

THE CONSTITUTION OF THE AMERICAN LEGION DEPARTMENT OF NORTH CAROLINA

Revision
Adopted June 14, 2008 by the 90th Annual Convention

The present and existing Constitution of The American Legion Department of North Carolina, as it has been amended prior to this time, is hereby further amended so that it reads, in its entirety, as follows:

PREAMBLE

For God and Country we associate ourselves together for the following purposes:

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

ARTICLE I

NAME

Section 1. The name of this organization shall be The American Legion, Department of North Carolina.

ARTICLE II

NATURE

Section 1. The American Legion, Department of North Carolina, is a civilian organization. Membership therein does not affect or increase liability for military or police service. Rank does not exist in The Legion.

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

Section 3. Each member shall perform their full duty as a citizen according to their own conscience and understanding.

Section 4. A member of The American Legion shall be known as a "Legionnaire".

ARTICLE III

MEMBERSHIP

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

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

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

Section 4. Each Post shall be the judge of the qualification of its members provided such members are eligible for membership in The American Legion, and each Post may set such other reasonable standards of qualification for membership as it may determine. Race, religion, sex, creed, or national origin shall not be a barrier to membership. Each Post shall apply standards uniformly.

Section 5. No person who has been expelled by a Post shall be entitled to membership in another Post without the consent of the expelling Post, except that where such consent has been asked for and denied by such Post, that 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.

Section 6. No person who is a member of an organization which has for its aim to overthrow the United States Government by force or violence, or who subscribes to the principles of any group opposed to our form of government, shall be eligible to become or remain a member of The American Legion.

ARTICLE IV

GENERAL ORGANIZATION

Section 1. The American Legion Department of North Carolina shall be organized in Posts, the number of Posts to be determined by the Department Executive Committee in accordance with this Constitution and the admission of Posts to be determined by such Department Executive Committee. No person may become or remain a member of the Department except through membership in a Post.

Section 2. The American Legion Department of North Carolina is a constituent part of The American Legion, a Federal corporation organized by Act of Congress. The American Legion Department of North Carolina embraces and its jurisdiction extends to the whole of the State of North Carolina.

Section 3. The Department shall be divided into Divisions, Districts, and Posts, organized and officered as hereinafter provided.

Section 4. Between Department Conventions all executive, legislative, and judicial powers shall be vested in the Department Executive Committee and such subordinate units as are hereinafter described and the Department shall have such officers as hereinafter provided.

Section 5. There shall be one regular annual Department Convention which shall be the executive, legislative, and judicial body of the Department organization and there may be special conventions called as hereinafter provided.

Section 6. There shall be a Department Headquarters maintained at such place as the Department Convention shall designate and establish. An office shall be provided for the Department Commander in the Department Headquarters.

Section 7. There shall be such convention and standing committees as shall be provided in the Department By-Laws. They shall be appointed by the Department Commander and ratified by the Department Executive Committee. The Department Commander may also appoint such special committees as may appear necessary or desirable.

ARTICLE V

POST ORGANIZATION

Section 1. The local units shall be termed Posts, and no Post shall be received into this organization until it has received a charter. Those who desire to form a Post shall make application for a temporary charter to the Commander of the Department of North Carolina.

After a temporary charter has been in effect for a probationary period of at least ninety days and not more than one year, application for a permanent charter shall be made to the Department Executive Committee.

Section 2. The minimum membership for a Post shall be fifteen qualified persons.

Section 3. No Post shall be named after any living person.

Section 4. Each new Post charter, when issued, shall be signed by the Department Commander and countersigned by the Department Adjutant.

Section 5. Any Post charter may be suspended, canceled or revoked by the Department Executive Committee for the reasons and in the manner hereinafter provided. A Post under suspension shall not conduct any American Legion activities, except to collect and transmit annual dues to the Department Office.

Section 6. All elective Post Officers shall be elected annually at a Post meeting held not more than 45 days prior to the Department Convention. The Post Officers so elected shall be installed in their respective offices not more than 30 days after the adjournment of the Department Convention.

Section 7. Each Post in the Department shall have its own Constitution and By-Laws, provided the same is not in conflict with the National or Department Constitution and By-Laws. A copy of Post Constitution and By-Laws shall be filed with the Department Headquarters and the Department Executive Committee shall decide questions arising under this section.

Section 8. Each Post shall elect and shall be officered by the following officers who shall be elected annually by the Post: Post Commander, Post Vice Commander (as many as the Post may determine), Post Finance Officer, Post Sergeant-At-Arms, Post Historian, Post Chaplain.

Section 9. All elective officers of the Post and Delegates and Alternate Delegates to the Department Convention shall be elected annually at a Post meeting and shall be certified to the Department Headquarters not more than 30 days nor less than 10 days prior to the next Department Convention. Certification to be made on forms furnished or prescribed by the Department.

Section 10. Members may be suspended or expelled from a Post and from The American Legion only upon proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty, conduct prejudicial to the good name of The American Legion, or conduct not becoming a member of The American Legion. All charges must be specific and made under oath, in writing and signed by the accuser. No member in good standing shall lose membership until given a fair trial by the elective officers and the Executive Committee of the Post of which that person is a member.

Section 11. Any officer of a Post, elective or appointive, may be reprimanded, suspended or removed from office for any of the reasons herein above set forth as a basis for suspension or expulsion of members and by the same procedure.

Section 12. Each Post shall use and follow the Officers Guide and Manual of Ceremonies.

ARTICLE VI

COUNTY ORGANIZATION

Section 1. A County Organization may be formed by American Legion Posts of any county having more than one Post, and for other purposes hereinafter in the Article more specifically provided. Such organization may select its own name.

Section 2. Such County Organization shall have the authority to adopt a Constitution and By-Laws and such other rules and regulations for its government and procedure as may be proper; provided, that such Constitution and By-Laws and rules and regulations shall be approved by each Post in the county becoming a member of such organization and also by the District and Department Commander or the Department Executive Committee. The Department

Executive Committee may, upon recommendation of the Department Judge Advocate, suspend or annul and provision of the Constitution and By-Laws of such organization when in the judgment of such Committee it contravenes the provision of the National or Department Constitution and By-Laws or the established policy of the Department or invades the jurisdiction and prerogatives of any member Post.

Section 3. Any Post in the county in good standing in the Department shall have the privilege of joining such County Organization. No Post in any such county shall be compelled to join such organization, and any Post, after joining the organization, may withdraw there from after due notice and payment of all assessments lawfully imposed upon such Post. After a Post has withdrawn from the organization of the county in which located, it shall not have the privilege of again joining such American Legion County Organization except with the consent of a majority of the remaining Posts of such County Organization.

Section 4. Posts in such County Organization shall have equal representation therein.

Section 5. No member Post of the County Organization shall be liable to such County Organization for more than the amount of the assessments stipulated in the By-Laws of such County Organization. Member Posts shall not be liable for any of the debts and liabilities incurred by such County Organization and for their protection and security may require the County Organization to incorporate under the appropriate laws of the State as a condition precedent to continued membership therein.

Section 6. Such County Organization shall be officered by a President, Vice President, Secretary and Treasurer or by a Commander, Vice Commander, Adjutant and Finance Officer, as each such County Organization may elect, and such additional officers as may be provided by the Constitution and By-Laws of such County Organization. Such officers shall be elected in the manner provided in the Constitution and By-Laws of such County Organization.

Section 7. It shall be the function of the County Organization to co-ordinate the work of the member Posts, but it shall not encroach upon the work or jurisdiction of any member Post. It may have general advisory powers, but it shall not dictate or prescribe policies. It shall act for and represent member Posts only, but no action taken by such County Organization shall be binding on any Post unless previously authorized or subsequently ratified by that Post. With the authorization of its member Posts such County Organization may arrange for general celebrations, observances of patriotic holidays, such as Veterans Day, Memorial Day and other proper functions coming within the scope of activities of The American Legion.

ARTICLE VII

DISTRICT ORGANIZATION

Section 1. The Department shall be divided into Districts composed of Posts of The American Legion as designated by the Department Executive Committee.

Section 2. There shall be a District Commander and District Vice Commander in each District nominated at the District meeting provided in Section 8 of this Article, and they shall be elected and installed at the following Department Convention. The Convention may vote for election of all District Officers at one time in the absence of objection. Such officers shall be members in good standing in a Post of the District in which they are respectively elected. The District Vice Commanders shall be members in good standing in a Post of the District which they are respectively elected. They shall take office at the same time as the Department Commander.

Section 3. When a vacancy in the office of the District Commander occurs in any District for any reason other than is set forth in this Article, the Department Commander shall appoint as his successor for the unexpired term the District Vice Commander, if, however, the District Vice Commander is unable or refuses to assume such position the Department Commander, with

approval of the Department Executive Committee, shall appoint as the successor a member of that District.

Section 4. The Department Commander and also the Division Commanders and District Commanders, within their respective Divisions and Districts shall have the power to call meetings of Posts at such time as they may deem advisable; provided; however, that at least 30 days notice of such meeting shall be given in writing to all Posts within their respective Division or District.

Section 5. No District meeting shall have the right to take any legislative action or to bind the Department or District officers by any such action taken, and any action taken in any such meeting shall be considered as merely advisory.

Section 6. District meetings shall be composed of Delegates and Alternate Delegates from each chartered Post in the District, each of which shall be entitled to two Delegates and two Alternate Delegates for the first 50 members or less and shall be entitled to one additional Delegate and one additional Alternate Delegate for each additional 50 members or major fraction thereof over and above 50 members. Membership of the Posts to be taken from the membership report last issued by the Department Headquarters.

Section 7. Each delegate shall be entitled to one vote. The vote of any delegate absent and not represented by an alternate delegate shall be cast by the majority of the delegates present from the Post.

Section 8. In addition to any other meeting that may be held in the Districts of the Department, there shall be held in each District a District Meeting not more than sixty (60) nor less than twenty (20) days prior to the date of the Department Convention, at a time and place to be designated by the District Commander, under the same regulations prescribed for other meetings as set forth in Sections 4, 5, 6 and 7 of this Article.

Section 9. At such District Meeting to be held annually there shall be nominated a District Commander, a District Vice Commander, and one Delegate and one Alternate Delegate to the National Convention. The District Commander, District Vice Commander, Delegate, and Alternate Delegate to the National Convention nominated at the District Meeting shall be elected by the Department Convention. The District Commander and District Vice Commander shall each serve for a period of one year. In the event that a District Commander, District Vice Commander, National Convention Delegate or Alternate Delegate, to which a District may be entitled, shall not be nominated by a District Meeting as above provided, then the District Commander or District Vice Commander or National Convention Delegate or Alternate Delegate shall be elected at the Department Convention from Posts in such District.

Section 10. The District Commander shall within five (5) days after adjournment of such meeting, certify and forward to the Department Adjutant a certified copy of the name and address of the District Commander, District Vice Commander, and Delegate and Alternate Delegate to the National Convention nominated at such District Meeting.

Section 11. A quorum shall exist when 30 percent of the Posts within a District are represented at a District Meeting providing notice of meeting was circulated per Article VII, Section 4.

Section 12. It shall be the duty of each District Commander to attend all meetings of the Department Executive Committee unless represented by the District Vice Commander. In the event that any District Commander shall fail to attend two successive meetings of the Department Executive Committee and is not represented by the District Vice Commander then the Department Commander shall declare the office vacant and for the unexpired term of this office shall appoint, with the approval of the Department Executive Committee the District Vice Commander as successor. In the event that the District Vice Commander refuses or is unable to assume this position, the provisions of Section 3, Article VII shall apply.

Section 13. It shall be the duty of each District Commander to visit each Post in the District not less than one time between July 1st and February 1st each year and to make a written report of each such visit to Department Headquarters within ten days thereafter. In the event of

the failure of any District Commander to comply with this requirement, the Department Commander shall declare the office vacant and for the unexpired term shall, with the approval of the Department Executive Committee, appoint as successor the District Vice Commander. In the event that the District Vice Commander refuses or is unable to assume this position, the provisions of Article VII, Section 3 shall apply.

ARTICLE VIII

DIVISION ORGANIZATION

Section 1. The Department shall be divided into five (5) Divisions which shall be composed of Districts as Posts as determined by the Department Executive Committee.

Divisions 1, 2, 3, 4, and 5.

(A map of the present Divisions as designated at the Asheville Convention in June 1965 and which went into effect at the Raleigh Convention in June 1966 is attached hereto.)

The powers and functions of such Divisions shall be as hereinafter set forth in this Constitution and as may be fixed by the Department Convention or the Department Executive Committee acting within the terms of this Constitution.

ARTICLE IX

DEPARTMENT CONVENTION

Section 1. The legislative body of The American Legion of North Carolina, shall be the Department Convention to be held annually.

Section 2. The Annual Convention of the Department shall be held on such date as shall be determined by a preceding Department Convention and in the absence of such Convention action, by the Department Executive Committee. A special Convention may be held upon joint call in writing by the Department Commander and a majority of the Department Executive Committee or by 30% of the Posts. The same representation of Posts shall be required at a special Convention to constitute a quorum as is required at the regular annual Convention. No business shall be transacted at such special Convention except such as is set forth in the call therefore.

Section 3. The annual Department Convention shall be composed of Delegates and Alternate Delegates from each Post of The American Legion in the Department. Each Post shall be entitled to two Delegates and two Alternate Delegates for the first 50 members or less and shall be entitled to one additional Delegate and one additional Alternate Delegate for each additional 50 members or major fraction thereof, for whom the current dues have been received by the Department Finance Officer ten (10) days prior to the date of the meeting of the Department Convention.

Section 4. Each Delegate shall be entitled to one vote. The vote of any Delegate absent and not represented by an Alternate Delegate shall be cast by the majority of the Delegates present from that Post.

Section 5. Members of the Department Executive Committee shall be ex-officio Delegates to the Department Convention but shall have no right to vote as a Delegate to the Convention unless duly elected as a Delegate by their respective Posts, in which event the members of the Department Executive Committee shall count as regular Delegates and a part of the quota of the Post electing them.

Section 6. Each Past Department Commander shall be an ex-officio Delegate to the Department Convention but shall have no right to vote as a Delegate of the Convention unless duly elected as a Delegate by that person's Post.

Section 7. The Convention shall be final judge of the election and qualification of the Delegates.

Section 8. A quorum shall exist at a Department Convention when 30% of the Posts are represented and their Delegates and Alternate Delegates have been certified to Department Headquarters in accordance with Article V, Section 9.

Section 9. Alternate Delegates shall have all the privileges of Delegates except that of voting. An Alternate Delegate may vote only when the Delegate is absent.

Section 10. Each District shall nominate one Delegate and one Alternate Delegate to the National Convention. Such additional Delegates and Alternate Delegates to the National Convention to which the Department may be entitled shall be elected by the Department Convention, irrespective of geographical or other divisions.

ARTICLE X

DEPARTMENT OFFICERS

Section 1. The Department Convention shall elect a Department Commander, five Vice Commanders, who shall serve without seniority, a Department Judge Advocate, a Department Historian, a Department Chaplain, and one District Commander and one District Vice Commander for each District of the Department as set forth in Article VII, Section 9. The District Commander and District Vice Commander for each District shall be elected upon nomination at a District Meeting or by delegates from the District as provided above.

Section 2. All elected Department Officers of the North Carolina Department of The American Legion shall be installed at the closing session of the Department Convention and they shall serve until their successors are elected and installed.

Section 3. The Department Convention held in even numbered years shall elect a National Executive Committeeman and an Alternate National Executive Committeeman who shall hold office for two years.

Section 4. No Department Officers shall hold the Chairmanship of a standing Department Committee or Commission.

ARTICLE XI

DEPARTMENT EXECUTIVE COMMITTEE

Section 1. Between Department Conventions the Executive, Legislative, and Judicial power shall be vested in the Department Executive Committee which shall be composed of the following: Department Commander, five (5) Department Vice Commanders, twenty five (25) District Commanders, National Executive Committeeman, Judge Advocate, Historian, and Chaplain. In the absence of the District Commander such vacancy shall be filled by the District Vice Commander and in the absence of National Executive Committeeman, such vacancy shall be filled by the Alternate Executive Committeeman.

Section 2. All Past Department Commanders, while in good standing in their respective Posts within the Department shall be ex-officio members of the Department Executive Committee (without the right to vote) and shall be accorded all the courtesies of the floor of the Committee, with the privilege of making and seconding motions and of speaking on any motion or subject pending before the Committee, but shall have no right to vote.

Section 3. The Department Executive Committee shall elect a Department Adjutant, and may elect a Department Finance Officer and an Assistant Department Adjutant. Any two or more of these offices may be held by the same person. All such officers elected by the Department Executive Committee shall hold office at the pleasure of such Committee. The Department

Executive Committee shall determine and prescribe the duties and powers of said officers and shall fix appropriate compensation for such officers.

Section 4. There shall be an Administrative Committee consisting of five members of the North Carolina Department. The members of such Administrative Committee shall be appointed by the Department Commander and ratified by the Department Executive Committee at the annual Fall Conference. No member appointed to the Department Administrative Committee shall hold any other Department office or appointment to a Department Standing Committee or Commission. In addition to the five members so selected, the Department Commander shall be an ex-officio member and chairman of the Department Administrative Committee. The Term of office shall be five years. As the term of office of each of the present members of the Administrative Committee expires the successor of each of the present member whose term is expiring shall be selected for a term of five years. Vacancies in the Department Administrative Committee shall be filled for the unexpired term. No member of the Department Administrative Committee can be selected to succeed themselves on said Committee. In the selection of the five members of the Administrative Committee the Department Commander and the Department Executive Committee, shall as far as may be practical, distribute representation on said Administrative Committee among such geographical divisions of this Department as may exist from time to time.

Section 5. The Department Executive Committee shall have the power and authority to delegate to the Department Administrative Committee any power or function which it has or which is conferred upon it by this Constitution or otherwise; except that the Department Executive Committee may not delegate to the Department Administrative Committee any of the Post disciplinary powers conferred by this Constitution and further except that the Department Executive Committee may not delegate to the Department Administrative Committee the power to elect a successor to the Department Commander in the event of his death or resignation.

Section 6. Between Department Executive Committee sessions and without any express delegation of power from the Department Executive Committee, the Department Administrative Committee shall have all the powers of the Department Executive Committee in the direction and conduct of all the affairs, business and programs of the Department except such as may expressly limited from time to time by the Department Convention or the Department Executive Committee.

Section 7. The Department Executive Committee shall require from the Department Administrative Committee, a full and complete report at each meeting of the Department Executive Committee.

Section 8. The Chairman of the standing Committees and Commissions of the Department and the members of the Administrative Committee shall be ex-officio non-voting members of the Department Executive Committee, with the privilege of speaking on matters pertaining to their respective Committees or Commissions.

Section 9. The Department Executive Committee shall have the power to fill vacancies in any Department office until the next Convention. The Department Executive Committee shall be empowered to transact all essential business of the Department not otherwise provided for in this Constitution or the Department By-Laws.

Section 10. A majority of the voting members of the Department Executive Committee shall constitute a quorum.

Section 11. The Department Executive Committee shall have the power to suspend the charter of any Post which violates the National or Department Constitution and By-Laws or which fails to comply with requirements thereof or which fails to discipline any of its members for such violation by following the procedure as set forth in the Uniform Code of Procedure for the Revocation, Cancellation, or Suspension of Post Charters of The American Legion.

Section 12. All officers of the Department and members of the Department Executive Committee shall be subject to charge and trial before the Executive Committee for the same causes and in the same manner as are Post members and Post officers as set forth above. They

shall have the same right to appeal to the Department Convention as is provided for appeals in case of Post officers. Pending the hearing of any appeal from a decision and order of the Executive Committee suspending or removing from office any officer of a Post or of the Department or of the Executive Committee such office shall be vacated and shall be filled temporarily by the Post having jurisdiction over the Post officer so removed, or by the Department Executive Committee, as the case may be.

ARTICLE XII

FINANCE

Section 1. The revenue of the Department of North Carolina shall be derived from annual membership dues paid on a calendar year basis and from such other sources as may be approved by the Department Executive Committee.

Section 2. The amount of such annual dues shall be determined by the Department Convention.

Section 3. Department dues, and such National dues as are established by the National Convention, shall be payable in advance on October 20th of each year.

Section 4. The annual dues, both National and Departmental, shall be collected by each Post and transmitted within thirty days after receipt to the Department Finance Officer.

Section 5. The Department shall purchase a fidelity bond for all employees who handle money and such bond shall be in the amount approved by the Department Executive Committee and paid by the Department.

Section 6. The fiscal year of the North Carolina Department of The American Legion shall be from July 1 through June 30.

Section 7. The Administrative Committee shall serve as a Finance Committee and shall make and submit to the Executive Committee for its approval an annual budget for the fiscal year. All proposals for expenditures of funds not included in the annual budget shall first be referred to the Administrative Committee for its recommendation, before action thereon by the Executive Committee.

Section 8. Finance Resolutions approved by the Department Executive Committee or Department Convention shall address the Administration of the Department budget and finance procedures.

Section 9. All monetary funds of this Department shall be deposited so that a minimum of \$500,000 of the Total Reserve Funds is kept in FDIC insured programs at all times and allow for up to the balance of Total Reserve Funds to be available for investments based on the recommendations of the bonded asset manager made to the Department Administrative Committee and referred to the Department Executive Committee for prior approval.

ARTICLE XIII

AUXILIARY

Section 1. The Department of North Carolina, The American Legion, recognizes an Auxiliary organization known as "The American Legion Auxiliary".

Section 2. Membership in the Auxiliary shall be as prescribed in the National Constitution of The American Legion.

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

ARTICLE XIV

SONS OF THE AMERICAN LEGION

Section 1. The American Legion Department of North Carolina shall recognize The Sons of The American Legion as an auxiliary of this Department. Membership in The Sons of The American Legion shall be governed by the National Constitution of The American Legion, and the National Constitution of The Sons of The American Legion.

ARTICLE XV

MISCELANEOUS

Section 1. All Charters heretofore granted and in good standing on the date of the adoption of this Constitution are hereby ratified and confirmed.

Section 2. The National Constitution of The American Legion shall govern in the event any provision of the Department Constitution or By-Laws conflicts therewith. In the event no applicable provision appears in the Department Constitution or By-Laws to address any matters that may arise in the Department, then the applicable provisions of the National Constitution and By-Laws of The American Legion shall apply.

ARTICLE XVI

MASCULINE AND FEMININE GENDERS

Section 1. Wherever in this Constitution and in the By-Laws reference is made to the words "him", "he", "his" and similar references shall be deemed to include, as appropriate, "her", "she", "hers", and similar references, to the end that all distinction between the male and female sexes, for purposes of this Constitution and By-Laws, shall be deemed eliminated.

ARTICLE XVII

AMENDMENTS

Section 1. This Constitution may be amended at any Department Convention by a vote of two-thirds of the total authorized representation thereat; provided that the proposed amendment shall have been submitted through the Department Adjutant to all Posts and to all members of the Department Executive Committee by mailing same to them at least 30 days prior to the convening of the next Department Convention, and provided further, it may be amended by unanimous vote at any Convention without notice.

Section 2. This amended Constitution shall become effective immediately upon its adoption by the Department Convention.

Adopted June 20, 1992

BY-LAWS

ARTICLE I

DEPARTMENT EXECUTIVE COMMITTEE

Section 1. The Department Executive Committee shall meet a minimum of three times a year. It shall meet at the Convention City preceding the Department Convention, during the Fall Conference, and during the Winter Conference. The Department Executive Committee shall also meet upon call of the Department Commander at such time and place as the Commander shall designate and upon giving notice of not less than ten days of such meeting. Upon petition in writing signed by not less than ten voting members of the Department Executive Committee, it shall be the duty of the Department Commander to call a meeting of the Executive Committee within ten days.

Section 2. In the event of death of the Department Commander, the inability or the refusal of the Department Commander to serve, or the resignation of the Department Commander, the Department Judge Advocate shall call a meeting of the Department Executive Committee within thirty days and preside over said meeting to declare the office vacant and elect a Department Commander to serve the remainder of the unexpired term. The newly elected Department Commander shall be installed as soon as possible.

Section 3. In the event of the death of the National Executive Committeeman, the inability or the refusal of the National Executive Committeeman to serve or the resignation of the National Executive Committeeman, the Alternate National Executive Committeeman shall automatically become the National Executive Committeeman; and an Alternate National Executive Committeeman shall be elected by the Department Executive Committee. Both shall serve the remainder of the unexpired terms of office.

ARTICLE II

DUTIES OF OFFICERS

Section 1. *Department Commander:* The Department Commander shall be the Chairman of the Department Convention, the Department Executive Committee and the Ex-Officio Chairman of the Department Administrative Committee. The Department Commander, within 30 days of taking office, shall appoint the Chairman and Vice Chairman of the Department Commissions and Committees and shall fill all vacancies occurring in said Commissions and Committees, regardless of whether vacancies occur by expiration of terms or any other reason.

Section 2. *Department Vice Commanders:* The Department Vice Commanders shall act as representatives of the Department Commander on all matters referred to them by the Commander, and shall, on the Commander's request, preside over the meetings of the Department Convention or Department Executive Committee and shall perform such other duties as are usually incident to the office.

Section 3. *Department Adjutant:* The Department Adjutant shall be charged with the Administration of the policies and mandates of the Department Convention and the Department Executive Committee. Between meetings of the Convention and Executive Committee the Adjutant shall take direction from the Department Administrative Committee. The Adjutant shall perform such other duties as are usually incident to the office.

Section 4. *Department Finance Officer:* The Department Finance Officer shall be the custodian of the funds of the Department. He shall sign all checks disbursing the funds of the

Department and shall make reports upon the condition of the Department Treasury when called for the Department Commander. The Department Finance Officer shall furnish a surety bond as prescribed in Article XII, Section 5 of the Department Constitution. He shall perform such other duties as are usually incident to the office. Dual signatures shall be required on all checks in excess of \$5,000. Checks in excess of \$5,000 shall be signed by the Department Finance Officer and an employee designated by the Department Administrative Committee.

Section 5. *Department Judge Advocate:* The Department Judge Advocate shall advise the Department Officers and the Department Executive Committee on all legal matters, including the construction and interpretation of the Department Constitution and By-Laws, and shall perform such other duties as are usually incident to the office.

Section 6. *Department Chaplain:* The Department Chaplain shall perform such divine and non-sectarian services as may be necessary, adhering to such ceremonial rituals as may be recommended by the National Headquarters from time to time.

Section 7. *Department Historian:* The Department Historian shall collect from year to year all records and data of value and interest for the Department Headquarters of The American Legion and shall compile during his term of office a complete history of the year's activities. The Department Historian shall also assist the National Historian and Post Historians so as to coordinate and unify the work of those officials and shall have such other duties as the Department Commander shall prescribe.

ARTICLE III

CHARTERS

Section 1. In all cases of revocation, suspension, or cancellation of Post Charters, Article III of the National By-Laws shall be followed.

ARTICLE IV

DISCIPLINE OF POST MEMBERS

Section 1. Each Post of The American Legion shall be the judge of its own membership subject to the restrictions of the Constitution and By-Laws, except that no person who is a member of an organization which has for its aim the overthrow of the United States Government by force or violence, or who subscribes to the principles of any group opposed to our form of government, shall be eligible to become or remain a member of The American Legion.

Section 2. Members may be suspended or expelled from The Legion, only upon a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of The American Legion. All charges must be specific and be made under oath in writing by the accuser, and no member in good standing shall lose membership until give a fair trial at the Post or Department levels in such manner and form as the Department Constitution and By-Laws and the Executive Committee shall prescribe.

Section 3. The trial of a member shall be held before the Executive Committee of the Post, the Commander presiding, and the presentation of evidence shall be governed generally by the same rules that prevail in the trial of civil actions in the courts of the State.

Section 4. Any member who has been suspended or expelled has the right to appeal to the Department Executive Committee and from that Committee to the Department Convention. The decision of the Department Convention shall be final.

Section 5. A member whose dues for the current year have not been paid by January 1 shall be classed as delinquent. If dues are paid on or before February 1 reinstatement shall be automatic. If still delinquent after February 1 all privileges shall be suspended. If still under such suspension on June 30 of such year, membership in the American Legion shall be forfeited. A

member so suspended or whose membership has been so forfeited may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs. Provided, however, that the Post, Department, and the National organization may waive the provisions hereof, upon payment of dues for the year in which reinstatement occurs, with the reference to former members who have been prevented from the payment of dues by reason of active military service.

ARTICLE V

MEMBERSHIP

Section 1. Membership in The American Legion consists of membership in a local Post of The American Legion.

ARTICLE VI

MONEYS AND COLLECTIONS

Section 1. In case of delinquencies in the payment of amounts due Department or National Headquarters, action shall be taken at once by the Department Commander to bring about a speedy and complete settlement.

Section 2. Department Headquarters shall, should it be deemed advisable, detail special auditors to investigate the membership roll and financial statement of any Post.

ARTICLE VII

RESOLUTIONS

Section 1. Department of North Carolina policies, positions and programs are formulated by the adoption of resolutions approved by either the Department Executive Committee or the Department Convention.

Section 2. Resolutions shall originate at the Post level, in a Department Committee or Commission or on the floor at a Department Executive Committee meeting or Department Convention.

Section 3. Before presentation or consideration of resolutions by the Department Executive Committee or Convention, all resolutions must first be considered by the Department Resolutions Committee and properly routed to the Committee or Commission having responsibility over the subject matter of the resolution. All resolutions involving finances shall be first referred to the Department Administrative Committee.

Section 4. All resolutions pertaining to changing the Department Constitution and By-Laws shall be acted upon by the Department Convention.

Section 5. All other resolutions may be acted upon by the Department Executive Committee or Department Convention.

Section 6. All resolutions originating on the floor of a Department Executive Committee meeting or at Convention will require a unanimous vote to suspend Section 3 of this article and all consideration of said resolution.

ARTICLE VIII

STANDING COMMITTEES

Section 1. The standing committees provided for in Article IV, section 7 of the Department Constitution shall consist of the following Commissions and Committees:

A. DEPARTMENT AMERICANISM COMMISSION: The Department Americanism Commission shall be responsible for all of the Americanism programs of the Department and of The American Legion. The following Committees shall have primary responsibility for the programs indicated by their names and they shall be subject to and report to the Department Americanism Commission:

Department American Legion Baseball Committee
Department Baseball Hall of Fame Committee
Department of Boy Scouts Committee
Department Boy's State Committee
Department Colon Furr Memorial Nursing Scholarship Committee
Department Community Service Committee
Department Oratorical Contest and Education Committee
Department Sons of The American Legion Committee*

*Note change of Sons of The American Legion Committee, previously listed under Article VIII, Section 1, C. Department Internal Affairs Commission, in error, to Section 1, A. Department Americanism Commission as directed in Resolution FY90-11, "*comprehensive Resolution on Sons of The American Legion.*" Reprinted 5/20/03

B. DEPARTMENT CHILDREN AND YOUTH COMMISSION

Department Drug and Alcohol Abuse Committee

C. DEPARTMENT INTERNAL AFFAIRS COMMISSION: The Department Internal Affairs Commission shall be responsible for all the Internal Affairs activities of the Department and The American Legion in this Department; provided, however, that the following Committees shall have primary responsibility for the activities indicated by their names and they shall be subject to and report to the Department Internal Affairs Commission:

Department Constitution and By-Laws Committee
Department Leadership Development Committee
Department Membership, Post Activity, Post Organization,
and Revitalization Committee
Department Public Relations Committee
Department Resolutions Committee
Department Time and Place Committee
Department Legion Riders Committee

D. DEPARTMENT LEGISLATIVE COMMISSION: The Department Legislative Commission shall be responsible for all legislative programs of this Department including working with the State Legislative and United States Congress to further the causes affecting veterans and veterans' families.

E. DEPARTMENT NATIONAL SECURITY AND FOREIGN RELATIONS COMMISSION: The Department National Security and Foreign Relations Commission shall be responsible for all the National Security and Foreign Relations programs of the Department and of The American Legion. The following committee shall have primary responsibility for the programs indicated by its name and it shall be subject to and report to the Department National Security and Foreign Relations Commission:

Department Law and Order Committee
Department POW/MIA Committee

F. DEPARTMENT VETERANS AFFAIRS COMMISSION: The Department Veteran Affairs Commission shall be responsible for all the Veterans Affairs and Rehabilitation programs and activities of the Department and of The American Legion. The following committees shall have primary responsibility for the programs and activities indicated by their names and they shall be subject to and report to the Department Veterans Affairs Commission:

Department Rehabilitation Committee
Department VAVS Medical Center Committee
Department Veterans Employment and Preference Committee

Section 2. Each of the commissions and Committees named in Section 1 of this Article shall be composed of nine members having staggered terms of three years each with the terms of three members expiring each year, provided, however, that the Commission and Committees named in Section 3 of this Article shall be composed as specified therein. Vacancies on all Commissions and Committees provided for in the Article shall be filled for the unexpired term by the Department Commander. No person shall be a member of more than one Standing Committee and one Commission.

Section 3.

a. American Legion Baseball Committee shall be composed of one Department Chairman, appointed by the Department Commander, one Area Commissioner from each of the four Baseball Areas in the Department. The Area Commissioners shall serve for a period of four years each, with the term of one member expiring each year. The Department Chairman shall have served at least one year on the Baseball Committee before appointed as Department Chairman. One of the Area Commissioners shall be named by the Department Commander as Vice Chairman. The Department Commander shall have the power and authority to remove and/or replace the Chairman or Vice Chairman of this Committee.

b. Department Legislative Commission shall be composed of six members having staggered terms of three years each with the terms of two members expiring each year. Six additional advisory members having discretionary terms during the Department Commander's term of office may be appointed at the discretion of the Department Commander.

c. Department Time and Place Committee shall be composed of one Department Chairman appointed by the Department Commander and one member from each Division of the Department having staggered terms of five years each with the term of one member expiring each year. One member of the Committee shall be named Vice Chairman by the Department Commander. The Department Commander shall have the power and authority to remove and/or replace the Chairman or Vice Chairman.

Section 4. Chairman and Vice Chairman of each of the Commissions and Committees named in Sections 1, 2 and 3 of this Article shall be appointed by the Department Commander from among the members of such Commission or Committee for a term of one year. The Department Commander shall have the power and authority to remove and/or replace any person

as Chairman or Vice Chairman of such Commissions and Committees. Exempt from this Section is Department Time and Place Committee and Department American Legion Baseball Committee.

Section 5. The annual expiration date for members of Commissions and Committees whose terms of office are expiring, shall be the close of the annual Department Convention except for the following:

- a. *Administrative Committee*- Membership shall terminate at the closing of the Department Executive Committee meeting at the Fall Conference.
- b. *Baseball Committee*- Membership shall terminate after the Department Baseball teams have completed competition.
- c. *Boys' State Committee*- Membership shall terminate upon closing of the current annual Boys' State Session or the Department Convention, whichever is later.
- d. *Leadership Development Committee*- Membership shall terminate at the closing of the current annual Legion College.

Section 6. The Department Commander and the Department Executive Committee may appoint special Committees. The special Committees may be assigned to report to a Commission. Convention Committees as needed may be appointed by the Department Commander.

Section 7. The Chairmen of the Commissions and Committees provided for in this Article shall be ex-officio non-voting members of the Department Executive Committee as provided in Article XI, Section 8, of the Department Constitution. The Chairmen of the Committees and Commissions provided for in this Article shall have the privilege of speaking on the subject of matters pertaining to their respective Committees and Commissions.

Section 8. Members of all Committees and Commissions with unexpired terms when these by-laws become effective shall remain as members of the Committees and Commissions until their normal expiration dates.

ARTICLE IX

DEPARTMENT PUBLICATIONS

There is authorized an official Department publication, to be called *The North Carolina Legion News*, to be edited as directed by the Department Executive Committee, such publication to be owned and controlled by the Department; its purpose to disseminate information to every member of the Department.

ARTICLE X

ROBERTS RULES OF ORDER

Roberts Rules of Order shall govern all meetings in The American Legion Department of North Carolina, when not in conflict with the Department Constitution and By-Laws or Post Constitution and By-Laws.

ARTICLE XI

AMENDMENTS

Section 1. The By-Laws may be amended by any Department Convention of The American Legion by the vote of the majority of the total authorized representatives thereat, provided that the proposed amendment shall have been read at said Convention at least twenty-four hours before the vote thereon or that proposed amendment shall have been submitted through the Department Adjutant to all Posts and all members of the Executive Committee by mailing same to them at least 30 days prior to the convening of the next Department Convention.

Section 2. This amended By-Laws shall become effective immediately upon its adoption by the Department Convention.

Adopted June 20, 1992