

# DEPARTMENT OF MONTANA CONSTITUTION AND BY-LAWS



As adopted at the Department Convention of 1919  
and Amended at Department Conventions through 2025

# CONSTITUTION OF THE AMERICAN LEGION DEPARTMENT OF MONTANA

As adopted at the Department Convention of 1919  
and Amended at Department Conventions through 2025

## 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 All 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 & ORGANIZATION

**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 part<sup>1</sup>.

**Section 3.** The American Legion of Montana (American Legion Department of Montana, hereto referred to as "The Department), shall be organized in Posts whose membership

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<sup>1</sup> 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.

shall consist of not less than ten (10) eligible persons; a minimum of ten (10) 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 4.** 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 5.** Such Districts shall be grouped into Zones. Each Zone will consist of two or more Districts as delineated by the Department Executive Committee.

**Section 6.** The Department of Montana headquarters and principal place of business shall be Helena, Montana.

## **ARTICLE II NATURE & PURPOSE**

**Section 1.** The objects and purposes of this Department shall be to promote the principles and policies set forth in the foregoing Preamble and the National Constitution of The American Legion.

**Section 2.** 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 Legion; no member shall be addressed by his military or naval title in any convention or meeting of The American Legion.

**Section 3.** While requiring all members of the organization to perform their full duty as a citizen according to their own conscience and understanding, the organization shall be non-

partisan in politics 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.

### **ARTICLE III DEPARTMENT ORGANIZATION**

**Section 1.** The American Legion, Department of Montana., is a constituent part of and subordinate to The American Legion, a federal corporation organized by Act of Congress, and is a corporation organized and existing under the laws of Montana. The Department is comprised of, and its jurisdiction extends to the whole of the State of Montana and to include one Post in Calgary, Alberta, Canada.

**Section 2.** The Department shall be divided into zones, districts, and posts organized and officered as hereinafter provided. Post membership shall consist of not less than ten (10) eligible persons; a minimum of ten (10) 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 3.** The administrative and executive power shall be vested in the Department Executive Committee, and the Department shall be officered as hereinafter provided. The Department Executive Committee shall, between conventions, possess all of the administrative duties and powers as may be granted to or enjoined upon it per this Constitution and By-laws.

**Section 4.** Said Posts shall be organized into Districts. The boundaries of the 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, with final approval by the Department Convention and/or Department Executive Committee.

**Section 5.** The Districts shall be grouped into Zones. Each Zone will consist of two or more Districts as designated by the Department Executive Committee.

Eastern Zone – Districts 1 & 10

North Central Zone – Districts 2, 3 and 8

South Central Zone – Districts 7, 9 and 11

Western Zone – Districts 4, 5 and 6

Zone Commanders shall be members in good standing of a Post in the Area for which they are elected. They shall be nominated and elected at a caucus of Posts within said Zone held during the Spring District Meetings. Zone Commanders shall have such authority and perform such duties as shall be prescribed in the Department Constitution and By-Laws.

#### **ARTICLE IV MEMBERSHIP & ELIGIBILITY**

**Section 1.** Eligibility for membership in the Department shall be governed by the provisions of the National Constitution of The American Legion, relating thereto.

**Section 2.** There shall be no form or class of membership except an active membership, and dues shall be paid annually, or in multiple-year increments or for life (PUFL).

**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 for membership in any other Post without the consent of the expelling Post. If consent has been asked for and denied by the outgoing 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, to include the review of appropriate documentation that reflects proof of honorable military service needed to determine eligibility. Each Post shall pay its dues to the District and Department on the basis of its enrolled membership, and its voting rights shall be based upon said enrolled membership.

**Section 6.** No person shall be 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 7.** Any person has the right to support or oppose a policy or legislative matter as an individual, however, no person may act, represent, or speak on behalf of the National American Legion, the Department or Post that would imply support for or against any current or potential policy or legislative matter that would directly oppose the position that the American Legion, Department or Post has chosen to support. This includes both direct and indirect representation in the wearing or displaying of an American Legion cap.

**Section 8.** Neither this Department of The American Legion nor any of its chartered posts shall engage in any public dispute, debate, or action concerning the policies of The American Legion or other significant matters without the approval of the Department Executive Committee.

**Section 9.** 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/her or by whom preferred.

## **ARTICLE V**

### **DEPARTMENT CONVENTION**

**Section 1.** The Annual Department Convention shall have all the administrative and legislative powers of the Department. An Annual Department Convention shall be held at a time and place to be fixed by vote of a preceding convention, or in the event the preceding convention does not fix a time and place, or if the convention city withdraws its invitation to hold the convention, or if it becomes impractical for any reason to hold the convention

at the time or place designated, then such time and place shall be fixed by the Department Executive Committee.

**Section 2.** The annual Department Convention must be held at least thirty (30) days before the National Convention. In the event it becomes impractical because of travel restrictions lawfully imposed by the State or National Government to hold the Annual Department Convention at the time or place designated, or if by lawful authority of the State or National Government attendance at the convention would be limited to less than the number of authorized delegates, then the place, the time, and the manner, of holding the Annual Department Convention during such emergency shall be determined by the Department Executive Committee.

**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 shall be entitled to one vote. The Department Commander, if duly elected as a Post delegate shall cast his or her vote on behalf of his or her Post, but shall withhold his or her Commander vote in the case of a tie. 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 Department Convention shall be comprised of delegates and alternates from each chartered Post of The American Legion of the Department of Montana. Voting for all elected Department Officers shall be done on the last day of the Annual Department Convention by ballot, voting shall be done on the floor of the Annual

Department Convention by roll call of Posts or by counted ballot. Each Post shall be entitled to two (2) delegates and two (2) alternates, and to one (1) additional delegate and alternate for each additional one hundred (100) members or fraction thereof over and above one hundred (100) members; and provided that the per capita membership fee is paid fifteen (15) days prior to a Department Convention.

**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.** Upon registration and check-in with credentials at Department Convention each delegate shall be entitled to one (1) vote.

(a). Upon registration and check-in with credentials at Department Convention, alternate delegates shall have the same privileges of delegates except that of voting.

(b). Upon registration and check-in with credentials at Department Convention a delegate may transfer their vote to a registered and checked in Alternate from their Post in the event of an emergency or illness. If no Alternate from the Post is registered, that delegates vote becomes null and void.

(c) The vote of a registered Delegate from a Post that does not check-in with credentials at Department Convention shall have their vote transferred to a registered and checked-in Alternate from their Post if available. The adjustment must be approved through credentials prior to any vote being cast.

**Section 9.** Notice of each regular annual Department Convention shall be given by the Department Adjutant by written notice in the digital Department online publication (MONTANA LEGIONNARIE) or by mail to each Post at its correct address as shown in Department records. Such notice shall be provided 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 Department records.

(a). The Department Adjutant shall mail or email upon request a Certification of Delegates form to all Posts 30 days prior to Convention. The Post Commander or Adjutant shall complete the certification form and return to Department the list of Post delegates and alternates no later than 14 days prior to Convention.

(b). Delegates to the Department Convention shall be accredited in writing to the Department Adjutant in the number and manner prescribed in Article V, Section 6 of the Department Constitution. The rights of Posts to make and accredit substitutions for absentee delegates shall be recognized by the Department Adjutant, provided that such substitution shall be officially certified by the Post Commander at the time of the certification required by the Department Constitution or at any time prior to adjournment of the first session of the Department Convention.

(c). At the Pre-Convention Department Executive Committee meeting, the chair of any Post delegation may petition a member or members of the Post's delegation to serve on any convention committee, provided said Post does not have a member already assigned to that committee by the Department Executive Committee.

**Section 10.** Delegates to the annual National Convention shall be elected at each annual Department Convention. Any nominated delegate must verbally or in writing prior to Department Convention give affirmation of planned attendance at National Convention. Failure to provide affirmation removes them from the Delegate election ballot. Any vacancies or additional Delegates awarded after Department Convention 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 determine, 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 the cheapest or most efficient mode of transportation to and from Convention. Any deviations from the cheapest or most efficient mode of transportation must be approved by the Finance Committee prior to the travel taking place. The Finance Committee may provide per diem and travel expenses for such officers or members of The American Legion, Department of Montana, as 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. Committees to be appointed shall include a Credentials Committee, a Constitution and Internal Affairs Committee and a Resolutions and Rules Committee.

**Section 14.** Resolutions emanating from the Posts or Districts must be approved by the District 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 reside in the designated Zone they are elected to.
- (d) Department Historian.
- (e). National Executive Committeeman and Alternate Department Committeeman who will serve two year terms.

**Section 2.** In case of the resignation, death, suspension, or removal from office of the Department Commander, the current Department Vice Commander shall immediately take office as Acting Department Commander. As this is an acting position, until the next Annual Department Convention, the Acting Commander will be eligible for nomination and election to the office of Department Commander at a future Annual Department Convention.

**Section 3.** 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). Should the National Executive Committee Member be unable to perform the duties of their office, the Alternate National Executive Committee Member shall perform those duties during the period of disability with all rights and privileges of the office. Should the National Executive Committee Member vacate their office, for any reason, before the expiration of the term of their office, the Alternate National Executive Committee Member shall succeed to this office for the remainder of the term. If the Alternate National Executive Committee Member is unable to accept or declines this position, the vacancy shall be filled by appointment by the Department Executive Committee until the convening of the next Department Convention. Should the National Executive Committee Member be unable to assume their office at the adjournment of the next ensuing National Convention, the Alternate National Executive Committee Member-Elect shall assume this office, and the vacancy in the office of Alternate National Executive Committee Member shall be filled as specified above.

**Section 4.** At the 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 at said Department Convention. Nominations for National Vice-Commander of The American Legion shall originate through the members Post and District by way of resolution.

## **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) Department Zone Commanders (4 total)
- (e) National Executive Committeeman
- (f) Alternate National Executive Committeeman
- (g) Department Historian
- (h) Department Judge Advocate
- (i) Department Parliamentarian
- (j) District Commanders (11 total)
- (k) Department ALR Director
- (l) Department Adjutant
- (m) Department Service Officer
- (n) Department Chaplain

All of the foregoing shall be voting members of the Department Executive Committee except the Alternate National Executive Committeeman, Department Adjutant, Department Judge Advocate, the Department Service Officer, and the Department Chaplain. 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.

(a). The Alternate National Executive Committee Member shall be a non-voting member of the Department Executive Committee. In the absence of the National Executive Committee Member, The Alternate National Executive Committee Member will become a voting member.

(b). Any Past National Commander who was National Commander while a member of the Department of Montana and is in good standing in their respective Post, shall be a voting member of the Department Executive Committee for life.

**Section 4.** The Department Executive Committee shall hear and act on appeals in cases of reprimand, suspension, removal, or expulsion of Post Officers and members of Posts, and it shall act as a trial court in the hearing and trial of charges against Department Officers, Zone Commanders, District Commanders, and District Vice Commanders, as provided in this Constitution or the Department By-Laws.

**Section 5.** The Department Executive Committee shall meet at Department Convention, Fall Conference and any other time necessary to complete the business of the American Legion provided that proper notification of 10 business days is given to its members prior to the meeting being held.

(a). In cases of emergency, as provided elsewhere in this Constitution, the Department Executive Committee may provide a method and a procedure for a special convention in lieu of the regular Annual Department Convention to elect Officers, to make proposals for

legislative enactment, to adopt and promulgate essential programs, and to enunciate and proclaim matters of policy.

(b). The Department Executive Committee shall have the power to fill vacancies in any Department office or in the Department Executive Committee until the next Department Convention, except as is herein otherwise provided; provided that any such vacancy occurring between meetings of the Department Executive Committee may be filled by appointment by the Department Commander subject to ratification by the Department Executive Committee to occur within 30 days of said appointment.

(c). The Chairpersons of the Standing Commissions and Committees of the Department shall be ex-officio non-voting members of the Department Executive Committee, with the privilege of speaking on matters pertaining to their respective committees. They shall not be counted in constituting a quorum.

(d). The Department Executive Committee, after due notice and a hearing, may suspend or revoke a Post charter by following the National Uniform Code of Procedure for revocation, cancellation or suspension of a Post charter, as adopted by the National Executive Committee.

(e). Members of the Department Executive Committee shall be subject to charges and trials for the same causes and in the same manner as Department Officers are charged and tried, and in the event a charge is sustained, they may be deprived of their status and privileges. They shall have the same right of appeal at a Department Convention as is provided for Department Officers.

## **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 By-laws 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.** The Department Commander or the District Commanders within their respective Districts, shall have the power to call Conferences of Posts at such times as they may deem advisable; provided, however, that at least ten (10) days' notice of such Conference shall be given in writing to the Posts. 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 and shall have a minimum of ten (10) members. No person may be a member at any one time of more than one 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.

(a). To maintain a charter, each Post in the Department of Montana shall participate in at least one recognized program of The American Legion each year and maintain a minimum of ten (10) members.

(b). Each Post shall be the judge of the qualification of its members, provided such members are eligible for membership in The American Legion.

**Section 3.** Each Post should attempt to 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 1<sup>st</sup>.

**Section 5.** The terms of all Post officers shall begin on or before July 1<sup>st</sup>. All officers of Posts, except the Post Adjutant, Post Service Officer and Post Judge Advocate, shall be elected and certified to the Department Adjutant, no later than May 15<sup>th</sup>. Certification of all officers shall be made on forms furnished or prescribed by the Department Adjutant. In the event of a vacancy caused by the death, resignation or removal from office, the name and address of the successor shall be reported to the Department Adjutant within one (1) week after such vacancy has been filled. No Post officer shall assume office prior to

providing the Post Adjutant with proof of eligibility for membership in The American Legion.

**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.

**Section 10.** All Posts shall be incorporated under the laws of the State of Montana.

**Section 11.** Each Post shall use and follow the current edition of The American Legion Post Officer's Guide and Manual of Ceremonies in conducting its meetings, initiation of members and other ceremonies prescribed therein.

**Section 12.** Each Post should provide reports to its membership at least once a month, concerning the status of all financial activities and all program activities of the Post. Such reports should include, but is not limited to total income, cost of sales, expenses, accounts receivable, and accounts payable (if the Post has a club), inventory, a profit and loss statement, any agreement concerning use of facilities and any other information necessary to provide the membership with sufficient information to make decisions concerning Post activities and facilities.

**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 and remain in effect until changed by action of a subsequent Annual Department Convention.

**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 1<sup>st</sup> to June 30<sup>th</sup> 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.

**Section 7.** No Post with past due accounts owing to the Department and unsettled fifteen (15) days before convening of the Annual Department Convention shall be entitled to seat their Post delegation in that Convention.

**Section 8.** No member, officer, or committee of the Department shall have the authority to bind the Department by contract or incur any obligation upon its behalf, except by express authority of a Department Convention or the Department Executive Committee.

**Section 9.** All contracts entered into on behalf of the Department shall be in writing, executed by the Department Adjutant or Assistant and evidenced by the Department's corporate seal which shall be affixed by the Department Adjutant and attested by signature.

**Section 10.** The Department Commander shall immediately after being installed appoint or reappoint a Chairperson of that Committee, the Chair shall have prior Finance Committee Experience, to be ratified by the Department Executive Committee, to take office immediately. The individuals appointed to the Finance Committee, shall have experience and qualifications commensurate with the appointment. Between sessions of the Department Executive Committee, the Department Commander may fill vacancies of the Department Finance Committee subject to ratification by the Department Executive Committee at its next meeting. The Department Finance Committee shall have such powers and perform such duties as provided in this Constitution and in the Department By-Laws or by the Department Convention.

## **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. Any such action shall adhere to the policy and procedures of the current National Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Department

Charters. A link can be found at the end of the Department Constitution and By-Laws (Reference A).

**Section 2.** All Posts must maintain their charter membership of at least 10 dues paying members, they must hold annual or semi-annual elections of officers and carry out the programs of The American Legion. (Failure to do so will constitute action to revoke the charter). If a 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 3.** No charter may be revoked at a Department Convention unless two-thirds of the Posts present affirm such action.

**Section 4.** Written notice shall be given to the Post in question if revocation is to be submitted at a Department Convention.

## **ARTICLE XII AMENDMENTS**

**Section 1.** The Constitution may be amended at any Department Convention by a vote of two-thirds of the total authorized convention delegates provided that the proposed amendment, in resolution form, shall have been submitted through the Department Adjutant to the Posts and members of the Department Executive Committee by mailing or e-mailing same to them at least thirty (30) days prior to the convening of the next Department Convention, any such proposed amendment may be amended without further notice by a two-thirds vote of the total authorized representation thereat, provided it does not increase the modification proposed by the amendment and it has received the approval of the Convention Committee on Constitutional Amendments, and provided further, it may be amended by unanimous vote at any Department Convention without notice.

**Section 2.** That no proposed amendment shall be submitted through the Department Adjutant to the Post and members of the Department Executive Committee, as provided in

Section 1 of this article, unless said proposed amendment shall have been first submitted by a District Meeting or the Department Executive Committee.

**Section 3.** An amendment to raise the Department Per Capita dues shall become effective the following membership year.

### **ARTICLE XIII ELECTIONS**

**Section 1.** Elections shall be by secret ballot unless only one nomination is made, and a 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 simple 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 simple majority vote.

**Section 3.** When ballots are accepted on the day of 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.

### **ARTICLE XIV LIABILITIES**

**Section 1.** No Post in the Department shall be liable for more than its per capita dues to Department and to any District thereof.

**Section 2.** The Department shall not be liable for any debt or breach of contract incurred by a Post.

## **ARTICLE XV**

### **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.** The National Constitution and By-Laws of The American Legion shall govern in the event any provision of the Department Constitution or By-Laws conflict therewith. In the event no applicable provision appears in The Department Constitution or By-Laws to govern any matter that may arise in The Department, then the applicable provisions of the National Constitution and By-Laws of The American Legion shall govern.

# **BYLAWS OF THE AMERICAN LEGION**

## **DEPARTMENT OF MONTANA**

### **ARTICLE I**

#### **DEPARTMENT CONVENTION**

**Section 1.** The Annual Department Convention shall be called and held pursuant to the provisions of the Department Constitution. The call shall be issued by the Department Commander by bulletin mailed by the Department Adjutant to each Post and to each member of the Department Executive Committee, and each Past Department Commander, not less than thirty (30) days prior to the first day of the Convention.

**Section 2.** No Post shall seat its delegates or alternates at the Annual Department Convention unless it has complied with Article 5, Section 6 and Article 5, Section 7 of the Department Constitution.

**Section 3.** No delegate, except those for which provision is made in Article V, Section 4, and 5 of the Department Constitution, shall be accredited without proper certificate signed by the Commander and Adjutant of the Post represented by the delegate, and the certificate shall be presented by the delegation Chairperson to the Department Adjutant or such other officer or person as may be in charge of registration at the Annual Department Convention. A registration fee, as set by the Department Executive Committee, shall be paid by each delegate and each alternate delegate, or by the Post represented, before any such delegate or alternate shall be certified and seated in the Convention.

**Section 4.** The Department Commander shall appoint a Chairperson of the following Convention Committees; individuals serving on any standing or special committee shall be a member of his/her Committee when possible. Committee Chairmen shall provide an oral report when called upon during regular business and a written report be provided to the Convention Recorder no later than close of business of the final session of Convention. Convention Committees are listed below. The Department Commander or the Department

Executive Committee can create any additional committee that may be needed, but that committee would only remain in effect for that specific Convention. Each Post in the Department having a duly qualified delegation present at the Annual Department Convention may have a representative as a member of each Convention Committee.

**Constitution & Internal Affairs:** To study and make recommendations to the Department Convention concerning all matters pertaining to proposed changes in the Constitution and By-laws of The American Legion. Any proposed amendments to the Constitution and By-laws of The American Legion shall first receive an affirmative vote of the Convention Committee on Constitutional Amendments of at least two-thirds of the votes cast by that Committee, in order for that Committee to adopt any such proposed Constitutional Amendment.

To formulate and recommend matters of policy to the Convention, including plans respecting promotion of American Legion membership and all other phases of Internal Affairs of The American Legion.

**Credentials:** To receive from the Department Adjutant a statement of the number of delegates to which the several Posts are entitled under the Constitution, to verify and recommend approval of the same, including adjustment of disputes thereon and report to the Department Convention at its first session.

**Resolutions and Rules:** To determine all resolutions are in proper format and germane to The American Legion.

To consider and to devise special rules of order of the Department Convention not provided for in the Standing Rules of Order as may be required or directed by the Convention for the purpose of processing issues or the special business of the Convention. Such special rules shall apply only to the Convention for which they were adopted.

**Americanism:** To formulate and recommend matters of American Legion policy to the Convention, including plans and programs respecting an understanding and

appreciation of the Government of the United States, its Constitution and other historic political pronouncements as well as the duties and responsibilities of citizenship there under with reference to, but not limited to, matters pertaining to patriotic devotion to the United States, assimilation of aliens as United States citizens, education and education facilities, providing protection, care and improved conditions for all children and youth, development of patriotic youth activities and other matters such as religious emphasis consistent with the aims and purposes of The American Legion in the cultivation of loyalty to the United States as expressed in the Preamble to The American Legion Constitution.

**Finance:** To formulate and recommend matters of policy of the Convention concerning the financial affairs of The American Legion, including reception of the reports of the Department Treasurer and the Department Finance Committee, and fixing of annual dues of the Department Organization and establishing a budget for the Fiscal Year about to begin.

**Legislation:** To formulate and recommend matters of American Legion policy to the Convention including plans and programs respecting State legislation including resolutions thereon not otherwise assigned to other Standing Committees of the Convention.

**Membership and Post Activities:** To formulate and recommend to the Convention policies pertaining to membership, to include suggestions and programs that would increase the membership of the Legion of Montana, evaluate resolutions submitted affecting the procurement or retention of said membership and liaison with other committees to share ideas.

**National Security:** To formulate and recommend matters of American Legion policy to the Convention, including plans and programs respecting the National Security of the United States in fields of Aerospace, Conventional Armed Forces, Foreign Relations, Law and Order and Homeland Security, Military Benefits and

Quality of Life, National Guard and Reserve Forces and Unconventional Forces and Intelligence and in training of the nation to the end that the military, paramilitary and industrial potential of the United States shall be maintained

**Veteran Affairs and Rehabilitation:** To formulate and recommend to the Convention policies in all phases of veterans' affairs as they concern all veterans, including but not limited to plans and programs for their physical and mental rehabilitation, their entitlement to compensation and pension benefits, and the welfare and support of their dependents and survivors.

**Children and Youth:** To formulate and recommend updates and changes to college scholarships available to Montana residents, they evaluate existing scholarship opportunities and identify ways to enhance their appeal and accessibility. The committee develops and implements outreach strategies to increase awareness of these scholarships.

#### **Section 5. Resolutions:**

(a) All resolutions submitted to the Annual Department Convention must first be adopted by a Post of The American Legion, approved and forwarded by the representative District of the Department of Montana, or by the Department Executive Committee.

(b) The Resolutions Committee shall be empowered to reject resolutions for any of the following reasons:

- (1) Resolution was not submitted within the time prescribed.
- (2) Resolution was not submitted in electronic format.
- (3) Subject matter not germane to the purposes of The American Legion.
- (4) Resolution is couched in ambiguous wording, not clearly defining an intent.
- (5) Resolution would be impossible to use since it contains errors of fact or law.
- (6) Resolution is actually a proposed change to the Department Constitution or By-Laws which can only be done by amendment.

(c) The Resolutions Committee shall be empowered to:

(1) Make such changes in resolutions as may be necessary to eliminate factual misstatements or language inconsistent with the clear intent of the resolution, when taken as a whole.

(2) To consolidate resolutions containing the same subject matter.

(3) To refer any resolution back to the originating authority or to a Standing Commission or Committee for further study and/or consideration.

## **Section 6. Voting.**

(a) Voting in all cases, except elections and trials of officers and appeals shall be by acclamation unless roll call vote shall be demanded by at least five (5) Posts with one (1) or more accredited delegates present on the floor of the Convention.

(b) The annual election of the Officers of the Department shall be the special order of business of the Annual Department Convention.

(c) Nominations are made at the Department Convention from the floor by a Delegate of the Post that the Candidate is a member in good standing of.

(d) Nominating speeches shall be limited to three (3) minutes each. Not more than two (2) seconding speeches shall be made for each candidate, not to exceed one (1) minute each.

(e) The final official tally sheets and the ballots shall be retained as a permanent record of the Department for a period of two (2) years. To be elected, a candidate must receive a majority of the votes cast (defined as at least fifty percent (50%) plus one (1) vote cast).

(f) The Department Commander, or in their absence or inability, the Department Vice Commander, shall serve as Chairperson of the Convention. The Department Adjutant shall serve as Secretary of the Convention. There shall be appointed by the Chair as many Assistant Secretaries as may be required, and such other Officers of the Convention as may be needed.

(g) Each retiring Commander shall, upon the installation of their successor, be declared to be a Past Department Commander, and shall be presented with a Past Department Commander's lapel pin with diamond. They shall enjoy the status and the

privileges thereof as set forth in these By-Laws and the Department Constitution unless they are deprived of them as provided herein and in the Department Constitution.

- (h) All other voting shall be by a voice vote. A roll call may be requested by any delegate at a Department Convention.

## **ARTICLE II**

### **DEPARTMENT EXECUTIVE COMMITTEE**

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. The Executive Committee shall approve the compensation of the Department Adjutant.

(a) In addition to the meetings required by the Department Constitution, the Department Executive Committee shall meet on call of the Department Commander or on written request of a majority of the voting members of the Department Executive Committee. It shall also meet within the time and for the purposes provided in Section 5 of this Article. In event the Department Commander refuses or fails for five (5) days to call the Department Executive Committee to meet on the written request of a majority of the voting members of the Department Executive Committee or for the purpose provided in Section 5 hereof, or in accordance with provisions of the Department Constitution, the Department Adjutant shall call the Department Executive Committee to meet.

(b) No business shall be transacted at any special meeting of the Department Executive Committee except as shall be specifically stated in the call or as amended during agenda approval or business of a routine nature which may be proper to come before the meeting.

(c) The Department Commander, or in their absence or inability, the Department Vice Commander shall preside over the Department Executive Committee. The Department Adjutant shall act as Secretary of the meeting, and in their absence or inability, the Chairperson of the meeting shall appoint some member of the Committee to serve as Secretary of the meeting.

(d) Subject to the Department Constitution, the Department Executive Committee shall fill any vacancy in membership of the Department Executive Committee for the remainder of the term.

(e) Department Officers, Zone Commanders, and District Commanders may be reprimanded, suspended, or removed from office from The American Legion on charges based upon disloyalty to The American Legion or the National Government, neglect of duties, dishonesty, and/or conduct unbecoming a member or officer of The American Legion. All charges shall be made in writing by an accuser(s), and no officer shall be reprimanded, suspended, removed from office, from The American Legion until given a fair trial. The charge(s) shall be filed forthwith at Department Headquarters and shall be referred to the Department Executive Committee by the senior qualified Department Officer not under charge.

A copy of the charge(s) shall be served on the accused officer. Within thirty (30) days thereafter, the Department Executive Committee shall convene in special session on call of the senior qualified Department officer not under charge and shall try the charge(s) against the accused officer. The accused officer shall have the right to appear in person and defend themselves and may be represented by any member of The American Legion, Department of Montana, in good standing or a Montana licensed attorney, or both, as counsel. The Department Judge Advocate, if available and qualified, shall prosecute the charge(s), and if the Department Judge Advocate is unavailable or fails to act or is disqualified, the senior qualified Department Officer not under charge shall appoint a member of the Department to prosecute the charge(s). The Department Judge Advocate shall preside over any such trial or hearing related thereto.

The decision of the Department Executive Committee may be acquittal, reprimand, removal from office, suspension, or expulsion from The American Legion, and shall be reported to the next Annual Department Convention. The Annual Department Convention, except in the case of an acquittal by the Department Executive Committee, may affirm, modify, or revoke the finding and sentence of the Department Executive Committee. The Annual Department Convention shall conduct its hearing upon the transcribed testimony heard by the Department Executive Committee or oral testimony, or both. In the case of acquittal, the decision of the Department Executive Committee shall be final, and its decision in any event shall be final unless written appeal be made to the Annual Department Convention within forty-five (45) days, and in event of appeal to the Annual Department Convention, its decision shall be final. Pending the appeal from a conviction, the convicted officer shall not act in any official capacity as a member of The American Legion, Department of Montana.

(f) The Department Executive Committee shall meet immediately before and immediately after each Department Convention; any special meeting 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 or electronic email to each member of the Committee at least ten (10) days prior to 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.

(g) 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.

(h) 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.

(i) Notices of meetings of the Department Executive Committee shall give the members sufficient time to attend such a 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 an emergency affecting the Department as a whole, at such places as the Department Commander shall designate. The Department Commander can hold a remote meeting if conditions warrant such an electronic format. 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.

(j) 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 until such time that the Constitution and or By-laws can be updated.

(k) 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 a time as the Department Executive Committee deems necessary.

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

**ARTICLE III**  
**DEPARTMENT COMMITTEES**

**Section 1.** 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, Junior Shooting Sports; CHILDREN AND YOUTH; CONSTITUTION & INTERNAL AFFAIRS; FINANCE; Insurance; Ways and Means; LEGISLATIVE; MEMBERSHIP AND POST ACTIVITIES; Education and Training; Sons of The American Legion; American Legion Riders; NATIONAL SECURITY, Disaster Emergency Response; PAST DEPARTMENT COMMANDERS ADVISORY COMMITTEE; VETERANS AFFAIRS/REHABILITATION, Hospital/Nursing Care/Veterans Home, Veterans Economics.

**Section 2.** 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. Any *ad hoc* or temporary committee shall consist of a Chairperson who shall be appointed by the Department Commander with the approval of the Department Executive Committee and the required number of additional members to complete the purpose of the *ad hoc* or temporary committee, each of which shall be appointed by the Chairperson and approved by the Commander. Each *ad hoc* or temporary committee shall act under the immediate administrative direction of its Chairperson and shall meet and organize on call of the Department Commander. The *ad hoc* or temporary committee's term shall be for a period of up to one (1) year.

**Section 3: Finance Committee**

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 members 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 review the investment securities of the Department annually and conduct a review of the Securities company used for investments every three years to ensure that the best interests of the Department are being followed. The Department Finance Committee shall 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.

**(c)** The Finance Committee Chairman will, at the first meeting of the committee after the most recent appointment, task the committee members with the fundraising responsibilities for the upcoming year. They will develop a plan for raising funds for the general fund of the department in both the long and short term. The Finance Committee shall examine previous efforts, the outcome of such efforts, and implement best practices towards the raising of funds and forward their recommendations to the Executive Committee and the Department for approval.

**(d).** The Department Adjutant may employ necessary clerical help on authorization of the Department Executive Committee or approval and consent of the Department Financial Committee between sessions of the Department Executive Committee at such

compensation as the Department Executive Committee, or the Department Finance Committee may allow.

**(e).** The financial records and accounts of the Department shall be reviewed at least once each year at a time the Department Finance Committee shall prescribe, and at other times as the Department Executive Committee or the Department Finance Officer may direct, by a Certified Public Accountant retained by the Department Finance Officer, or by the Department Finance Committee with the approval of the Department Executive Committee. Report of the financial review or audit shall be promptly sent to Department Headquarters. A report of the financial review or the annual financial audit shall be made at the next Department Executive Committee meeting, the Annual Department Convention, and the year-end Department Finance Committee meeting. The original Financial Review or audit shall be permanently maintained by Department.

**(f).** At least once each year the Chairperson of the Department Finance Committee, alone or accompanied by such members of the Committee as they may designate, personally inspect the Department Headquarters and examine all the property of the Department, including intangible property owned by the Department or held by it for any fund or other account, and shall inspect statements of deposit accounts of the Department.

**(g).** The Department Finance Committee shall be charged with the preparation of the annual budget and the handling of funds under the budget, and any other duties as shall be prescribed by the Department Executive Committee. The Department Finance Committee may authorize the transfer of money, in any amount, from one account to another in the budget, but it may not increase or decrease the total amount in any account of the budget more than \$2,000.00 in any year, without the approval of the Department Executive Committee.

**(h).** The Department Adjutant shall manage and account for the Funds of Department which have been established by a Department Convention or these By-Laws. Investments of the monies from these Funds will be as directed by the Department Finance Committee.

(i). No funds of The American Legion, Department of Montana, shall be withdrawn, expended, invested, reinvested or transferred from one (1) Fund to another except as authorized by the annual budget, by the Department Executive Committee or by the Department Finance Committee when the Department Executive Committee is not in session. Approval for the expending, investing, reinvesting or transferring of funds can be obtained by electronic vote of the Finance Committee or the Department Executive Committee when not in session.

(j). The Department Finance Committee shall be charged with assisting the Department Adjutant with the procurement, logistics and fundraising for the annual Department Convention.

**Section 4.** 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. The Immediate Past Department Commander shall act as the liaison with Department in the scheduling of all required meetings. The Past Department Commanders' Advisory Committee shall give a report at the Department Annual Convention and the Department Fall Conference.

(a). The members of the Past Commanders' Advisory Committee may, from time to time by resolution, after a majority vote of the Committee during a meeting of the Committee for which a quorum of the Committee is present, recognize a member of the Department in good standing who has exhibited exemplary service to the Department as an honorary member of the Past Commanders' Advisory Committee. A quorum shall consist of two-thirds of the voting qualifying members of the Advisory Committee.

Honorary members of the Past Commanders' Advisory Committee may attend Committee meetings but shall not make motions or have a vote.

**Section 5.** A Joint Children and Youth Coordinated Committee shall consist of ten (10) members with The American Legion Children and Youth Chair as the 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 from the SAL and a representative of the American Legion Riders. The Joint Children and Youth Coordinated Committee shall consider all requests for Child Welfare aid and shall determine the grants to be made.

**Section 6.** 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 7.** The Department Training Committee shall consist of three (3) members: a Dean, for the term of three (3) years, who will be charged with developing a Department Legion College curriculum consistent with National Training. Two additional members to help with course instruction. The Department Training Committee shall be responsible for establishment, administration, coordination, and execution of training within the Department of Montana.

**Section 8.** The Department Membership and Post Activities Committee shall consist of the four Zone Commanders with the Department Vice Commander serving as the

committee chair. The committee shall be responsible for working with Post's whose membership numbers do not meet the requirements prescribed in the Constitution Article 3. The committee will develop and implement revitalization plans for Posts or Districts that are routinely not meeting goal. The committee will work with the District Commanders regarding Post activities to include American Legion programs and completing required annual reports. The committee is also responsible for reviewing and implementing Department membership goals established and assigned annually by National.

**Section 9.** The Department American Legion Boys State Committee shall consist of (11) eleven members, a Chairman, who is at large and one member from each of the districts will be appointed or reappointed by the Commander at the recommendation of the respective District Commander. Furthermore, the operation, workflow and responsibilities of the committee and its members shall follow that of the By-Laws established and maintained by the Boys State Committee.

#### **ARTICLE IV DUTIES OF OFFICERS**

**Section 1. Department Commander.** The Department Commander shall be the principal representative of The American Legion, Department of Montana, with full power to enforce the provisions of the National Constitution and By-Laws and the Department Constitution and By-Laws. They shall be the Chairperson of the Department Convention(s) and the Department Executive Committee and shall appoint committee members as directed and authorized by these By-Laws and the Constitution of The American Legion, Department of Montana, and shall perform such other duties as are usually incident to the office. The Department Commander can attend and participate in any Department Committee meeting.

**Section 2. Department Vice Commander.** The Department Vice Commander shall assume and discharge the duties of the Department Commander in their absence or inability to perform their duties, or when called upon by the Department Commander and act as their personal representative. 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.

It shall be the primary duty of the Department Vice Commander to provide oversight and augment the increasing and stabilizing of the membership of The American Legion, Department of Montana. The Department Vice Commander shall make themselves knowledgeable of the business dealings of The American Legion, Department of Montana, throughout their term. The Department Vice Commander shall communicate with the Zone Commanders, District Commanders, and Posts to assist them in their respective assignments. The Department Vice Commander shall perform any other duties as may be assigned by the Department Commander, the Department Executive Committee, and the Department Constitution and By-Laws.

**Section 3. Zone Commanders.** The Zone Commanders shall be the personal representative of the Department Commander in their respective Zone.

(a) The Zone Commander shall act as a liaison, regularly communicate with the District Commanders in their Zone, assist them in the furtherance and coordination of the work of The American Legion, and in the promotion of membership in their Districts.

(b) The Zone Commander serves as the official representative of the Department Commander in their Area ensuring the aims and goals of the Department are carried out. Attendance and participation at official meetings of The American Legion is vital. At a minimum, the Zone Commander should attend the following: Department Convention, Fall Conference, Department Oratorical Contest, Finance Committee Meetings (Annual Department Convention and Fall Conference), Department Executive Committee Meetings

(Annual Department Convention, Fall Conference, and any special meetings called), the Spring and Fall District meetings held in their respective zones. Visit each Post within their Area at least once and submit a monthly report for the Montana Legionnaire. While not mandatory, the Zone Commander is encouraged to attend the National Convention.

(c) Zone Commanders shall perform any other duties as may be assigned to them by the Department Convention(s), the Department Commander, the Department Executive Committee, and such other duties required of them by the Department Constitution and By-Laws.

**Section 4. District Commanders.** The District Commander shall be the representative of the Department Commander on all matters referred to them in their District.

- (a) The District Commander shall cooperate with officers of the Posts in their District. They will be the primary membership representative within their District and shall promote, motivate and direct membership activities within their District.
- (b) The District Commander shall visit each Post in their District at least once each year.
- (c) The District Commander shall use their best efforts to stimulate Legion growth, investigate all new applications for new Post Charters and recommend the granting or refusal of any application to the Department Executive Committee, recommend the revocation of existing charters for good and sufficient reasons, encourage the amalgamation of weak Posts into strong and representative Posts, promote inter-post activities, and promote a spirit of cooperation among the Posts in their District for the development of the principles of The American Legion.
- (d) The District Commander or their designated representative shall install the Post Officers of all Posts in their District.

- (e) The District Commander may appoint an Adjutant, Finance Officer, Judge Advocate, Service Officer, Sergeant-At-Arms, Assistant Sergeant-At-Arms, Chaplain, Historian, and such other volunteer positions as may be deemed necessary to assist in the performance of their duties.
- (f) The District Commander should attend the following: Department Convention, Fall Conference, Department Oratorical Contest, Finance Committee Meetings (Annual Department Convention and Fall Conference), Department Executive Committee Meetings (Annual Department Convention, Fall Conference, and any special meetings called), the Spring and Fall District meetings held in their respective District.
- (g) The District Commander shall perform any other duties their Zone Commander, Department Executive Committee, and the Constitution and By-Laws may assign.

**Section 5. Department Adjutant.** The Department Adjutant shall be charged with the administration of the policies and mandates of the Department Convention(s), the Department Executive Committee and the Department Commander. They shall also have the custody of all equipment and movable property of the Department. They shall keep a record of all activities of the Department and Conventions and meetings of the Department Executive Committee.

- (a) They shall at each regular Department Convention and meeting of the Department Executive Committee read the minutes of the preceding meetings and make such corrections as may be directed unless by a majority vote of the Delegates or members of the Executive Committee present, the reading be dispensed with. They shall have the proceedings of each Department Convention recorded electronically and as soon as practicable thereafter the pertinent portions thereof shall be transcribed by the Department. The pertinent portions thereof shall be selected by the Department Commander who presided at the Department Convention and the Department Adjutant and shall, for the most part consists of motions and election activities. The electronic tape or digital recording and the transcribed portions shall be kept as a permanent record.

(b) They shall cause notice to be given of all meetings of the Department Conventions and Department Executive Committee. They shall keep a record of the membership of the local Posts. They shall keep all the Department Officers and all the Posts in the Department advised of the information, suggestions and requests from National Headquarters, and shall issue bulletins to all Posts in the Department when necessary. At the direction of the Department Executive Committee, Department Finance Committee, and the Department Finance Officer, the Department Adjutant shall collect all annual dues and other monies due and payable to the Department and deposit all monies received from all sources in a bank approved by the Department Finance Committee, Department Finance Officer and the Department Executive Committee, and shall keep a proper record of same.

(c) The Department Adjutant shall be the custodian of the monies, bonds, stock, and other funds and securities of the Department. All checks disbursing funds of the Department shall be under the guidance of the Department Finance Committee. The Department Adjutant shall keep complete records of all funds, accounts, receipts and disbursements of the Department and have same ready at all times for inspection by the Department Finance Officer, the Finance Committee or Certified Public Accountant or other Agent employed by the Department Executive Committee.

(d) The Department Adjutant shall be responsible for the development and upkeep of any and all personnel and policy manuals needed to carry out the functions of the position and to ensure compliance with all state federal laws and regulations relating to daily business and the employment of individuals of the American Legion Department of Montana.

(e) The Department Adjutant shall make, and at all times keep in force and effect, and of payable to The American Legion Department of Montana a bond with a good and solvent Surety Company as surety in such sum as the Department Executive Committee shall prescribe and direct, conditioned to faithfully perform their duties, including but not limited to the accounting for and paying over by them of all money coming into their hands as Department Adjutant. Said bond shall be approved by the Department Judge Advocate

and the Chairperson of the Department Finance Committee and shall be deposited with and kept by the Chairperson of the Department Finance Committee. The premium on said bond shall be paid by the Department. The Department Adjutant shall give additional bond or other surety to the Department if it is at any time deemed desirable and ordered by the Department Executive Committee or the Department Finance Committee when the Department Executive Committee is not in session, in a sum and condition as this Committee may prescribe, and the bond shall be approved, deposited and premium paid as indicated above.

(f) The Department Adjutant shall receive for their services an annual income, the amount to be recommended by the Finance Committee and approved by the Department Executive Committee, payable in monthly installments. They shall perform such other duties as are usually incident to their office.

**Section 6. 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.

(a) The Department Finance Officer shall review the records of all funds, accounts, receipts and disbursements of the department and ensure those records are ready at all times for inspection by the Finance Committee or Certified Public Accountant or other Agent employed for that purpose by the Department Executive Committee. The Finance Officer shall make, and at all times keep in force and effect in favor of and payable to The American Legion, Department of Montana, a bond with a good and solvent Surety Company as surety in such sum as the Department Executive Committee shall prescribe and direct, conditioned to faithfully perform their duties, including but not limited to the accounting for and paying over by them of all money coming into their hands as Department Finance Officer. This bond shall be approved by the Department Judge Advocate and the Chairperson of the Department Finance Committee and shall be deposited with and kept by the Chairperson

of the Department Finance Committee. The premium on this bond shall be paid by the Department.

**Section 7. Department Historian.** The Department Historian shall collect from year to year all records and data of value and interest to The American Legion Department of Montana and shall compile during their term of office a complete history of the year's activities.

(a) The Department Historian will travel with the Department Commander whenever possible to record the activities and events of the Commander while in office and is responsible for compiling the Commanders History Book to be provided to them upon completion of their term.

(b) The Department Historian shall also assist Post Historians so as to coordinate and unify the work of these officials and shall have such other duties as the Department Executive Committee shall prescribe.

(c) The Department Historian shall be a member of the Department Executive Committee and shall perform other such duties as are customary to the position.

**Section 8. Department Judge Advocate.** The Department Judge Advocate shall advise the Department Officers, Department Executive Committee, Zone Commanders, District Commanders and Post Commanders on all procedural matters, including construction and interpretation of the National, Department and Post Constitution and By-Laws. They shall render decisions and opinions when called upon to do so by the Department Commander and other Department Officers. The Department Judge Advocate shall file a copy of all opinions rendered by them with the Department Adjutant. In dealings with the Department Judge Advocate, The American Legion Auxiliary shall adopt and follow the provisions set forth in this section to the same extent and as fully as if the same had been incorporated in, and made a part of, its own Constitution and By-Laws. The Department Judge Advocate shall perform all duties and obligations as set forth in the Department Constitution and By-Laws.

**Section 9. 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 10. 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 11. Department Chaplain.** The Department Chaplain shall perform the duties usually pertaining to the office in similar organizations.

**Section 12. 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 13. Legion Riders Director.** The duties and responsibilities for the Director will consist of developing and monitoring ALR chapters within the Department, recommending administrative changes and or additions to the ALR Standard Operating Procedures (SOP) and ensuring direction and compliance with both National and Department Constitution and By-Laws. Furthermore, a Director, will serve for a one-year term, but may be re-appointed on an annual basis by the Department Commander and approved by the Executive Committee, and if the Director cannot attend the Assistant Director will attend in his/her place.

**ARTICLE V**  
**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 Adjutant may be appointed for a term of three (3) years and may be reappointed for additional (3) year terms.

**Section 3.** 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 4.** 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 VI**  
**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 are authorized to serve on any Convention Committee as annotated in Article V, Section 8.
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 VII 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. Any such action shall adhere to the policy and procedures of the current National Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Department Charters. A link can be found at the end of the Department Constitution and By-Laws (Reference A).

**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 VIII 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, Section 1 of the Department Constitution and in accordance with the Universal Code of Procedure as adopted by the American Legion National Executive Committee.

## **ARTICLE IX**

### **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 X**

### **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 XI**

### **WARTIME / PANDEMIC CONVENTIONS**

**Section 1.** If, in the event of a state of war, or in the event of a public health emergency where social distancing is required, 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 V of this Constitution, then a Department Wartime or Public Health Emergency 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 or Public Health Emergency Convention. If such District meeting is not held, the District Commander shall appoint the representative and alternate.

## **ARTICLE XII AMENDMENTS**

**Section 1.** The By-Laws may be amended at any Department Convention by a majority vote of authorized representation there as, provided that the proposed amendment, in resolution form, shall have been submitted through the Department Adjutant to the Posts and members of the Department Executive Committee by mailing or e-mailing same to them at least thirty (30) days prior to the convening of the next Department Convention; any such proposed amendment may be amended without further notice by a majority vote of the total authorized representation thereat, provided it does not increase the modification proposed by the amendment and it has received the approval of the Convention Committee on Constitutional Amendments; and provided further, it may be amended by unanimous vote at any Department Convention without notice.

**Section 2.** That no proposed amendment shall be submitted through the Department Adjutant to the Posts and members of the Department Executive Committee, as provided in Section 1 of this article unless said proposed amendment shall have been first submitted by a District Meeting or the Department Executive Committee.

**ARTICLE XIII**  
**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.

**ARTICLE XIV**  
**RECOGNIZED AMERICAN LEGION FAMILY ORGANIZATIONS**

**AUXILIARY**

**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.

**SONS OF THE AMERICAN LEGION**

**Section 1.** The American Legion, Department of Montana, recognizes a subsidiary organization under its jurisdiction, to be known as The Sons of The American Legion, Detachment of Montana.

**Section 2.** Qualification for membership in The Sons of The American Legion shall be as prescribed by the National Organization of The American Legion.

**Section 3.** The Sons of The American Legion shall be non-partisan in politics and shall not be used for the dissemination of partisan principles.

**Section 4.** Each Squadron of The Sons of The American Legion, Detachment of Montana, shall be organized under the jurisdiction and sponsorship of a chartered and active Post of The American Legion, Department of Montana, and shall, at all times be subject to regulations by, the Detachment Constitution and By-Laws, the Post, the Department Executive Committee, the Annual Department Convention, the National Executive Committee of The American Legion, the National Sons of The American Legion Constitution, the Detachment of Montana Executive Committee and the Detachment of Montana Convention.

**Section 5.** The revenue of this Detachment shall be derived from annual dues of members, and by such other means as may be determined by the Detachment. Each Detachment shall annually determine the amount of Detachment dues for the succeeding fiscal year. In the absence of such determination, the dues shall remain unchanged.

**Section 6.** There shall be only one (1) Squadron of The Sons of The American Legion for each Post of the Department of Montana.

### **AMERICAN LEGION RIDERS**

**Section 1.** The Department of Montana of The American Legion recognizes a program to be known as The American Legion Riders, of Montana.

**Section 2.** Qualification for membership in The American Legion Riders shall be as prescribed by the National Organization of The American Legion.

**Section 3.** The American Legion Riders shall be non-partisan in politics and shall not be used for the dissemination of partisan principles.

**Section 4.** Each Chapter of The American Legion Riders of Montana, shall be organized under the jurisdiction and sponsorship of a chartered Post in good standing of The American Legion, Department of Montana, and shall be subject to rules and regulations of

the sponsoring local Post, the Department Executive Committee, the Department Annual Convention, and National Executive Committee of The American Legion.

**Section 5.** The revenue of the Montana ALR Program shall be derived from annual dues of members, and by such other means as may be determined by the ALR Program. The ALR Program shall annually determine the amount of dues for the succeeding fiscal year. In the absence of such determination, the dues shall remain unchanged.

**Section 6.** There shall be only one (1) ALR Chapter for each Post of the Department of Montana.

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REFERENCE A: **Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post Charters of The American Legion:**

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