department Vice-Commander shall become and serve as Department Commander until the next annual election of the Department Commander and until his or her successor is elected and qualified.

Section 3. Department Zone Commander. The Department Zone Commander shall preside and perform the duties in the absence of the Department Commander and Department Vice Commander, and shall perform the duties of a member of the Department Executive Committee. The Department Zone Commander will oversee the

District Commanders within his or her Zone. The Department Zone Commander will assist the Department Vice Commander in his or her responsibilities for Membership and Membership recruiting.

Section 4. Department Adjutant. The Department Adjutant shall be charged with the responsibility of all records and minutes of the Department Conventions and meetings of the Executive Committee; and shall receive all communications addressed to the Department. He or she will have charge of the Seal and affix the same to all documents requiring sealing, and shall perform other duties as pertain to this office. He or she shall act as Secretary of the Executive Committee and perform any other duties, which may be imposed by the Constitution or Department Executive Committee. The Department Adjutant shall be bonded in an amount to be fixed and determined by the Department Finance Committee based on the value of the personal property of the Department, which shall come into his/her possession. The premium on such bond shall be paid by the Department.

Section 5. Department Finance Officer. The Department Finance Officer shall be the custodian of the funds of the Department. He or she shall sign all checks disbursing the funds of the Department, and shall make reports on the financial condition of the Department when requested by the Department Commander. The Department Finance Officer shall furnish a surety bond as hereinafter provided and shall perform such other duties that are customary of the office.

Section 6. Department Historian. The Department Historian shall be the statistician of the Department, shall keep the history and statistics relevant to the Department, Districts and Posts, shall compile reliable statistics relative to the members of the various Posts, and all other data of like character as would further the objectives of the Department and the various Posts. The Historian shall be a member of the Department Executive Committee and shall perform other such duties as are customary to the position.

Section 7. Department Judge Advocate. The Department Judge Advocate shall advise the Department Officers and Department Executive Committee on all legal matters, including the construction and interpretation of the National and Department Constitutions and Bylaws, proposed Department, District and Post Constitution and Bylaw amendments, and shall perform such other duties that are customary to the office, including such duties as may be required as a member of the Department Executive Committee.

Section 8. Department Sergeant-at-Arms. The Department Sergeant-at-Arms shall assist the Commander in preserving order at all Conventions, and perform such other duties as directed and as are customary to such office, and shall have the power to appoint such deputies at any Convention as he or she shall deem necessary.

Section 9. Department Service Officer. The Department Service Officer shall inform all Post service officers of laws pertaining to rehabilitation. He or she shall maintain close affiliation with the Veterans Administration officials and hospitals. He or she shall perform such other duties as are usually incident to the office.

Section 10. Department Chaplain. The Department Chaplain shall perform the duties usually pertaining to the office in similar organizations.

Section 11. Department Parliamentarian. The Department Parliamentarian shall perform duties normally pertaining to this office. Using Roberts Rules of Order Newly Revised, the Department Constitution and Bylaws, previous minutes and resolutions, he or she will advise the Commander or others when called upon to do so.

Section 12. Department Training Director. The Department Training Director shall be responsible for establishment, administration, coordination, and execution of training within the Department of Montana.

ARTICLE III
TERMS OF DEPARTMENT OFFICERS

Section 1. All Department officers shall hold office until the adjournment of the annual Department Convention following their election, except the four (4) Department Zone Commanders, the National Executive Committeeman and the Alternate National Executive Committeeman, who shall be elected for a term of two (2) years.

Section 2. The Department Training Director shall be appointed by the Department Commander for a three (3) year renewable term.

Section 3. The Department Adjutant may be appointed for a term of three (3) years, and may be reappointed for additional (3) year terms.

Section 4. The Department Commander and Department Executive Committee may discharge any appointive officer whenever they deem it in the best interests of Department of Montana.

Section 5. No person shall be eligible to hold office in The American Legion unless he or she is a member in good standing of a Post of the Department of Montana.

ARTICLE IV
DUTIES AND POWERS OF
THE DEPARTMENT EXECUTIVE COMMITTEE

Section 1. The Department Executive Committee shall administer the affairs of this Department between Conventions, and may, subject to the restrictions of the Constitution, appoint such officers and committees as are provided by the Constitution and Bylaws, including the appointment of the Convention Committee Chair. With the exception of the Department Adjutant, no officer or member of the Executive Committee shall receive any salary from this Department, except while on active duty as hereinafter

provided. The Executive Committee shall fix the compensation of the Department Adjutant.

Section 2. The Department Executive Committee shall have authority to fill any vacancies in elective offices between Conventions, any officer so selected to fill any such vacancy shall hold office until the next annual election of the Department, and until his successor is elected and qualified.

Section 3. The Department Executive Committee may select such *ad hoc* committees or subcommittees as it may see fit, for the purpose of carrying out its duties.

Section 4. All Department officers, Committee Chairs or Committee members, when in the performance of duties as such, shall be entitled to receive travel pay for all necessary travel on the business of the Department. The rate of this compensation shall be governed by the Department Finance Committee when the occasion arises.

Section 5. Notices of meetings of the Department Executive Committee shall give the members sufficient time to attend such meeting. All meetings of the Department Executive Committee shall be held at the headquarters of the Department, at the Annual Department Convention site; or in case of emergency affecting the Department as a whole, at such place as the Department Commander shall designate. The Department Commander may, in lieu of the above notice to call a meeting, submit any matter properly to be passed upon, by mail or e-mail, to each member of the Department Executive Committee and if the majority of the members of the Department Executive Committee shall, by mail or e-mail, vote in favor of said proposal, it shall be considered as though adopted in regular meeting. The Department Executive Committee may adopt its own rules of procedure, which shall not be inconsistent with the Department Constitution and Bylaws.

Section 6. The Department Executive Committee shall be charged with the interpretation of the Constitution whenever controversy arises as to the construction or

interpretation of any of its provisions; and a majority of the Department Executive Committee, in consultation with the Department Judge Advocate and the Department Parliamentarian shall adopt a final interpretation of such provision or provisions.

Section 7. The Department Executive Committee shall be empowered to employ the services of a certified public accountant to audit the books of the Department at such time as the Department Executive Committee deems necessary.

Section 8. Ten (10) members shall constitute a quorum of the Department Executive Committee.

ARTICLE V ORDER OF BUSINESS

The order of business at every Department Convention shall be as follows, and shall not be altered or suspended except upon two-thirds vote:

1. Call of the Convention to order
2. Invocation
3. Address of Welcome
4. Response
5. Introduction of Distinguished Guests
6. Roll call of Department Officers
7. Announcement of members appointed by Department Executive Committee to all Convention Committees
8. Report of Resolutions Assignment Committee
9. Report of Credentials Committee
10. Roll call of delegates who are authorized to cast votes, and designate a member to serve on any Convention Committee as authorized in Section 13, Article VI
11. Report of the Constitution and Internal Affairs Committee
12. Report of the Finance Committee
13. Reports of Department Officers

14. Reports of standing committees
15. Report of Department Executive Committee, by Department Commander and Department Adjutant
16. New Business
17. Election of Department Officers in order in which they appear in the Constitution, and delegates and alternates to National Convention
18. Selection of next Convention place and date
19. Installation of Department Officers
20. For the good of the Department
21. Adjournment

ARTICLE VI

CHARTERS

Section 1. The Department Executive Committee may suspend, cancel or revoke a Post Charter. The action taken by the Department Executive Committee shall be final and conclusive unless an appeal is taken to the National Executive Committee within thirty days from the date of said suspension, cancellation or revocation. The action taken by the National Executive Committee upon appeal shall be final.

Section 2. Any Post failing to meet the obligations imposed upon it by the Constitution and Bylaws, or ceasing to function for six months as an American Legion Post, or voluntarily ceasing to function as a Post, or merging with one or more other Posts, or refusing to pay the Department and National per capita dues, or under such other conditions as might make such action necessary shall, upon order of the Department Executive Committee, surrender its charter revocation, suspension or cancellation.

Section 3. Upon revocation, cancellation or suspension of the charter of a Post in the Department of Montana, said Post shall immediately cease operations and upon revocation or cancellation shall turn over its charter to the Department Commander or Department Executive Committee, and the Department Executive Committee is

authorized, empowered and directed by and through its duly authorized agent to take possession, custody and control of all the records, property and assets of said Post; provided, however, that nothing herein shall be construed as requiring the Department to take over or assume any financial responsibility as to such property. The Department Executive Committee may provide for the transfer of the members in said Post to other Posts of their choice, subject to the approval of such other Post.

ARTICLE VII

DISCIPLINE OF POSTS AND POST MEMBERS

Section 1. Each Post of The American Legion, Department of Montana, shall be the judge of its own membership, subject to the restrictions of the National and Department Constitutions and Bylaws.

Section 2. A member of the American Legion Department of Montana may be disciplined by the Department if the charge is brought by a member of the Department Executive Committee. The entity hearing the charge will be three Zone Commanders chosen by the Department Commander. The accuser(s) on the Executive Committee and the Zone Commanders who conduct the hearing will not be involved in any appeal to the Executive Committee.

Section 3. All charges must be made under oath in writing by the accuser(s) and no member shall be censured, suspended, or expelled from the American Legion until given a fair hearing in accordance with the Universal Code of Procedure as adopted by the American Legion National Executive Committee.

Section 4. Censure may include all or some of the following:

- (a) Description of the wrongdoing
- (b) A caution to the member not to repeat the wrongdoing, or any similar act
- (c) Removal from office
- (d) Precluding holding office for a period not to exceed 5 years

- (e) Removal from committees
- (f) Prohibition from being a member of a committee for a period not to exceed 5 years
- (g) Extenuating circumstances concerning the wrongdoing

Section 5. Any member who has been censured, suspended or expelled from the American Legion has the right to appeal to the Department Executive Committee according to a procedure prescribed by the Department Judge Advocate.

Section 6. The charter of any Post may be canceled, suspended or revoked pursuant to action set forth in Article XI of the Department Constitution and in accordance with the Universal Code of Procedure as adopted by the American Legion National Executive Committee.

ARTICLE VIII

BONDS - AUDIT

Section 1. All Department and Post officers who regularly collect money or dues by virtue of their office shall be bonded in an amount set by the Department Executive Committee or respective Post.

Section 2. The Department Judge Advocate and Department Executive Committee shall approve bonds of Department officers, and Post Commander and Post Executive Committee shall approve Post officers' bonds.

Section 3. An audit may be made of records of the Department, District, Post or any Committee thereof, whenever the Department Executive Committee, or the Executive Committee of either, deems in the best interests of the Department or The American Legion.

ARTICLE IX
EMERGENCY DEPARTMENT CONVENTION

Section 1. Whenever the Executive Committee, or fifty percent (50%) of the Posts petition that an emergency exists, which requires calling of an emergency Department Convention, such a Convention shall be called.

Section 2. At least a ten (10) day notice of such an emergency convention shall be given in writing by the Department Adjutant to all Post and District Commanders; such notice shall specify the emergency and the reason for calling the convention.

Section 3. Only business pertaining to the emergency for which said convention is called may be transacted at said convention.

ARTICLE X
WARTIME CONVENTIONS

Section 1. If, in the event of a state of war, an order shall be issued by the constituted authorities of the United States, the State of Montana or The American Legion preventing the holding of the annual Department Convention as provided in Article VI of this Constitution, then a Department Wartime Convention is hereby authorized.

Section 2. The membership of such convention shall be limited to the Department Officers, Past Department Commanders, the Department Executive Committee and one representative or alternate from each District. The District representative and alternate shall be elected at a regularly called District meeting, to be held not less than thirty (30) days prior to the Department Wartime Convention. If such District meeting is not held, the District Commander shall appoint the representative and alternate.

ARTICLE XI
AMENDMENTS

Section 1. These Bylaws may be amended at any authorized Department Convention by a vote of two-thirds of the delegates present, providing there is a quorum. A change to the Department of Montana Bylaws will be appended to the Bylaws as a sequentially numbered amendment.

Section 2. These Bylaws and all Articles and Sections thereof shall have full force and effect on or after the 30th day of June, 2015, at twelve o'clock noon of said day. The Bylaws heretofore duly adopted and all Articles and Sections thereof, together with all amendments thereto are hereby repealed and shall cease to be effective thereafter.

ARTICLE XII
CONFLICT OF REGULATIONS

Any conflict between interpretation of the Department Constitution and Bylaws must be resolved in favor of the Department Constitution. Any special provision in the Department Bylaws shall prevail over any general provision where an ambiguity exists.

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