



# **Department Constitution and By-laws**

As adopted at the Department Convention of 1946  
and Amended at Department Conventions through 2023

Rules Governing Trials and  
Rules Governing Appeals

Prepared by  
THE AMERICAN LEGION  
DEPARTMENT HEADQUARTERS  
Orlando, Florida

**CONSTITUTION  
OF  
THE AMERICAN LEGION  
DEPARTMENT OF FLORIDA, INC.**

As adopted at the Department Convention of 1946  
and Amended at Department Conventions through 2023

**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 goodwill on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

**ARTICLE I  
NAME**

1. The name of this organization shall be The American Legion, Department of Florida, Inc.

**ARTICLE II  
NATURE AND PURPOSE**

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.
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.
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.

**ARTICLE III  
MEMBERSHIP**

1. Eligibility for membership in the Department shall be governed by the provisions of the National Constitution of The American Legion, relating thereto.
2. There shall be no form or class of membership except an active membership, and dues shall be paid annually or for life.

**ARTICLE IV  
DEPARTMENT ORGANIZATION**

1. The American Legion, Department of Florida, Inc., 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 Florida. The Department is comprised of and its jurisdiction extends to the whole of the State of Florida.
2. The Department shall be divided into areas, districts, and posts organized and officered as hereinafter provided.
3. The administrative and executive power shall be vested in the Department Executive Committee, and the Department shall be officered as hereinafter provided.
4. There shall be one (1) Annual Department Convention which shall be the legislative body of the Department. There may be special conventions called in the manner hereinafter provided.
5. There shall be a Department Headquarters maintained in the present location of Orange County, Florida.

6. There shall be such standing Commissions and Committees as shall be provided in the Department By-Laws, membership of which shall be appointed as prescribed in the Department By-Laws.
7. By-Laws shall be adopted for the further government and regulation of the Department, not inconsistent with this Constitution.
8. There shall be at least one (1) or more Department Conferences between Annual Department Conventions, the date and place to be decided by the Department's Time and Place Committee.

## **ARTICLE V DEPARTMENT CONVENTION**

1. 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.
2. 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.
3. The Annual Department Convention shall have all of the administrative and legislative powers of the Department.
4. A Department Convention shall be comprised of delegates and alternates from each chartered Post of The American Legion of the Department of Florida. 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. Alternate delegates shall be recognized in the numerical order certified.
5. Each delegate to a Department Convention shall be entitled to one (1) vote. The vote of any delegate absent and not represented by an alternate shall be cast by the majority of the delegates present from the Post. Alternates shall have the privileges of delegates except that of voting.
6. Each member of the Department Executive Committee shall be a delegate to any Department Convention during their term of office, under the same conditions as applied to the other delegates. Each Past Department Commander shall be a delegate for life to all Department Conventions, under the same conditions as applied to all other delegates, provided they are in good standing in a Post of The American Legion, Department of Florida, and present on the floor of a Department Convention.
7. Voting for all elected Department Officers shall be done on the last day of the Annual Department Convention by ballot, able to be scanned with certified electronic ballot scanning machines provided by a Florida county, Supervisor of Elections Office for the County where the election is held. If the Supervisor of Elections Office is unable to provide this service, then voting shall be done on the floor of the Annual Department Convention by roll call of Posts. Should the first ballot, whether electronic or by floor roll call of Posts, not result in a candidate receiving a majority of votes cast (defined as at least fifty percent (50%) plus one (1) of the votes cast), then a second vote for that office shall proceed by a floor roll call vote of Post as soon as practical after determining that no candidate was elected to the position to be filled. This process will repeat until a candidate is elected. The order of elections in a floor roll call vote of Posts shall be: Department Sergeant-at-Arms, Department Chaplain, Department Historian, Alternate National Executive Committee Member, National Executive Committee Member, Department Vice Commander, and Department Commander. Each delegate or alternate delegate, if the delegate is not available to vote shall cast one (1) ballot. If the ballot is electronic, the delegate or alternate, shall complete their ballot and provide said ballot to the Chairperson of the Post delegation. The Chairperson and up to one other Legionnaire of the Chairperson's choosing, shall cast the votes of the Post delegation. Should the vote be a floor roll call vote, the Chairperson of the Post delegation, or their designee, shall stand at a provided microphone when called upon, announce the Post, Post number, and the number of votes cast for each candidate in the election. The Post voting order in a floor roll call vote shall be determined by random selection.
8. The Annual Department Convention shall be the final judge of the election and qualification of the delegates.
9. A quorum shall exist at a Department Convention when thirty (30) percent of the qualified Posts are represented as provided above.
10. The Department Executive Committee, at the first Mid-Year meeting, shall adopt or amend the Rules of Procedure and governance of all Department Conventions, provided, however, the Convention rules that are contained within the Department Constitution and/or By-Laws may not be changed by this action.

11. A special convention may be held upon joint call, in writing, by the Department Commander and at least two (2) of the Area Commanders or by a majority of District Commanders, or by a majority of the Department Executive Committee members, or by a majority of the Posts. The same representation of Posts shall be required at a special convention to constitute a quorum as is required at the Annual Department Convention. No business shall be transacted at such special conventions except as set forth in the call thereto.

## **ARTICLE VI DEPARTMENT OFFICERS**

1. The Department officers shall be:
  - Department Commander
  - Department First Vice Commander
  - Department Second Vice Commander This amendment and restatement of the Consitution rescinds the Amendment dated June 18, 2022, terminating the 2<sup>nd</sup> Vice Commander position)
  - Department Adjutant
  - National Executive Committee Member
  - Alternate National Executive Committee Member
  - Department Finance Officer
  - Department Judge Advocate
  - Department Assistant Judge Advocate
  - Department Historian
  - Department Chaplain
  - Department Sergeant-At-Arms and
  - Department Service Officer
2. Department Officers shall be elected at each Annual Department Convention, except that the Department Commander shall appoint a Department Finance Officer, Department Judge Advocate, and Department Assistant Judge Advocate to be ratified by the Department Executive Committee. The Department Adjutant and Department Service Officer shall be appointed by and serve at the will of the Department Executive Committee.
3. No person shall be eligible to hold the office of Department Commander, Department First Vice Commander, or Department 2<sup>nd</sup> Vice Commander for more than one elected term.
4. In case of the resignation, death, suspension or removal from office of the Department Commander, the current Department First 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. The Department Second Vice Commander shall remain in their current office. The Position of Department First Vice Commander shall be left vacant until the next Annual Department Convention. In the case of a vacancy in the office of any Department Vice Commander, the position shall be left unfilled until the next Department Convention.
5. There shall be a National Executive Committee Member and an Alternate National Executive Committee Member elected at each Annual Department Convention held in even numbered years and they shall serve two-year term. Their term of office shall commence immediately upon the adjournment of the National Convention, next ensuing after their election. 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 the appointment of the most senior (year served) Past Department Commander who is willing and able to accept the appointment. Should the office of the Alternate National Executive Committee Member be vacant, for any reason, the vacancy shall be filled by the appointment of the most senior (year served) Past Department Commander that is willing and able to accept such appointment. 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.
6. Department Officers shall be subject to trial, discipline, suspension, removal from office, or expulsion, as provided in the Department By-Laws.
7. The Department Executive Committee shall provide authorization for the appointment, employment, and compensation of additional subordinate officers and employees as may be needed for the efficient administration of the affairs of the

Department, to include, but not be limited to, a Department Assistant Adjutant. The Department Assistant Adjutant shall be a member of The American Legion, Department of Florida. The Department Assistant Adjutant shall be responsible directly to, serve as a subordinate of, and serve at the pleasure of the Department Adjutant. They shall perform such duties as are assigned by the Department Adjutant. The Department Assistant Adjutant shall represent and act for the Department Adjutant when required. All of said individuals shall be selected and employed by the Department Adjutant.

8. In the event that any Department Commander, or Department Vice Commander, shall absent themselves from the State of Florida for a period exceeding sixty (60) days, they shall submit their resignation from such office within a reasonable time after their departure from the state, and upon their failure or refusal to do so, such office shall be declared vacant and the vacancy filled, as provided in Article VII, Section 9, of this Constitution.

9. Only the Department Officers, Area Commanders, the Department Assistant Adjutant, and the Department Membership Chairperson, while serving in office, are authorized to wear the official white Department cap with gold lettering designating their particular office.

## **ARTICLE VII DEPARTMENT EXECUTIVE COMMITTEE**

1. Between Annual Department Conventions the executive power of the Department shall be vested in the Department Executive Committee, which shall consist of the following:

- Department Commander
- Department First Vice Commander
- Department Second Vice Commander
- Area Commanders (6)
- District Commanders (16)
- District First Vice Commanders (16)
- National Executive Committee Member
- Department Chaplain
- Department Historian
- Department Sergeant-At-Arms
- Immediate Five (5) Past Department Commanders
- Past National Commanders

2. The Department Adjutant, Department Assistant Adjutant, Department Service Officer, Department Finance Officer, Department Judge Advocate, and Department Assistant Judge Advocate shall be non-voting members of the Department Executive Committee.

3. 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.

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

5. The immediate five (5) Past Department Commanders, who have served as a Department Commander in the Department of Florida and remain a member in good standing in a Florida post shall serve as voting members of the Department Executive Committee. If any of the immediate five (5) Past Department Commanders holds a voting position on the Department Executive Committee, then the next subsequent Past Department Commander shall become one of the five (5) Past Department Commanders that are a voting member of the Department Executive Committee.

6. The Department Executive Committee shall be empowered to transact all essential business of the Department of Florida not otherwise provided for in this Constitution and the Department By-laws. This authority includes the power to adopt resolutions in the name of The American Legion, Department of Florida, between Annual Department Conventions, when such adoption is necessary due to the timing of the resolution's intent, and when waiting until the next Annual Department Convention would make adoption by that Convention meaningless; provided however, no resolution shall be adopted under this provision which conflicts with the action taken on any resolution by a prior National or Department Convention.

7. 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, Area Commanders, District Commanders, and District Vice Commanders, as provided in this Constitution or the Department By-Laws.

8. 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.

9. 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. Such ratification may be conducted utilizing polling in accordance with The American Legion, Department of Florida Constitution, Article II, Section 8. If the Department Executive Committee disapproves the appointment by the Department Commander, the Department Executive Committee shall fill the vacancy until the next Convention.

10. The Department Executive Committee shall meet within 24 hours after the Department Officers have taken office, immediately preceding the holding of a Department Convention, regular or special, and meet at such other times as the By-Laws may provide.

11. 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.

12. 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.

13. 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 to a Department Convention as is provided for Department Officers.

14. Twenty-five (25) members of the Department Executive Committee shall constitute a quorum.

## **ARTICLE VIII AREA ORGANIZATION**

1. There shall be areas known as the Western Area, the Northern Area, the Eastern Area, the Central Area, the Southwestern Area, and the Southern Area.

2. The Western Area shall be comprised of the 1<sup>st</sup> and 2<sup>nd</sup> Districts.

3. The Northern Area shall be comprised of the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> and 17<sup>th</sup> Districts.

4. The Eastern Area shall be comprised of the 6<sup>th</sup> and 12<sup>th</sup> Districts.

5. The Central Area shall be comprised of the 7<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> Districts.

6. The Southwestern Area shall be comprised of the 8<sup>th</sup> and 13<sup>th</sup> Districts.

7. The Southern Area shall be comprised of the 9<sup>th</sup>, 11<sup>th</sup> and 14<sup>th</sup> Districts.

8. In each Area, there shall be an Area Commander elected at each Annual Department Convention, who shall take office at the same time as the Department Commander. Area Commanders shall serve without seniority. Area 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 Area held during the Annual Department Convention.

9. The Area Commanders shall have such authority and perform such duties as shall be prescribed in the Department Constitution and By-Laws.

10. An Area Conference may be held on the written call of the Department Commander, or Area Commander or upon the written request of the majority of the District Commanders in the Area. Such Conference shall be non-legislative, and no action shall be taken thereat that invades the jurisdiction of the Department or any Post.

11. Each Area Commander shall have the authority to establish committees and appoint Chairpersons to those Committees. At a minimum, each Area should establish a Boys State Committee, Oratorical Committee, Baseball Committee and an American Legion Riders Committee.

12. In the event that any Area Commander shall absent themselves from the State of Florida for a period exceeding sixty (60) days, they shall submit their resignation from such office within a reasonable time after their departure from the state, and upon their failure or refusal to do so, such office shall be declared vacant and the vacancy filled, as provided in Article VII, Section 9, of this Constitution.

13. Area Commanders shall be subject to trial, discipline, suspension, removal from office, or expulsion, as provided in the Department By-Laws.

## **ARTICLE IX DISTRICT ORGANIZATION**

1. The Department shall be divided into Districts bounded as follows:

District 1. This District shall be comprised of the following Counties: Bay, Escambia, Holmes, Okaloosa, Santa Rosa, Walton and Washington.

District 2. This District shall be comprised of the following Counties: Calhoun, Franklin, Gadsden, Gulf, Jackson, Leon, Liberty and Wakulla.

District 3. This District shall be comprised of the following Counties: Baker, Columbia, Dixie, Hamilton, Jefferson, Lafayette, Madison, Suwannee and Taylor.

District 4. This District shall be comprised of the following Counties: Alachua, Bradford, Citrus, Gilchrist, Levy, Marion and Union.

District 5. This District shall be comprised of the following Counties: Clay, Duval, Nassau, and St. Johns.

District 6. This District shall be comprised of the following Counties: Lake, Orange, Osceola, Seminole and Sumter.

District 7. This District shall be comprised of all of Polk County and that portion of Pasco County East of Interstate Highway 75 (The American Legion Highway).

District 8. This District shall be comprised of the following Counties: Sarasota, Manatee, Highlands, DeSoto and Hardee, and to include Post 113 Rotonda West.

District 9. This District shall be comprised of Broward County.

District 11. This District shall be comprised of the following Counties: Palm Beach, Okeechobee and Clewiston from Hendry County, Indiantown from Martin County and that part of Martin County south of the St. Lucie River.

District 12. This District shall be comprised of the following Counties: Brevard, Indian River, Martin (except Indiantown and that part of Martin County south of the St. Lucie River) and St. Lucie.

District 13. This District shall be comprised of the following Counties: Charlotte, Collier, Glades, Hendry (except Clewiston) and Lee, with the exception of Post 113 Rotonda West.

District 14. This District shall be comprised of Miami-Dade County and Monroe County.

District 15. This District shall be comprised of all of Hillsborough County, that portion of Pasco County, except New Port Richey, Hudson, Holiday and Seven Springs West of Interstate 75, (The American Legion Highway), and all of Hernando County.

District 16. This District shall be comprised of all of Pinellas County and New Port Richey, Hudson, Holiday and Seven Springs from West Pasco County.

District 17. This District shall be comprised of the following Counties: Flagler, Putnam, and Volusia.

2. There shall be a District Commander, District First Vice Commander and District Second Vice Commander from each District, elected at the District Constitutional Conference provided in Section 8 of this Article. Their election shall be ratified at the next Annual Department Convention. The Convention may vote for ratification of all elected District Officers at one time in the absence of objection. Such officers shall be members in good standing in a Post in the District in which they are respectively elected. They shall take office at the same time as the Department Commander.

3. When a vacancy in the office of District Commander occurs in any District, the Department Commander shall appoint their successor as provided in Article VII, Section 9, of this Constitution.

4. 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. The District Commander shall hold a meeting of the Posts of their District at least quarterly for the purpose of discussing programs, membership and overall communications.

5. No District Conference shall have the right to take any legislative action or to bind the Department Officers, Area Commanders, or District Officers by any such action taken, and any action taken in this conference shall be considered as merely advisory.

6. Each delegate to a District Conference shall be entitled to one (1) vote. No delegate or alternate shall be accredited without proper certificate signed by the Commander and Adjutant of the Post represented by such delegate. No registration or meal fee can be collected as a prerequisite for attending or voting.

7. In addition to any other conference that may be held in a District, there shall be held a Constitutional Conference not more than sixty (60) nor less than ten (10) days prior to the date of the Annual Department Convention, at a time and place to be designated by the District Commander, under the same regulations prescribed for conferences as set forth in Sections 4, 5, 6, and 7 of this Article.

8. District Constitutional Conferences shall be composed of delegates and alternates from each chartered Post in the District. 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 the one hundred (100)

members provided the per capita membership has been received by either Department or National Headquarters ten (10) days prior to the District Constitutional Conference. Alternate delegates shall be recognized in the numerical order certified. The Department Adjutant shall publish to the Posts and District Commanders, a bulletin listing the official voting strength of each Post not later than five (5) days prior to the District Constitutional Conference.

9. At the District Constitutional Conference, there shall be nominated one (1) delegate and one (1) alternate to the National Convention for each one thousand (1000) members or major fraction thereof in the District, to serve for the term of one (1) year, when ratified and confirmed by the Annual Department Convention. Alternate delegates shall be recognized in the numerical order certified.

10. The District Commander shall, within five (5) days after adjournment of the District Constitutional Conference, forward to the Department Adjutant, a certified copy of the name and address of the District Commander and the District Vice Commanders elected, and the delegates and alternates to the National Convention nominated at the District Constitutional Conference.

11. Thirty percent (30%) of the Posts in a District, represented by duly designated delegates, shall constitute a quorum at the District Constitutional Conference.

12. District Caps, (blue with white top) may be worn during the term of office only by the following elected and appointed District officers: District Commanders, District Vice Commanders, District Adjutant, District Assistant Adjutant, District Finance Officer, District Judge Advocate, District Service Officer, District Sergeant-At-Arms, District Assistant Sergeant-At-Arms, District Chaplain and District Historian.

13. Each District in the Department of Florida is authorized to have its own Constitution and By-Laws, provided that it shall not conflict with the National Constitution and By-Laws nor the Department of Florida Constitution and By-Laws. The District Constitution and By-Laws, together with any subsequent amendments, shall be approved by the Department Judge Advocate or Department Assistant Judge Advocate, such approval confirmed by the Department Commander, a copy filed with the Department Adjutant's Office, and a Certification of Approval issued to the District before becoming effective. A District Constitution and By-Laws must meet the approval of two-thirds of the Posts in attendance at the District Constitutional Conference or at a Special Conference called by the District Commander for that purpose. Each Post must be given 45 days notice of a Special Conference for any purpose.

14. The District Commander of each District shall have the authority to establish committees and appoint Chairpersons for those committees. At a minimum, each District should establish a Boys State Committee, Oratorical Committee, Baseball Committee, and an American Legion Riders Advisory Committee.

15. In the event that any District Officer shall absent themselves from the State of Florida for a period exceeding sixty (60) days, they shall submit their resignation from such office within a reasonable time after they depart from the state, and upon their failure or refusal to do so, such office shall be declared vacant and the vacancy filled, as provided in Article VII, Section 9, of this Constitution.

16. District Officers shall be subject to trial, discipline, suspension, removal from office, or expulsion, as provided in the Department By-Laws.

## **ARTICLE X POST ORGANIZATION**

1. The local unit shall be termed the Post, and shall have a minimum of fifteen (15) members.

2. No Post shall be chartered into this Department until it shall have received its Temporary Charter. Those who desire to form a Post shall make application for a Temporary Charter to the Department Commander. A Temporary Charter may be issued by the National Commander or National Adjutant upon receipt of a properly executed application by the charter members of the projected Post, and only when such application has been approved by the Department Commander or by the Department Executive Committee. A temporary charter shall state that it is granted on the recommendation of the Department and on the following terms and conditions:

(a) The temporarily chartered Post shall uphold the declared principles of The American Legion and shall conform to and abide by the regulations and decisions of the Department and of the National Executive Committee, or other duly constituted National Governing Body of The American Legion.

(b) This temporary charter is subject to revocation by the National Executive Committee on the recommendation of the Department, or by such authority that may hereafter be established by the National Convention.

(c) After a temporary charter has been in effect for a probationary period of at least ninety (90) days and not more than one (1) year, application for a permanent charter may be made. The Department Executive Committee shall determine whether or not a permanent charter shall be issued or denied and the action of the Department is final.

(d) All charters shall be countersigned by the Commander and Adjutant of the Department.



(e) Request for a temporary charter shall be cleared by the District and Area Commanders prior to being sent to Department.

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

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

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

6. No Post shall bear the name of any living person.

7. A Post may change its name upon application to and approval by the Department Executive Committee.

8. A charter may be suspended or revoked by the Department Executive Committee for the reasons and in the manner provided in Article VII, Section 12 hereof.

9. Area of Post activities:

(a) Where more than one Post is chartered for a municipality or other political subdivision, a division of territory shall be so arranged by the said Posts so that there shall be no overlapping of service areas. If the Posts are unable to agree on division of territory, the division shall be made by the District Commander, subject to appeal to the Department Executive Committee. The District Commander shall have the authority to change and rearrange the boundaries of the area of Post responsibility should it be determined that Legion programs would be enhanced by such rearrangement, provided, however, that before any new boundaries become effective, the Post or Posts involved shall have the right to appeal such rearrangement of boundaries to the Department Executive Committee.

(b) When any area, municipality or other political subdivision is not properly covered by activities of The American Legion as evidenced by statistics indicating a large pool of eligible non-member veterans, by lack of reported American Legion activities or by such other facts as may come to the attention of the District Commander, the District Commander shall be permitted to initiate actions to charter a new Post within such area, or to rearrange areas of responsibility for activities of The American Legion for Posts in or near such areas.

(c) In order to maintain a charter, each Post in the Department of Florida shall participate in at least one recognized program of The American Legion each year and maintain a minimum of fifteen (15) members.

10. Each Post in the Department of Florida shall have its own Constitution and By-Laws, provided that it shall not conflict with the National Constitution and By-Laws and the Constitution and By-Laws of the Department of Florida. The Post Constitution and By-Laws, together with any subsequent Amendments, shall be approved by the Department Judge Advocate or Department Assistant Judge Advocate, such approval confirmed by the Department Commander, and a copy filed with the Department Adjutant's office, with Certification of Approval issued to the Post before becoming effective.

11. The local Post shall be officered by the following officers who shall be elected annually by the Post:

Post Commander

Post Vice-Commanders-(as many as may be necessary).

Post Finance Officer

Post Sergeant-At-Arms

Post Historian

Post Chaplain

The Post Adjutant, Post Service Officer, and Post Judge Advocate shall be appointed by the Post Commander (elect). Their names shall be placed before the Post or the Post Executive Committee as the Post Constitution and By-Laws shall provide, at the first meeting following their appointment, for confirmation by a majority of the members present.

12. All officers of Posts, except the Post Adjutant, Post Service Officer and Post Judge Advocate, shall be elected and certified to the Department Adjutant, not more than ninety (90) days, nor less than ten (10) days prior to the Annual Department Convention, certification to be made on forms furnished or prescribed by the Department Adjutant. Post Officers shall be installed by the District Commander or their designated representative. Post Officers shall take office and enter upon their duties at a date to be fixed by the Post, which date shall be subsequent to, but not later than sixty (60) days after the adjournment of the Annual Department Convention, unless waived in writing by the incoming District Commander. 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.

13. Members or Post Officers may be reprimanded, removed from office, suspended or expelled from The American Legion only upon proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and/or conduct unbecoming a member of The American Legion. Charges must be made under oath, and in writing, by the accuser(s), and

no member or Post Officer shall lose their membership or office until given a fair trial. Any Post that conducts disciplinary proceedings through a trial must notify the District Commander at least ten (10) days in advance of the trial, providing the date, time and location where the trial is to be held. The District Commander shall detail a District Officer to attend the trial as an observer. The decision at trial may be an acquittal, reprimand, suspension, expulsion or, in the case of an Officer removal from office, and shall be reported to the Post forthwith and acted upon by the Post at its next regular meeting. The Post, except for a decision of acquittal, may affirm, modify or reverse any decision of the trial. The procedures and rules controlling the bringing of charges and a trial, shall be as set forth by the Department Executive Committee in that document entitled Rules Governing Trials.

14. Any member or Post Officer who has been removed from office, has had their membership suspended, or have been expelled from The American Legion shall have the right to appeal to the Department Executive Committee, provided however, that no factual determinations made by the trier of fact shall be disturbed or set aside by the Department Executive Committee. The procedure and rules governing an appeal are as set forth by the Department Executive Committee in that document entitled Rules Governing Appeals. A Notice of Appeal must be received by the Department Adjutant within forty-five (45) days of final action by the Post initiating the trial or any right to appeal is waived. If no appeal is made, the final action of the Post shall become binding. The decision of the Department Executive Committee on any appeal shall be final. The provisions of Sections 13 and 14 do not apply to disciplinary procedures carried out in compliance with any state or local law, not affecting the right of the member to attend Legion Meetings.

15. Any member in good standing may transfer to another Post willing to accept them, subject to the provisions of Article X, Section 5 of this Constitution, with the exception of a member who has been brought up on charges by the Post they wish to transfer from. If the transfer is initiated prior to the charges being filed, the member can transfer under Article IV, Sections 1, 2 and 3 of the National By-Laws. If the transfer is initiated after the charges are filed, the transfer is null and void and the discipline hearing may proceed if the Post so desires. The transfer shall be effective upon processing in the National database.

16. Any Post in this Department shall have full power and authority to drop from the membership roll the name of any member not paying their annual dues, as provided in the National Constitution and By-Laws.

17. 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.

18. All Posts shall be incorporated under the laws of the State of Florida.

19. (a) No Post of the Department of Florida shall sell or otherwise dispose of any real property (real estate) without first obtaining the written consent of the Department Commander. The request to dispose of Post real property must be presented to The American Legion, Department of Florida, NOT LESS than thirty (30) days prior to such sale or disposal and must state that all members of the Post have been given written notice, of the proposed sale/disposal via certified mail, return receipt requested, or other verifiable correspondence. Written notice must include the place, date and time of meeting where the proposed sale of Post property will be discussed and voted upon. Notice must be sent to all active current and previous year Post members no less than thirty (30) days prior to the meeting. If a Post is financially unable to contact each member through verifiable correspondence, the Department will assist in contacting the Post members. Each Post shall provide The American Legion, Department of Florida with the minutes from the meeting in which the Post membership voted to sell the property, duly executed by the Post Commander and Adjutant, and in a form suitable to the Department. The Department Adjutant shall cause the written consent of the Department Commander to be recorded in the official records of the County wherein the real property is located.

(b) Upon a Post purchasing a parcel of real property the Post shall cause the following language to be inserted into the deed for the real property before the deed is recorded into the public records: Article X Section 19 of the Constitution of The American Legion, Department of Florida requires all American Legion Posts within the State of Florida, prior to transferring a parcel of real property, to 1. Provide written notice to all members of the Post who are in good standing, and 2. Obtain written consent for the transfer of the real property from the Department Commander.

20. Each Post shall make reports to the membership of the Post at least once a month, concerning the status of all financial activities and all facilities of the Post. Such report shall include, but is not limited to total income, cost of sales, expenses, accounts receivable, accounts payable, 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 XI FINANCE**

1. The revenue of The American Legion, Department of Florida, shall be derived from annual membership dues and from such other sources as may be approved by the Department Executive Committee.

2. The amount of such annual dues shall be determined by the Annual Department Convention and remain in effect until changed by action of a subsequent Annual Department Convention.
3. The annual dues, both National and Department, shall be collected by each Post and transmitted within thirty (30) days after receipt to the Department Headquarters or National Headquarters, as appropriate.
4. The failure on the part of any Post to transmit collected dues within thirty (30) days, as specified above, shall be cause for the suspension or revocation of the charter of the Post.
5. All Department Officers responsible for National or Department funds shall furnish adequate bonds conditioned for the faithful performance of their duties. Said bonds shall be made and deposited as the Department By-Laws provide.
6. The fiscal year of the Department shall be July 1 to June 30, each date inclusive.
7. There shall be a Financial Review of the finances, accounts, property and business affairs of the Department made at least once annually, and at such other times as the By-Laws provide. The Financial Review shall be made by a Certified Public Accountant retained by the Department Finance Officer in consultation with the Department Finance Committee and the approval of the Department Executive Committee. The Department Finance Director (a Department Full-Time employee) shall have on file at all times receipted bills, or vouchers covering all expenditures of the Department. Such records shall be available at any time for examination by the Department Commander, Department Adjutant, Department Finance Officer, members of the Finance Committee, or members of the Department Executive Committee. 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.
8. 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.
9. No member, officer, or committee of the Department shall have 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.
10. All contracts entered into on behalf of the Department shall be in writing, executed by the Department Commander and evidenced by the Department's corporate seal which shall be affixed by the Department Adjutant and attested by their signature.
11. The Department Membership List, contract information, or similar databases maintained by Department are property of the Department over which the Department Finance Committee has the right to examine.
12. The Annual Department Convention may establish special funds or accounts which shall be maintained and invested as provided for in the By-Laws, or as directed by the Annual Department Convention. If no instruction as to investment was made by the Annual Department Convention or the By-Laws, then the Department Executive Committee may instruct how the funds are to be invested. No withdrawals from, or reinvestment of such monies shall be made except by like authority.
13. The Department Commander shall immediately after being installed appoint a member to the Department Finance Committee. Additionally, the Commander shall appoint as Chairperson of that Committee, a person with 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 professional experience and qualifications commensurate with the appointment to this important Committee, such as a Corporate Chief Executive Officer or Chief Finance Officer, Accounting or Finance, Entrepreneur or Senior Management. A three-person committee consisting of the Department Adjutant, Department Finance Officer, and the current Department Finance Committee Chairperson shall interview all applicants to ensure their eligibility and present their recommendations to the Department Commander. The Department Commander will select their appointee to the Department Finance Committee from this pool of applicants. The Department Commander and the Department Adjutant shall be ex-officio non-voting members of the Finance Committee, and the Department Adjutant shall be ex-officio secretary of Finance Committee. 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, or by the Department Executive Committee if the Department Convention is not in session in matters not covered by the Department Constitution and By-Laws.

## **ARTICLE XII**

### **THE AMERICAN LEGION AUXILIARY**

1. The American Legion, Department of Florida, recognizes an auxiliary organization known as The American Legion Auxiliary, Department of Florida.
2. Qualification for membership in The American Legion Auxiliary shall be as prescribed by the National Organization of The American Legion.

3. The Auxiliary shall be non-partisan in politics and shall not be used for the dissemination of partisan principles.
4. Each Auxiliary Unit shall be independent and shall be attached to a chartered and active Post of The Department of Florida, or the Widow Unit of a Post that has turned in its Charter, and shall always be subject to the regulations of the National and Department Executive Committees.

### **ARTICLE XIII SONS OF THE AMERICAN LEGION**

1. The American Legion, Department of Florida, recognizes a subsidiary organization under its jurisdiction, to be known as The Sons of The American Legion, Detachment of Florida.
2. Qualification for membership in The Sons of The American Legion shall be as prescribed by the National Organization of The American Legion.
3. The Sons of The American Legion shall be non-partisan in politics and shall not be used for the dissemination of partisan principles.
4. Each Squadron of The Sons of The American Legion, Detachment of Florida, shall be organized under the jurisdiction and sponsorship of a chartered and active Post of The American Legion, Department of Florida, 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 Florida Executive Committee and the Detachment of Florida Convention.
5. The Department oversight of The Sons of The American Legion shall be known as the Department Sons of The American Legion Advisory Committee and shall consist of members of The American Legion, Department of Florida. The Chairperson shall be appointed by the Department Commander and ratified by the Department Executive Committee. Committee members shall be one (1) from each Area, appointed by the Area Commander and one (1) from each District, appointed by the District Commander. The duties of this committee are to govern and advise The Sons of The American Legion, Detachment of Florida, intermediate bodies and all Sons of The American Legion Squadrons in the Department of Florida. The Department Sons of The American Legion Advisory Committee shall be non-voting members of all committees or commissions of the Detachment organization. The Chairperson or their written nominee, shall be the Department Sons of The American Legion Advisor at all Sons of The American Legion Detachment meetings, conferences and conventions.
6. The revenue of this Detachment shall be derived from annual dues of members, and by such other means as may be determined by the Department Executive Committee. Each Annual Department Convention shall determine the amount of Detachment dues for the succeeding fiscal year. In the absence of such determination at any Annual Department Convention, the dues shall remain unchanged.
7. There shall be only one (1) Squadron of The Sons of The American Legion for each Post of the Department of Florida. The commander of each Post where a Squadron has been formed shall appoint a committee of three (3) or more members from the Post to govern and advise the Squadron.

### **ARTICLE XIV American Legion Riders**

1. The American Legion, Department of Florida, recognizes a program under its jurisdiction, to be known as The American Legion Riders.
2. A) Qualification for membership: 1) Must be a member in good standing of The American Legion, The Sons of the American Legion, or The American Legion Auxiliary. 2) Members of a sponsoring post may not at any time hold membership in more than one Chapter of the American Legion Riders. 3) Each American Legion Riders member shall establish and maintain membership by owning either individually or through marriage, a common-law marriage, a life partnership, or a long-term relationship, a motorcycle, trike, or auto-cycle licensed and insured by the American Legion Rider member's state law, and the operator must have a license with proper endorsement. 4) On The American Legion, Department of Florida, or National events, a minimum of 750cc will be required to participate along with the proper endorsements, insurance, and signed waiver. An Auto-cycle will not be permitted to participate in The American Legion, Department of Florida, or National sanctioned events. 5) Individual American Legion Riders Chapters may allow for continued membership for those members who have given up motorcycle ownership due to age, illness, injury, or other reasons beyond a member's control. 6) Per NEC Resolution No. 37, May 4-5, 1988, American Legion Riders Chapters do not have the authority to enter into any formal association or club/council membership with any outside organization that may act or vote in any manner outside the control of The American Legion.  
B) Support Members: Chapters may accept support members, but at a minimum, they must: 1) Must be a member in good standing of The American Legion, The Sons of the American Legion, or The American Legion Auxiliary. 2) A supporter

may only be a supporter of one American Legion Riders Chapter. 3) May only hold the Adjutant/Finance Officer and Chaplain positions at the Chapter level. 4) May not hold any Department American Legion Riders Advisory Committee position. 5) May not vote at the Chapter level unless specifically authorized by the Chapter's Standing Rules.

C) Future Riders Members: Chapters may accept future rider members, but at a minimum, they must: 1) Be a junior member of The Sons of The American Legion or The American Legion Auxiliary and identified by a "Future Rider" patch. 2) The parent or legal guardian must sign the Participant Accident Waiver/Release of Liability form.

3. The American Legion Riders shall be non-partisan in politics and shall not be used to disseminate partisan principles.
4. Each Chapter of The American Legion Riders, Department of Florida, shall be organized under the jurisdiction and sponsorship of a chartered and active Post of The American Legion, Department of Florida, and shall, at all times be subject to regulations by, the Post, The Department Executive Committee, The Annual Department Convention, and The American Legion Riders Advisory Committee.
5. The Department Oversight of The American Legion Riders shall be known as the American Legion Riders Advisory Committee and shall consist of the following members: Chairperson, Vice Chairperson, Adjutant, one (1) Area Chairperson for each Area, and one (1) District Chairperson for each District. To be a member of this committee, they must be a member of The American Legion, The American Legion Auxiliary, or The Sons of The American Legion, in good standing, and be a current or past American Legion Rider Chapter Director. The members will be appointed as follows: a) The Chairperson, a Legionnaire, shall be appointed by the Department Commander, b) The Vice-Chairperson shall be appointed by the Chairperson, and c) The District Chairperson shall be appointed by the applicable District Commander. The Committee will provide the Chairperson with three (3) nominations from outside the Committee from which the Adjutant shall be chosen.
6. The American Legion Riders Advisory Committee shall set forth the policies and procedures of The American Legion Riders, said policy to be approved by the Department Executive Committee.
7. The revenue of the American Legion Riders shall be derived from fundraisers conducted by the American Legion Riders. The American Legion Riders shall submit an annual budget for the following membership year by April 1, of each year for consideration by the Department Finance Committee and approval of the Department Executive Committee.
8. There shall be only one (1) Chapter of The American Legion Riders for each Post of the Department of Florida. The commander of each Post where a Chapter has been formed shall appoint a committee of three (3) or more members from the Post to govern and advise the Chapter.

## **ARTICLE XV DELEGATES TO THE NATIONAL CONVENTION**

1. Regular representation at National convention shall be as follows:

(a) Delegates and alternates nominated by the District Constitutional Conferences as provided in Article IX, and elected at the next Department Convention.

(b) The immediate Past Department Commander shall be a delegate to the National Convention held in the same year they served as Commander. They shall be designated as Chairperson of the Delegation.

(c) The incumbent Department Commander shall be a delegate to the National Convention convening in the calendar year of their election.

(d) The Department Adjutant shall be a delegate to the National Convention. The Department Adjutant shall serve as Secretary of the delegation.

(e) The National Executive Committee Member and the Alternate National Executive Committee Member, by virtue of their offices, shall be a delegates to the National Convention.

(f) All Past Department Commanders in good standing with The American Legion, Department of Florida, will be considered delegates, but they must notify the Department Adjutant of their intent to attend the National Convention 30 days prior to the first day of the National Convention.

2. All other delegates and alternates to which the Department is entitled, after Districts have been allotted their quota, shall be appointed by the Chairperson of the Delegation.

## **ARTICLE XVI MISCELLANEOUS**

1. 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.

**ARTICLE XVII  
AMENDMENTS**

1. This Constitution may be amended at any Annual Department Convention by a vote of two-thirds of the total authorized representation thereat. No amendments to this Constitution shall be made except as herein provided, unless a copy of such proposed amendments shall be typewritten, prepared in triplicate on forms supplied by Department Headquarters, and be submitted to the Department Adjutant at least forty (40) days prior to the date of the Annual Department Convention. The Adjutant shall send a copy thereof to each Post of the Department at least thirty (30) days prior to the Annual Department Convention. Only a Post the Department Executive Committee, or the Department Standing Committee on Constitution and By-Laws may submit a proposed amendment to this Constitution or the accompanying By-Laws.
2. Amendments to this Constitution proposed at the Annual Department Convention of which the notice required by Section 1 of this Article has not been given, shall be considered by the Convention only if unanimous consent of all delegates present at the Convention is obtained.

**ARTICLE XVIII**

1. This Constitution shall become effective immediately upon its adoption by the Annual Department Convention.

**BY-LAWS  
OF  
THE AMERICAN LEGION  
DEPARTMENT OF FLORIDA, Inc.**

**ARTICLE I  
DEPARTMENT CONVENTION**

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 more than forty-five (45) days nor less than fifteen (15) days prior to the first day of the Convention.
2. No Post shall seat its delegates or alternates at the Annual Department Convention unless it has complied with Article X, Section 12, Article XI, Section 8 of the Department Constitution and has filed a Consolidated Post Report and Addendum.
3. No delegate, except those for which provision is made in Article V, Section 6 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.
4. The Department Commander shall appoint a Chairperson and a vice- Chairperson of the following Convention Committees:
  - Amendments to Constitution & By-Laws (Individuals serving on any standing or special Constitution and By-Laws Committees shall be a member of this Committee)
  - Credentials
  - Resolutions
  - Time and Placeand any other Convention Committees as may be necessary. 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, except for the Time and Place Committee.
5. Resolutions:
  - (a) All resolutions submitted to the Annual Department Convention must first be adopted by a Post of The American Legion, Department of Florida, or the Department Executive Committee.
  - (b) All resolutions submitted to the Department Convention shall be typewritten on forms provided by the Department Adjutant and submitted in triplicate, and any resolution not so drawn shall be returned by the Department Adjutant to the sponsor for correction.

(c) All resolutions shall be presented to the Department Adjutant at least forty (40) days prior to the Department Convention. This time limit may be waived by a two-thirds vote of the delegates present at the Department Convention.

(d) The subject matter of resolutions submitted to the Annual Department Convention shall be restricted to matters germane to the purposes and programs of The American Legion.

(e) Resolutions emanating from a private organization to further its own interest will not be accepted.

(f) Proposed amendments to the Department Constitution or By-Laws shall not be the subject of a resolution. All proposed changes to these shall be submitted in accordance with Article XVI of the Constitution and Article VII of these By-Laws.

(g) The Resolutions Committee at the Convention shall meet not later than 2:00 P.M. of the first day of the Convention.

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

(1) Resolution was not submitted within the time prescribed by the Department By-Laws.

(2) Resolution was not submitted in proper form.

(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.

(i) 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.

6. When a delegate desires to make a motion or address the Convention they shall rise, address the Chair and state their name and the name and number of their Post before proceeding.

7. No delegate shall be permitted to talk more often than once on any one subject, unless they have made the motion relating to the subject, and then only twice, and no delegate shall be permitted to talk longer than five (5) minutes on any one (1) subject, except by unanimous consent.

8. 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.

9. The annual election of the Officers of the Department shall be the special order of business of the Annual Department Convention.

10. Nominations for Department Officers shall be from the floor on the first day of the Annual Department Convention.

11. 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.

12. Each officer to be elected at the Annual Department Convention shall be voted on by common ballot except that the election of Area Commanders, District Commanders, and District Vice Commanders may be elected and ratified collectively.

13. 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).

15. 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.

16. 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.

## **ARTICLE II DEPARTMENT EXECUTIVE COMMITTEE**

1. 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.

2. 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.

3. 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.

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

5. Department Officers, Area Commanders, and District Commanders and District Vice Commanders may be reprimanded, suspended, removed from office, or expelled 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, or expelled 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 Florida, in good standing or a Florida licensed attorney, or both, as counsel. The Department Assistant Judge Advocate, if available and qualified, shall prosecute the charge(s), and if the Department Assistant 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. Should the Department Judge Advocate not be available or otherwise unable to serve in this role, then the senior qualified Department Officer not under charge shall appoint a member of the Department to preside over the trial or related hearings. 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 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 Florida.

6. Department Officers, Area Commanders, District Commanders, or District Vice Commanders shall not be suspended or removed, or the suspension or removal of Post Officers affirmed on appeal, except by the affirmative vote of 60% or more of the voting members of the Department Executive Committee present. The vote shall be by roll call, and no member shall pass except for personal reasons acceptable to a majority of the voting members of the Department Executive Committee present.

7. The Department Executive Committee shall sit in executive session in trials of Department Officers, Area Commanders, District Commanders, or District Vice Commanders, and on appeals from Post trials.

8. The Department Executive Committee shall not be polled or vote by telephone, electronic communication or by mail on any question properly requiring exchange of views and deliberative action, such as elections, trials of Department Officers, Area Commanders, District Commanders, or District Vice Commanders, appeals from Posts with respect to Post officers and members, elections of officers, questions of policy and legislative matters, employment and compensation of Department Officers and employees or filling vacancies on a Committee or in Department Offices caused by death or resignation or the disbursement or appropriation of money. The Department Commander may poll the voting members of the Department Executive Committee by mail, electronic communication or telephone in case of emergency or any routine administrative matter, or for their guidance or for its concurrence in or ratification of some act within their powers and functions, but no such poll shall be tabulated and made effective earlier than sixty (60) hours from the time of such call, which shall be simultaneously issued to all members of the Department Executive Committee. If ten (10) voting members protest the poll and lodge their protests by telephone, electronic communication, or by mail with the Department Adjutant prior to the effective time of such poll, the same shall be null and void. In all events, the members of the Department Executive Committee shall be promptly advised by mail or email of the results of the poll.



9. The proceedings of the meeting shall be recorded electronically and thereafter the pertinent portions thereof shall be transcribed by a typist employed by the Department. The pertinent portions, shall be selected by the Officer who presided at the meeting and the Department Adjutant, and shall be transcribed as soon as practicable after such meeting of the Department Executive Committee, a brief synopsis of the proceedings of the meeting shall be sent to each Post in the Department and to each member of the Executive Committee.

10. In its deliberations, the Department Executive Committee shall be governed by these By-Laws and the Department Constitution, and as to all questions not covered by the Department's Constitution or Department By-Laws shall be governed by Roberts' Rules of Order, Revised.

### **ARTICLE III DEPARTMENT COMMISSIONS AND COMMITTEES**

1. (a) The following Commissions will be organized, as set forth below, to carry out the programs of The American Legion; National Security Commission, Americanism Commission, Veterans Affairs and Rehabilitation Commission, Children and Youth Commission and Internal Affairs Commission.

(b) Each of such Commissions shall consist of a Chairperson who shall be appointed by the Department Commander with the approval of the Department Executive Committee and six additional members, each of which shall be appointed by an Area Commander from their Area. Each Commission shall act under the immediate administrative direction of its Chairperson, and shall meet and organize on call of the Department Commander. (This specific provision shall take effect at the Annual Department Convention to be held in 2024). A member's term shall be for a period of one (1) year.

(c) Each Committee, under a Commission, shall consist of three (3) Legionnaires. Each member shall be from a Post from a different Area, appointed by the current Department Commander with the consent/approval of the Department Executive Committee. The Commission Chairperson shall appoint one (1) of these committee members as Chairperson. The above rule does not apply to the Department Finance Committee, the Sons of The American Legion Advisory Committee, the Legion Riders Advisory Committee, Baseball Committee, Children and Youth Fund Committee, Boys State Committee, Oratorical Committee, Religious Emphasis Committee, or any Department Convention Committee.

2. The Americanism Commission shall have jurisdiction over and coordinate the activities of the following Committees:

Baseball, Boys State, Junior Shooting Sports, Oratorical, Religious Emphasis, School Medals, Scouting, and Youth Law Cadet.

3. The Veterans' Affairs and Rehabilitation Commission shall have jurisdiction over and coordinate the activities of the following Committees:

Employment, Homeless Veterans, National Cemetery, Project: VetRelief, VA Entitlements, and Women Veterans.

4. The Security Commission Shall have jurisdiction over and coordinate the activities of the following Committees:

Blood Donor, Disaster Preparedness, Immigration, Law and Order, POW/MIA, and Legislative.

5. The Internal Affairs Commission shall have jurisdiction over and coordinate the activities of the following Committees:

American Legion Riders Advisory Committee, Constitution and By-Laws (including amendments), Convention (Credentials, Resolutions, and Time and Place, Legion College, Membership, Post Development, Public Relations, Publication, Advisory, and Social Media.

6. The Children and Youth Commission shall have jurisdiction over and coordinate the activities of:

Florida Children and Youth Fund Committee, Scholarships, and Special Olympics.

7. (a) Each Committee shall consist of a Chairperson, who shall have full authority to transact the business of and act for the Committee, subject only to the supervision and direction of the applicable Commission, the Department Commander and the Department Executive Committee.

If an appointment is made by a Department Commander at a time when the Department Executive Committee is not in session, the appointee shall serve until the next meeting of the Department Executive Committee and thereafter during the term for which appointed, unless the appointment be specifically disapproved at such meeting by the Department Executive Committee or unless removed by the Department Commander. The proposed District appointments for the ensuing year shall be certified to the Department Adjutant as a prerequisite to the installation of the District Commander, and a bulletin shall be mailed to all the Posts by the Department Adjutant, as soon as practicable, listing the names and contact information of the Chairperson and members of the District Committees.

(b) Each member of a standing committee (Department, Areas, Districts, and Posts) shall take office at the same time as the Department Commander, Area Commander, District Commander, or Post Commander, respectively, and shall serve until their successor is qualified; provided, however, that the Department Commander may direct the specific dates of the commencement and termination of any Committee appointment and the Post Commander may direct the specific dates of commencement and termination of any Committee appointment in their Post.

8. All committees shall faithfully perform their duties, keep records of their acts, and report the same to their respective Commissions, or if so required, to the Department Executive Committee, Department Commander, or Department Convention. The Commissions shall report fully to the Department Executive Committee and Department Commander prior to the Annual Department Convention, and at such other times as may be required.

9. The Department Commander may, from time to time, appoint such special committees of the Department as necessary; and they shall appoint such special committees as either the Department Convention or the Department Executive Committee may authorize or direct.

10. The Department Commander shall appoint, subject to ratification by the Department Executive Committee, a Department Religious Emphasis Committee to be composed of five (5) members, of which the Department Chaplain shall be Chairman, and the immediate Past Department Chaplain, Vice-Chairman. One (1) additional member shall be appointed for a full three (3) year term, or until removed by a majority vote of the Department Executive Committee. Between sessions of the Department Executive Committee, the Department Commander may fill vacancies on the Department Religious Emphasis Committee, subject to ratification by the Department Executive Committee at its next meeting. The Department Religious Emphasis Committee shall have such powers and perform such duties as shall be prescribed by the Department Executive Committee, or by the Department Constitution and By-Laws, or by action of the Department Convention.

11. The Department Finance Committee shall consist of five (5) members, each with a staggered term of five (5) years. The Department Commander shall appoint, with the approval of the Department Executive Committee, one (1) member as the Chairperson.

12. The Time and Place Committee shall consist of five (5) members, each with a staggered term of five (5) years. The Department Commander shall appoint, with the approval of the Department Executive Committee, one (1) member as the Chairperson. Each appointee shall serve for a full five (5) year term or until removed by a majority vote of the Department Executive Committee. The Department Commander may fill vacancies for the unexpired terms of the Time and Place committee subject to ratification of the Department Executive Committee at its next meeting. It shall be the duty and responsibility of the Time and Place committee to invite and receive bids and proposals of sites and accommodations for holding the Annual Department Convention and the mid-year conference. Bids and proposals may also be invited and received for additional years; provided, however, any acceptance/recommendations must be adopted by the Department Convention.

13. The Baseball Committee shall consist of the following members: Chairperson, one (1) Area Chairperson from each Area and one (1) District Chairperson from each District.

14. The Oratorical Committee shall consist of the following members: Chairperson, one (1) Area Chairperson from each Area and one (1) District Chairperson from each District.

15. The Boys State Committee shall consist of the following members: Chairperson, one (1) Area Chairperson from each Area and one (1) District Chairperson from each District.

16. The Children and Youth Fund Committee shall consist of the following members: Children and Youth Commission Chairperson, Department Commander, Department Adjutant, a member of the Sons of The American Legion, and three (3) members appointed by the Department Commander. The three (3) members appointed by a Department Commander shall serve staggered three (3) year terms. Each Department Commander shall appoint one (1) member.

17. Each Convention Committee, not including Time and Place Committee, shall consist of a Chairperson appointed by the Department Commander and a representative from each post (with delegates present). The Amendments Committee shall also include any member of standing or special Constitution and By-Laws Committee. The Chairperson of this committee shall be the Chairperson of the standing committee on Constitution and By-Laws.

18. Any member of any Department Commission or Committee may be removed for cause by the Department Commander with the approval of the Department Executive Committee. If a member is so removed, the Department or Area Officer that made the original appointment shall appoint a replacement with the approval of the Department Executive Committee.

19. Every committee set forth in this Article is recognized as a program of The American Legion, Department of Florida. The Department Executive Committee shall have the authority to set standard operating procedures for any such program which are not contravened by these Department Constitution or By-Laws.

#### **ARTICLE IV FINANCE**

1. The offices of Department Adjutant and Department Finance Officer shall be held by two (2) separate individuals. The Department Adjutant and Department Finance Officer shall be appointed as provided in the Department Constitution.

2. (a) No real property shall be bought or otherwise acquired by the Department except by gift, and not then if any expense is involved, without prior consent and approval of the Department Executive Committee. Personal property, tangible and intangible, may be acquired on the approval of the Department Finance Committee between meetings of the Department

Executive Committee. Any property purchased or otherwise acquired by this Department shall be taken in its corporate name. If purchased or acquired with money from any Fund mentioned in Section 9 of this Article, the property shall be credited and carried on the Department books in the account of that Fund. Property shall be sold, assigned, transferred or conveyed only upon authorization and approval of the Department Executive Committee, except that between meetings of the Department Executive Committee, the Department Finance Committee may authorize sale or exchange of any tangible or intangible personal property held by the Department for itself or for the account of any Fund herein and in section 9 of this Article.

(b) The Department Executive Committee, upon recommendation of the Finance Committee, may transfer any real property, stocks, bonds, cash, or cash equivalents to the ALDF Properties, Inc., a Florida non-profit corporation, provided that a closeout letter as to the corporate structure of the corporation is received from the I.R.S. prior to any such transfer of assets.

3. 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, as the case may be, may allow.

4. 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.

5. The Department Finance Committee shall meet at least quarterly and shall make a full report of the Department's financial affairs at each regular meeting of the Department Executive Committee and as may be required at special meetings of the Department Executive Committee and for these purposes may call upon the Department Finance Officer and Department Adjutant to furnish it the inventories and financial statements as it may require.

6. 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, and in the absence of the Chairperson two (2) or more regular members of the Department Finance Committee shall personally inspect the Department Headquarters and examine all property of the Department, including intangible property owned by the Department or held by it for any fund or other account, and shall procure from depositories, statements of deposit accounts of the Department, including the various funds mentioned in Section 9 of this Article.

7. No Department Officer, Area Commander, District Commander, or District Vice Commander shall be allowed any compensation for their services except the Department Adjutant. No Department Officer, Area Commander, District Commander, District Vice Commander, or Department Committee member shall be paid or reimbursed for their expenses for travel or otherwise if it shall have been authorized by the Department Executive Committee or by the Department Finance Committee when the Department Executive Committee is not in session. All regular expense allowances shall be carried in the annual budget. Officers who are allowed a fixed sum annually for their expenses shall have the same paid to them in equal monthly installments.

8. 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 \$3,000.00 in any year, without the approval of the Department Executive Committee.

9. In addition to such funds as may hereafter be established by a Department Convention or by the Department Executive Committee between Department Conventions, there shall be the following funds:

(a) The General Fund: This Fund shall consist of the Department's portion of dues collected from each member and other income from any source, used for the purpose of defraying operating costs of the Department. Expenditures from this Fund shall be as prescribed in the annual budget of the Department.

(b) The Florida Children and Youth Fund: A Fund shall be set aside with donations from individuals, Posts, and any other source which shall be restricted to funding appropriate projects that enhance the lives of children in Florida. Expenditures from this Fund shall be awarded annually by the Children and Youth Fund Committee.

(c) The Florida Disaster Relief Fund: A fund established through donations to provide assistance through support services or financial support to veterans throughout the state or nation that have suffered through catastrophic events due to no fault of their own.

(d) The Department Adjutant shall manage and account for the several Funds 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.

10. No funds of The American Legion, Department of Florida, 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.

11. The members of the Department Finance Committee shall be allowed their expenses including transportation, hotel accommodations, sustenance and other necessary expenses when attending to the duties of the Department Finance Committee, if budgeted.

12. Each Post shall pay their per capita membership fee as fixed by National and Department Convention. Said fee to be paid to National or The American Legion, Department of Florida.

13. Dues shall be payable annually or for life at the time as may be provided from time to time by National.

## **ARTICLE V DUTIES OF OFFICERS**

1. All Officers shall perform the duties required of them by these By-Laws or by the Department Constitution.

2. **Department Commander.** The Department Commander shall be the principal representative of The American Legion, Department of Florida, 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 Florida, and shall perform such other duties as are usually incident to the office.

3. **Department First Vice Commander.** The Department First 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. It shall be the primary duty of the Department First Vice Commander to provide oversight and augment the increasing and stabilizing of the membership of The American Legion, Department of Florida. The Department First Vice Commander shall make themselves knowledgeable of the business dealings of The American Legion, Department of Florida, throughout their term. The Department First Vice Commander shall communicate with the Area 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.

4. **Department Second Vice Commander.** The Department Second Vice Commander shall have as their primary duty the promotion and coordination of training for Districts, Posts, and Legionnaires throughout The American Legion, Department of Florida. This duty will be achieved by the promotion and coordination of The American Legion programs that Florida has adopted. The Department Second Vice Commander shall communicate with the Area Commanders, District Commanders, and Posts to assist them in their respective assignments. The Department Second Vice Commander shall also perform any other duties as may be assigned by the Department Commander, the Department Executive Committee, and the Department Constitution and By-Laws.

5. **Area Commanders.** The Area Commanders shall be the personal representative of the Department Commander in their respective Areas.

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

(b) The Area Commander is elected by a majority vote of their Area's Caucus registered delegates to the Annual Department Convention. They serve 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 Area Commander should attend the following: Department Convention(s)(preside as Chairperson over their Area Caucus), 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 Department Commander's Homecoming, Installation of Department Officers and as many Post Installations in their Area as possible, all District Meetings within their Area, visit each Post within their Area at least once (not counting Installation of Post Officers) and submit a monthly report for the Legion Link. The Area Commander should also schedule an Area Conference, which may include an Area Ball, and complete the American Legion Basic Training (online).

(c) While not mandatory, the Area Commander is encouraged to attend the National Convention and all other scheduled Area Conferences and/or Area Balls, and to schedule the following: two or more joint meetings with all District Commanders and Vice Commanders, two or more round table meetings with District/Post Commanders in each District, two or more membership promotions within their Area utilizing National Legion College graduates as coordinated with Department, provide written reports on these activities and such other reports at the interval directed by the Department Commander.

(d) Other duties include, but are not limited to, the following: visit each U.S. Senator's and U.S. Representative's local office and provide The American Legion's legislative priorities to them, visit each State Senator's and State Representative's local office, demonstrate a working knowledge of protocol and share it when they see violations and establish membership goals.

(e) The Area Commander may appoint an Area Adjutant, Chaplain, Sergeant-At-Arms, a full slate of working program chairpersons, and such other volunteer positions as may be deemed necessary to assist in the performance of their duties.

(f) They 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.

**6. 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.

(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 shall perform any other duties their Area Commander, Department Executive Committee, and the Constitution and By-Laws may assign.

**7. District Vice Commanders.** Each District shall have a First and Second Vice Commander. In addition to the First Vice Commander serving on the Department Executive Committee as prescribed in the Department Constitution, both First and Second Vice Commanders shall assist the District Commander in the performance of their duties, and shall have any other duties as the District Commander, the Department Executive Committee, and the Department Constitution and By-Laws may assign.

**8. 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. 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 a typist employed 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. 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. 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.

The Department Adjutant shall make, and at all times keep in force and effect, and of payable to The American Legion Department of Florida 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. The Department Adjutant shall engage in no other occupation or profession during the incumbency in their office. They 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 bi-weekly installments. They shall perform such other duties as are usually incident to their office.

**9. Department Assistant Adjutant.** When authorized by the Department Executive Committee, the Department Assistant Adjutant shall perform those duties assigned by the Department Adjutant. In the event the Department Adjutant is absent or unable to fulfill their duties, the Assistant Adjutant shall perform those duties until the return or restoration of the ability of the Department Adjutant.

**10. 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 Florida, 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.

**11. Department Judge Advocate.** The Department Judge Advocate shall advise the Department Officers, Department Executive Committee, Area Commanders, District Commanders and Post Commanders on all legal 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.

**12. Department Assistant Judge Advocate.** The Department Assistant Judge Advocate shall advise the Department Officers, Department Executive Committee, Area Commanders, District Commanders, and Post Commanders on all legal matters, including construction and interpretation of the National, Department and Post Constitution and By-Laws, and shall perform such other duties as are incident to the office. The Assistant Judge Advocate shall perform those duties assigned by the Department Commander and/or Department Judge Advocate. In the event the Department Judge Advocate is unable to fulfill their duties, the Assistant Judge Advocate shall perform those duties until the return or restoration of the ability of the Department Judge Advocate. The Department Assistant Judge Advocate shall file a copy of all opinions rendered by them with the Department Adjutant. In dealings with the Department Assistant 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 part of, its own Constitution and By-Laws. The Department Assistant Judge Advocate shall perform all duties and obligations as set forth in the Department Constitution and By-Laws.

**13. Department Chaplain.** The Department Chaplain shall perform such divine and non-sectarian services as may be necessary, adhering to the ceremonial rituals as may be recommended by National Headquarters from time to time. The Department Chaplain will provide spiritual leadership to the Department and will attend all Departmental meetings. If called upon, the Department Chaplain will take part in the initiation of new members, the dedication of halls, monuments, and the funeral services for a Legionnaire.

**14. 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 Florida and shall compile during their term of office a complete history of the year's activities. They also shall 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.

**15. Department Sergeant-At-Arms.** The Department Sergeant-At-Arms shall preserve the order at the Conventions of the Department and meetings of the Department Executive Committee, and introduce the Department Commander and Guest(s) and dignitary(ies) of the Department. They shall be in charge of the stand of colors and properly displaying them

at all Departmental meetings and ceremonial occasions, and perform any other duties as may be prescribed by the Department Executive Committee. They are authorized to appoint as many assistants as they may need.

## **ARTICLE VI INVESTIGATIONS**

1. The Department Commander may initiate actions to ensure that improper management, dishonesty, conflicts of personalities, malfeasance, misfeasance, nonfeasance, or any other factors do not jeopardize the continued existence of any Post in the Department of Florida. These actions may include but are not limited to, the following:

(a) Directing the District Commander in which a Post is located to conduct a preliminary investigation into the affairs of the Post and to act, if possible, as a mediator if they determine that the problem is primarily one of a conflict in personalities. Should the Department Commander decide that there may be some cogent reason to use some other individual to conduct the initial investigation/mediation, they shall, in consultation with the Area Commander in which the Post is located, detail some other member of the Department to conduct the initial investigation/mediation. A report of such investigation, including recommendations for further actions by officials of the Department, shall be rendered to the Department Commander.

(b) If the initial investigation/mediation does not result in a solution to the problem, the Department Commander, after consultation with the Chairperson of the Internal Affairs Commission, shall appoint a member of that Commission not from the same District as the Post involved, to conduct a further investigation into the affairs of the Post and to act, if possible, as a mediator if they should feel that mediation could be successful. A report of such investigation, including recommendations for further actions by the Department, shall be rendered to the Department Commander as soon as practicable.

(c) Based on this report, the Department Commander may detail accountants or auditors to investigate financial problems further. Should such further investigations reveal conditions that could jeopardize the continued existence of the Post, the Department Commander, with the advice of the Department Executive Committee or the Finance Committee when the Department Executive Committee is not in session, shall advise the Post officers to take actions to ensure these conditions are alleviated, and if the Post officers are unable or refuse to comply with these directions, shall detail a Past Department Commander, in conjunction with the District Commander in which the Post is located, to take these actions providing specific detailed guidance for management of all of the affairs of the Post if required. In this event, every effort shall be made by the Past Department Commander and the District Commander to return complete control to the regular officers of the Post at the earliest opportunity if it is determined that such return of control is in the best interest of the Post and Department.

(d) The Post involved shall be responsible for the cost of the investigations detailed above, including travel expenses, lodging, and other expenses for the investigator(s), auditor(s), accountant(s) or other personnel.

## **ARTICLE VII AMENDMENTS**

1. These By-Laws may be amended and changed at any Department Convention by two-thirds vote; all changes and amendments must be in writing. No amendments to these By-Laws shall be made except as detailed in Section 2 of this Article, unless a copy of such proposed amendments shall be typewritten, prepared in triplicate on forms supplied by Department Headquarters, be submitted, at least forty (40) days prior to the date of the Department Annual Convention, to the Department Adjutant, who shall send a copy thereof to each Post in the Department at least thirty (30) days prior to the Annual Department Convention. Only a Post, Department Executive Committee, or the Department Standing Committee on Constitution and By-Laws may submit a proposed amendment to these By-Laws.

2. Amendments to these By-Laws proposed at the Annual Department Convention, of which notice required by Section 1 of this Article has not been given shall be considered by the Convention only by unanimous consent of all delegates present at the Convention is obtained.

## **RULES GOVERNING TRIALS**

*These rules shall govern any and all trials held by The American Legion, Department of Florida or any Post within The American Legion, Department of Florida.*

1. Any disciplinary action where the potential punishment is suspension or expulsion from The American Legion, or in the case of an Officer, the removal from office, against any Member or Officer shall be upon sworn or verified written charges by the accuser(s).

2. Said sworn or verified written charges shall be filed with the Adjutant of the Convening Authority.

3. A copy of the sworn or verified written charges shall be served upon the accused, either in person or by certified mail with proof thereof by a return receipt.

4. The Adjutant of the Convening Authority shall cause to be served upon the accused, in the same manner as above mentioned, a Summons for the accused to appear on a specified date, time, and location for a trial. The trial shall be held at the next regularly scheduled Post Meeting after fifteen (15) days have lapsed from the time of service of the charges upon the accused.

5. The accuser(s) must be a member(s) of the same Post as the accused and shall set forth the charges of disloyalty, neglect of duty, dishonesty, and/or conduct unbecoming a Member of The American Legion in terms whereby the accused shall be able to determine what conduct is being complained of, which shall at a minimum, include the date, time, place, and the details of the offensive conduct, in order that the accused may properly prepare a defense.

6. The accused may appear at the trial in person, through written answer, or with counsel. Counsel may be a member of The American Legion or a licensed attorney.

7. Either the Convening Authority or the accused may apply for a continuance before the day of the trial. However, such a request must be in writing, show just cause for said request, and be sworn to by the moving party. The presiding Judge Advocate shall rule on any such motion filed.

8. The Judge Advocate of the Convening Authority shall preside at the trial and shall have the power and authority to pass upon the materiality and relevancy of any evidence presented, and shall have general power to prescribe the necessary and reasonable rules and regulations for the orderly procedure of said trial.

9. In the event that the Judge Advocate of the Convening Authority is unable to preside at the trial, the Department Commander shall be noticed of said inability, and the Department Commander will then appoint a Judge Advocate from within the physical jurisdiction of The American Legion, Department of Florida, to preside over the trial. The Post shall bear the expense of any Judge Advocate so appointed.

10. At any time before the trial commences, the charges may be amended. However, if the charges are amended the accused must be served with the amended charges and allowed fourteen (14) days before the trial can commence at a regularly scheduled Post Meeting.

11. The entire trial including all votes taken, will be conducted by the Post Judge Advocate or a Judge Advocate appointed by the Department Commander.

12. At the regularly scheduled Post Meeting, where a quorum is present, the trial is the first order of business. Prior to the start of the trial, the membership will need to determine if the votes to determine guilty/not guilty and any other punishment be taken viva voice (by voice) or by ballot.

13. Only the Post members in good standing sitting in attendance at the regularly scheduled Post Meeting will be the jury to hear the trial.

14. The start of the trial shall be the reading of the charges in front of the membership.

15. All testimony of witnesses must be taken under oath. The accused shall have the right to confront and cross examine any witnesses against him or her. No written statements, whether sworn or not, shall be admitted into evidence if the person who wrote the statement is not present to confront and be cross examined by the accused or counsel. The accused shall be allowed to speak in his/her own defense, if he/she so desires.

16. Either the Convening Authority or the accused shall have the right to have the trial and associated proceedings recorded by tape, video, or court reporter. The Post which arranges for the recording/reporting of the trial shall be responsible for any cost associated therewith.

17. Once the witnesses have been heard and the accused has been heard (if desired), the accused shall retire from the meeting room and the Post members present shall proceed at once, and without debate, to vote on the guilt or innocence of the accused, taking a separate vote on each charge.

18. If the accused is found guilty by a majority vote of the members present and voting, a second vote will be taken to determine if the accused will be permanently expelled from The American Legion, suspended from The American Legion or a lesser punishment as determined by a majority vote. In no case shall a member be permitted to vote who was not present at the commencement and during the entire progress of the trial. Expulsion means no longer eligible to be a member of The American Legion (requires a 67% affirmative vote from members present). Suspension means suspended from The



American Legion for a maximum of the remainder of the current membership year and one additional membership year. A not guilty verdict dictates no punishment.

19. Such decision at the general membership meeting of the Post shall be binding upon the accused and the Post unless the accused, within forty-five (45) days from such decision, appeals to The American Legion, Department of Florida. Any appeal, including filing deadlines, shall be governed by those rules enacted by the Department Executive Committee entitled "Rules Governing Appeals."

20. In the event of a conflict between these Rules and either the Constitution or By-Laws of The American Legion, Department of Florida, the Constitution and/or By-Laws shall be controlling.

### **RULES GOVERNING APPEALS**

*Any appeal taken from a trial held within the jurisdiction of The American Legion, Department of Florida shall be governed by these rules.*

1. A Notice of Appeal, in accordance with the attached form entitled "Notice of Appeal" must be received within forty-five (45) days of the final action of the Convening Authority or any appeal is waived.

2. The Notice of Appeal shall contain the following:

- a. The date, location, participants (accused, Judge Advocate, witness(es), counsel(s), accuser(s), and jurors) and verdict.
- b. A concise and specific statement of why the accused believes he or she did not receive a fair trial.
- c. A brief summary of the testimony of each and every witness.
- d. A concise statement of the final disciplinary action taken by the Convening Authority.
- e. Attached to the Notice of Appeal shall be a copy of the charge(s) against the accused and any evidentiary material such as papers or photographs used during the trial. If no such documents were used, then this shall be so stated.
- f. A copy of the Notice of Appeal must be delivered to the Commander of the Convening Authority contemporaneous with delivery to The American Legion, Department of Florida.

3. The entity that brought the charge(s) shall have a right to respond to any allegations or statements in the accused's Notice of Appeal. Said response shall be in writing and filed with the Department Adjutant within sixty (60) days from the Convening Authority's decision.

4. The Department Adjutant shall schedule the appeal at the next regularly scheduled meeting of the Department Executive Committee.

5. At the hearing on the appeal before the Department Executive Committee, both the accused, either in person or through counsel, and the Convening Authority, through a representative designated by the Convening Authority's Commander or counsel, shall have five (5) minutes to argue their points on appeal. The points on appeal are limited to whether the accused received a fair trial.

6. Any member of the Department Executive Committee may question either party.

7. The Department Judge Advocate will preside over any such appeal.

8. Upon the Department Executive Committee rendering a decision on the appeal, the Department Judge Advocate shall reduce said decision to writing and direct said opinion to be distributed to each member of the Department Executive Committee, the accused, and the Convening Authority.