

THE AMERICAN LEGION
DEPARTMENT OF MARYLAND, INC.
THE WAR MEMORIAL BUILDING
BALTIMORE, MARYLAND 21202

**CONSTITUTION
AND
BY-LAWS**

As adopted at the One-Hundredth and Eighth Annual Department
Conventions in Ocean City, Maryland,

Prepared and published by The American Legion, Department of
Maryland, Inc., Publication Committee after review by Department
Judge Advocate Fred Mitchell.

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CONSTITUTION

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

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 per cent Americanism; to preserve the memories and incidents of our associations in all Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

ARTICLE I

Name and Headquarters

Section 1. The name of this organization shall be The American Legion, Department of Maryland, Inc.; hereinafter referred to as The Department.

Section 2. The headquarters of The Department shall be located at such place as may be determined by the Department Executive Committee; hereinafter referred to as the DEC.

ARTICLE II

Nature

Section 1. The Department is a civilian organization; membership therein does not affect nor increase liability for military or police service. Rank does not exist in the Legion; no member shall be addressed by military or naval title in any convention or meeting of the Legion.

Section 2. The Department and all of its subordinate component bodies, shall be absolutely nonpolitical and shall not be used for the dissemination of partisan principles, nor for the promotion of the candidacy of any person seeking public office or preferment.

ARTICLE III

Organization

Section 1. The Department shall be organized into Posts, and for purposes of administration shall be divided into Regions by the DEC. The Regions shall be subdivided into Districts by the DEC. The composition of each Region and District shall be established by the DEC. The DEC shall have the power to change the composition of the Regions and Districts from time-to-time as required for efficient administration of The Department.

Section 2. The Department shall have authority to create and charter intermediate bodies between the Posts and Department to act as a liaison between such organizations and for the purpose of promoting the programs of The American Legion.

Section 3. The DEC shall have the power to change, alter, enlarge or make smaller the Regions and Districts of the Department of Maryland, or any of them, and to create new Regions or Districts.

Section 4. The DEC shall retain the authority to Charter, Suspend, or Revoke/Cancel Charters of The Department intermediate bodies, and shall establish rules and procedures for this purpose.

Section 5. To promote a closer spirit of cooperation between the Posts in the several Regions; Regional Councils shall be organized. Each Regional Council shall determine the representation that Posts shall have therein, subject to the approval of the DEC. The DEC shall provide a uniform code defining the rights, privileges and authority for the governing of Regional Councils.

Section 6. Regional Programs. Notwithstanding the DEC's power in Section 2 hereof, the individual Regions are responsible for the management and control of Regional level programs. A Regional program shall not be terminated by The Department without the concurrence of the Regional Council. However, the DEC may terminate a Regional program if the program violates Department or National guidelines.

Section 7. No individual, group of persons, or subordinate organization of The Department, is authorized to contract any bills or obligation in the name of The Department, nor act as the agent of The Department, for any such purpose whatsoever.

Section 8. Notwithstanding the limitations in Section 7 hereof, the DEC may establish guidelines for management and operation of programs and give authority for certain Region officers to enter into contracts for routine operations of the Region level programs, however, Section 9 hereof applies to these routine operations and contracts.

Section 9. The Department shall not incur, or cause to be incurred, any liabilities or obligations whatsoever which would or may subject any Posts, or officers thereof, or any other subordinate organization of The Department, or any person or member or group thereof, to liability for the payment or satisfaction thereof, and shall be without power to do so.

Section 10. No real estate or leasehold property belonging to The Department, or one of its subordinate organizations shall be sold or disposed of in any way, or have its title encumbered in any manner, without the Post notifying the District and Regional Councils in which it is located, in writing, and without thereafter obtaining written consent of the DEC.

Section 11. Regional Program Assets.

Notwithstanding the provisions of Sections 4 - 7 hereof, upon the termination of a Regional program, the Regional Council shall propose the distribution of the assets of the program. The Regional Council's proposed distribution plan is subject to the approval of the DEC.

Section 12. District and Region Constitutions & By-Laws

(a) Each District and Region shall adopt a Constitution and By-Laws which shall not be inconsistent with the Constitution and By-Laws of the National Organization or of this Department. Any amendment to the Department Constitution and By-Laws which is inconsistent with any Article or Section of a District or Region Constitution and By-Laws, when adopted, shall automatically void and nullify such Article or Section of the District or Region Constitution and By-Laws.

(b) The Department may prescribe the Constitution and By-Laws for its Regions and Districts.

ARTICLE IV

Eligibility

Section 1. Any person shall be eligible for membership in The American Legion, Department of Maryland, Inc., who meets the requirements for membership prescribed in the National Constitution of The American Legion, as chartered and approved by the Congress of the United States, and as thereby amended from time to time.

Section 2. There shall be no form or class of membership except an active membership. Dues shall be paid annually or for life. Social or honorary memberships are specifically prohibited.

Section 3. No person shall, simultaneously, be a member of more than one Post.

Section 4. No person who has been expelled from The American Legion shall be admitted to membership in another Post, without the consent of the authority which expelled the member. Except that where such consent has been sought and denied, or sought and not granted within a reasonable time thereafter, the member may then appeal to the DEC for permission to be admitted to membership in another Post. The member shall be ineligible for membership until such permission is granted.

Section 5. No member having charges filed by the member's Post shall be eligible for transfer to another Post until such charges are adjudicated.

ARTICLE V

Department Convention

Section 1. The Annual corporate meeting of The American Legion, Department of Maryland, Inc. shall be The Department Convention, which shall constitute the Legislative body of said Department. The Department Convention shall be held annually at a time and place to be fixed by action of the preceding Department Convention, or if said proceeding Department Convention shall have failed to act, then by the DEC, pursuant to Article VII of this Constitution. The DEC shall have authority to change such time and place for sufficient reasons to it appearing.

Section 2. The Department Convention shall be comprised of representatives from each Post who shall be members in good standing of the Post of which they are elected, and all Past Department Commanders who are in good standing at their respective Post. Each Post having fifteen members in good standing shall be entitled to two delegates. Each Post having twenty-six members in good standing shall be entitled to three delegates and to an additional delegate for each additional fifty members after the first twenty-six. Each Post shall be entitled to an alternate for each delegate. Membership strength of the Post, for determining delegate strength, shall be computed as of paid up membership in Department Headquarters at the close of business on the Thirty-fifth day prior to the convening of the Department Convention, or as of the First of July each year, whichever date shall occur first.

Section 3. Voting.

(a) On all matters of business except the election of Department Officers, members of the DEC and Delegates and Alternates to the National Convention, and except amendments to this Constitution or

the By-Laws, voting shall be by voice. The decision of the chair thereon shall be final unless a vote by roll call be demanded; and upon demand of any person having proper voice, such other manner of voting shall be employed.

(b) The election of all Department Officers, and National Officers, shall be by roll call except where, in the case of individual offices, the necessity of a roll call is dispensed with by unanimous consent.

(c) The election of members of the DEC, and Delegates and Alternates to the National Convention, shall be in accordance with such rule as adopted by the Caucus in and for the Region from which such members, delegates and alternates are elected, but in no case, shall any such rule prevent the nomination of any member from the floor of such Caucus by any person having proper voice thereat. Voting at Caucuses shall conform to the provisions of Subsection (d) hereof.

(d) In all voting, the vote of each Post shall be equal to the total number of delegates to which such post may be entitled. Each delegate shall be entitled to one vote. The vote of any delegate who may be absent shall be cast by the delegate's alternate, and the vote of any delegate absent and not represented by an alternate shall be cast by the majority of the present delegates from the member's post. An alternate whose delegate is present may nevertheless move into the place of an absent alternate whose delegate also is absent, and thereby acquire the right to vote, provided said alternate delegate is the senior alternate present at the time. Alternates shall have all the privileges of delegates, but may only vote as herein set forth; provided the alternate's registration fee is paid. At the conclusion of all roll call voting, for each individual election required to be conducted by the Department Convention, the Department Officer conducting such elections shall ask if any Post desires to amend or change its vote; or ask does any Post, which has not cast its vote during the roll call vote, now wish to cast its vote. No Post shall be allowed to pass more than one time. After the Department Officer conducting the election has made the aforesaid announcement and taken due note of any changes in voting and has recorded the vote of any Post which originally passed, then the conducting officer shall announce that the voting is closed and direct that the tally be taken, and the results announced.

(e) All Past Department Commanders, while in good standing in their respective Post, shall be delegates for life to all Department Conventions with voice and vote, to be exercised by them with their

respective Post and all Region or District Caucuses at which any election provided for in this Constitution shall be held, and at which their respective Post may be entitled to vote. The failure of such Post to properly register its delegation shall not deprive such Past Department Commander of their right to vote, provided the Past Department Commander is properly registered as a delegate.

(f) All Department Officers as set forth in Article VI of this Constitution, with the exception of Department Officers concurrently serving as a paid employee of the Department, and National Officers of this Department shall be Delegates-at-large to Department Conventions, with the right to vote thereat, in the year in which they serve, to be exercised by them with their respective Post; provided, however, that nothing contained herein shall give any person the right to more than one vote.

Section 4.

(a) The Department Convention shall elect a Department Commander, a Department Senior Vice-Commander, a Department Judge Advocate, a Department Treasurer, a National Executive Committee member, and an Alternate National Executive Committee member for the respective terms for each office as specified in Section 4b hereof. The Department Convention shall elect such other offices as may be authorized by the Department Convention for such terms appointed by the Department Convention.

(b) The Officer positions listed in Section 4(a), elected by the Department Convention shall be nominated and elected in the following sequence and for the term of office, as listed:

- i.** Alternate National Executive Committee member for two years (on odd number years) or until a successor is duly chosen
- ii.** National Executive Committee member – for two years. (on odd numbered years) or until a successor is duly chosen
- iii.** Department Treasurer – for one year or until a successor is duly chosen
- iv.** Department Judge Advocate – for one year or until a successor is duly chosen
- v.** Department Senior Vice-Commander – for one year or until a successor is duly chosen
- vi.** Department Commander – for one year or until a successor is duly chosen

Section 5. Every Post shall file the name and number of the delegates and alternates to the Department Convention at least twenty days prior to the convening of the convention. At the time of filing, the Post must pay their registration. The individual Post fee shall be decided annually by the DEC for each and every delegate they are entitled. In the case of an alternate taking the place of a delegate, such alternate shall be required to pay the usual registration fee, which shall be done when the substitution takes place or sooner; unless and until such registration fees of the delegates have been paid, the delegation is disqualified to act for any purpose, and no individual delegate will be allowed to vote; provided however, that the mere non-payment of registration shall not deprive a delegation otherwise duly qualified, of the right to vote in any Region Caucus, on any matter (including election of officers) which thereafter is subject to ratification by the Department Convention.

Section 6. Region Caucuses. A caucus shall be held by each Region during, or not more than twenty days prior to, the convening of each Department Convention, at which caucus the election of the Region Commander (serves concurrently as Department Vice-Commander for said Region), Region Vice-Commander, District Commanders, District Vice-Commanders, such DEC members, and Delegates and Alternates to the National Convention of The American Legion to which such Region may be entitled by this Constitution shall be held. It shall be the responsibility of the Region Commander in and for each Region to ensure that at least fifteen days prior notice of any Region Caucus convened for the above purposes shall be given by mail, or other approved means, to the Commander of each Post in the Region, and no such Caucus shall be deemed legally convened in the absence of such notice; provided, however, that any Region may caucus at any Department Convention upon three hours' notice by announcement from the Rostrum, and all the purposes of this section may thereafter be fulfilled just as though prior written notice had been given. The action of such Region Caucus, as to the election of any of the officials named in this section, shall not be final until ratified by the Department Convention.

Section 7. A quorum shall exist at a Department Convention or at a Region Caucus when one-third of the Posts in the Department or Region, as the case may be, are represented by duly elected Delegates or Alternates.

Section 8. Delegates to National Convention.

(a) Each Region in Caucus, not more than twenty days prior to

the convening of the Department Convention, shall elect one delegate and one alternate delegate to the National Convention. The delegate and alternate delegate is to represent the first one-thousand members of their respective Region; there shall also be elected a delegate and alternate delegate for each succeeding thousand members.

(b) The five Department Delegates shall consist of the Department Commander, the Past Department Commander of the immediate prior year, the Department Adjutant, the Alternate National Executive Committee member and the Department Senior Vice-Commander. The alternates or these delegates shall be appointed by the Department Commander.

(c) Any additional delegates and alternate delegates are to be elected by the Region with the highest percentage of their previous year's membership as of the day that determines the department convention membership strength for the Region.

Section 10. Region Election of DEC Members.

(a) Each Region in Caucus, not more than twenty days prior to the convening of the Department Convention, shall elect one representative to the DEC for each unit of 500 members or major fraction thereof in the said Region.

(b) The membership strength of said Region for this purpose shall be computed as paid up membership in the Department Headquarters at the close of business on the Thirty-fifth day prior to the convening of the Department Convention, or as of First of July each year, whichever date shall occur first.

(c) In the event any Region shall have less than its first and only unit of 500 members, it shall nevertheless be entitled to elect one representative to the DEC.

(d) The distribution of the Regions' representatives to the DEC shall be divided in an equitable manner between the Districts of the Region utilizing the membership strength of each District.

ARTICLE VI

Department Officers

Section 1.

(a) The Department Officers shall consist of the following:

Department Commander

Department Senior Vice-Commander

Department Vice-Commanders

(One Elected from each Region, and serving without Seniority, serves concurrently as Region Commander)

Department Judge Advocate
Department Adjutant
Department Treasurer
Department Historian
Department Sergeant-at-Arms
Department Chaplain
*Plus any other officers as may be created by the
Department Convention.*

The National Officers of The American Legion, elected by and representing the Department of Maryland, Inc., shall consist of the following: **i.** National Executive Committee member

ii. Alternate National Executive Committee member

These National Officers shall be elected as prescribed in Article V, Section 4 (a) of this Constitution.

Section 2. All Department Officers elected pursuant to Article V, Section 4(a) shall serve the term of office as prescribed in Article V, Section 4(b). Should the Department Convention, in creating any new offices, neglect or fail to designate the term of such office, then the term shall be for one year, or until a successor is duly chosen.

Section 3. In the event of death, resignation or removal of the National Executive Committee member, the Alternate National Executive Committee member shall immediately assume the position of National Executive Committee member, with full power to act for the unexpired term as if elected at the prior Department Convention. An election shall be held at the next regular meeting of the DEC to fill the remaining term of the Alternate National Executive Committee member who succeeded to the office of National Executive Committee member.

Section 4. The Department Vice-Commanders/Region Commanders shall be elected by a majority of the delegates from the Region they are to represent for a term of one year, or until a successor is duly chosen. Each Region shall also elect a Region Vice-Commander who shall be second in command of the Region and shall act on behalf of the Region Commander at any time when requested by the Region Commander. In the event of death, resignation, physical incapacitation or removal of the Region Commander, the Region Vice-Commander shall immediately assume the position of the Region Commander, with full powers to act for the remainder of the term as if elected by the preceding Region Caucus.

Section 5. All Department Officers whose terms are for one year shall serve from the adjournment of the Department Convention at which they were elected until the adjournment of the Department Convention next following their election or their appointment; or, applying to all officers, until their successors are duly chosen, except the term of office of each National Executive Committee member and each Alternate National Executive Committee member shall commence immediately upon the adjournment of the National Convention next ensuing their election, and shall end at the adjournment of the second next succeeding annual National Convention, or until a successor is duly chosen.

Section 6. The Department Adjutant shall be elected for a term of four years by the DEC at the first meeting of the DEC, after the adjournment of the Department Convention, and may be removed from office by the DEC.

Section 7. The DEC upon nomination of the Department Commander, at its first meeting following the adjournment of the Department Convention, shall appoint a Department Sergeant-at-Arms, Department Historian, Assistant Department Historian, Department Chaplain, and Assistant Department Chaplain who shall serve for the period of one year from the time of their respective appointment until the close of the next ensuing Department Convention, and they shall have no voting rights at the Department Convention, or as a member of the DEC, unless otherwise entitled.

Section 8. No member who previously held the office of Department Sergeant-at-Arms shall be eligible for reappointment to that office.

ARTICLE VII

Department Executive Committee

Section 1. Between Department Conventions, the administrative power shall be vested in the DEC, which shall constitute the Board of Directors of The Department and shall be composed of the following members:

- Department Commander, who shall serve as Chairperson
- All Department Vice-Commanders
- Department Judge Advocate
- Department Adjutant (without vote)
- Department Treasurer
- Department Historian (without vote)
- Department Sergeant-at-Arms (without vote)
- Department Chaplain (without vote)
- All DEC members (elected pursuant to Article V, Section 10)

National Executive Committee member

Alternate National Executive Committee member (without vote except in absence of National Executive Committee member or otherwise entitled)

All District Commanders

All Past Department Commanders (who are in good standing in their respective Post.)

Section 2. The term of office of all members of the DEC shall be for one year, or until a successor is duly chosen, except:

(a) The National Executive Committee member, and the Alternate National Executive Committee member, which shall be for two years, or until their successors are duly chosen. The term of the National Executive Committee member and the Alternate National Executive Committee member shall commence immediately upon the adjournment of the next ensuing National Convention after their election and shall end at the adjournment of the second next succeeding National Convention, or until their successors are duly chosen.

(b) All Past Department Commanders, while in good standing in their respective Post, shall be members for life.

(c) The term of each member who is elected or appointed to serve for one year shall commence immediately upon the adjournment of the Department Convention and shall end upon the adjournment of the next succeeding Department Convention, or until their successors are duly chosen.

(d) The Department Adjutant shall serve ex-officio with voice, but without vote.

Section 3. The DEC, in the event that the Department Convention does not fix a time and place for the succeeding Department Convention, shall fix the time and place and give at least thirty days' notice to each Post of such Committee's decision.

Section 4. The insignia of DEC member shall be a white cap with the words "Executive Committee" embroidered in gold lettering on the right side of the cap.

Section 5. The insignia of the Department Officers shall be as prescribed by the National Emblem Committee of The American Legion for Department Officers.

ARTICLE VIII

Posts

Section 1. Each Post shall have a minimum membership of fifteen. No Post shall be received into this Department until it shall have received a charter.

Section 2. The officers of each Post within The Department shall include the following:

Commander

Vice-Commander (one or more)

Adjutant

Judge Advocate

Finance Officer or Treasurer

Historian (optional election or appointment)

Sergeant-at-Arms (optional election or appointment)

Chaplain (optional election or appointment)

It shall be optional with the Post to combine the offices of Adjutant and Finance Officer, and to appoint the offices of Historian, Sergeant-at-Arms, and/or Chaplain.

Section 3. Those who desire to form a Post shall make application for a charter to the Region Commander of the Region in which the Post will be located. The Region Commander shall cause the application to be investigated either personally or through the appropriate District Commander, if there be such in the said District. The results of such investigation shall thereupon be reported to the Region Council, whereupon the Region Commander shall submit the application and the recommendation of the Region Council thereon, to the DEC through the Department Commander. Upon approval of the application by the DEC, the Department Commander shall forward same to the National Commander and National Adjutant for the issuance of a charter. Post charters shall be countersigned by the Department Commander and the Department Adjutant.

Section 4. No Post shall be named after any living person. If a Post is to be named for a deceased person, written permission from next of kin for use of the name shall accompany the charter application.

Section 5. Post Constitutions and By-Laws.

The Standard Post Constitution and Bylaws as adopted by the 101st Department Convention, or as amended by subsequent Department Conventions shall serve as the Post Constitution and By-Laws for all Posts within the Department.

Section 6. All Post Officers for the ensuing year shall be elected, or appointed as prescribed in the Post Constitution and Post Standing Rules, at least twenty days prior to the opening of the Department Convention and they shall assume their duties as such within twenty days after the closing date of the Department Convention.

Section 7. Each Post shall pay annually to The Department such per capita tax as may be levied by The Department Convention, plus whatever per capita tax may be levied by the National Organization.

Each Post shall determine the dues of its members, but whatever amount is chosen shall include the payments required to be made to the National Organization and this Department.

Section 8. Each Post shall pay annually to its Region Council, and/or District Council, such dues as may be established by the Region, and/or District, and approved by the DEC, and upon failure to do so, it shall forfeit its right to participate at the Meetings and the Caucuses of the Council to which payment has not been made.

ARTICLE IX

Finance

Section 1. The revenues of The Department shall be derived from annual membership dues and from such other sources as may be approved by the DEC. The fiscal year of this Department shall be from the First of July through Thirtieth of June the following year. An annual audit of the Department's financial records shall be conducted by an independent accounting firm.

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

Section 3. The annual dues shall be collected by each Post and transmitted to the Department Headquarters, or by alternate authorized means to the National Headquarters, within thirty days of receipt by the Post.

Section 4. Annual dues shall be payable each year, on and after the Twentieth of October .

ARTICLE X

Discipline

Section 1. The DEC, after notice and a hearing, may suspend the charter of a Post which violates this Constitution and/or By-Laws, and may provide for the government and administration of such Posts during such suspension.

Section 2. The DEC shall designate, appoint, and authorize a subcommittee to hear and make written findings of fact and recommendations with reference to the matter of the cancellation, suspension, or revocation of the charter of any Post after said Post shall have received due and proper notice of said hearing. Said subcommittee shall make its written findings and recommendations to the DEC.

Section 3. The hearing of any cause involving the cancellation, suspension, or revocation of any Post charter shall be had and held under rules of procedure to be adopted by the DEC.

Section 4. The DEC after notice and hearing may discipline any member of The Department of its own motion and without regard to any other action which may be taken by the Post to which such member belongs, where it appears that such member at the time of the conduct in question, was an officer of The Department defined in this Constitution, or a member of its Executive Committee, or a delegate or alternate to a National Convention, or convention of this Department convened at the time of such conduct aforesaid, or an officer of any Region, District, or Post in this Department and that as such, the member was charged with knowledge of the programs of, and loyalty to, The American Legion, Nationally and The Department, and that as such the member has been disloyal, neglectful of duty, dishonest, or acted in a manner unbecoming the position aforesaid which is held, or at the time of such conduct, was held in The American Legion.

(a) Disloyalty shall include embracing or adhering to the principles of any group opposed to the Constitutional form of Government of the United States of America, or of any group previously determined by The American Legion nationally, or by action of the Department of Maryland, Incorporated, to be in basic conflict with the purposes of The American Legion.

(b) Conduct unbecoming the incumbent of such positions in The American Legion as are hereinabove set forth shall mean only such conduct as is premeditatedly and deliberately calculated to bring The American Legion or the Department of Maryland, Inc., or any official action of the conventions or Executive Committees thereof, or the national or department officers thereof, respectively, in their official incumbent capacity, into public disrepute, ridicule or calumny.

(c) Nothing herein shall be construed in any manner to prohibit any member of The American Legion from expressing oneself freely and exhaustively in any debate at any Convention of The American Legion or at any official meeting of The Department or its subordinate component bodies, nor from petitioning the National Executive Committee or the Executive Committee of any Department of The American Legion for the redress of any grievance or the consideration or reconsideration of any policy, and any act of such nature so undertaken shall not be deemed evidence of unbecoming conduct aforesaid, or of disloyalty.

Section 5. The DEC shall designate, appoint and authorize a subcommittee to hear and make written findings of fact and recommendations with reference to the matter of disciplining any member of The Department who fails in the category set out in the

preceding section, after such member shall have received due and proper notice of such hearing. Said subcommittee shall make its written findings and recommendations to the DEC. Any member who is the subject of possible disciplinary action shall be entitled to present the member's case before the DEC as a whole and shall be so advised by the subcommittee.

Section 6. The DEC shall adopt rules of procedure for the hearing of any cause involving the disciplining of a member by the DEC, as set forth in Section 4 of this Article and is empowered hereby to provide for the suspension or expulsion of such member by a majority vote of said committee.

ARTICLE XI

Change of Residence

Section 1. Any member, in good standing in a Post, removing from this Department shall be entitled to a certificate stating current membership therein and the duration thereof.

ARTICLE XII

Parliamentary Procedure

Section 1. Robert's Rules of Order, Newly Revised, shall govern the procedure at the Department Convention, subject however, to any governing procedure submitted by the Rules Committee of the Department Convention and duly ratified by such Convention; provided however that no rule shall act to deprive any delegate of the right to cast their own vote as the delegate sees fit.

Section 2. All meetings of the DEC, and all meetings of the subordinate component bodies of The Department, shall be governed by the procedures in Robert's Rules of Order, Newly Revised (unless otherwise provided therefore by such body or bodies).

ARTICLE XIII

Auxiliary

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

Section 2. Membership in the American Legion Auxiliary shall be as prescribed by The American Legion nationally.

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

ARTICLE XIV

District Commanders

Section 1. There shall be such a number of District Commanders for each Region as the DEC shall establish and shall from time to time adjust said number. The number of District Commanders per Region may be different. The District Commanders shall be elected in the annual District Caucus' by the Delegates from Posts located in the District in which that Commander is to serve. To be eligible for such office, each District Commander, at the time of their election, shall be a member, in good standing, of a Post located in the District in which they are to serve. In the event there should be a vacancy in any office provided herein, by reason of death, resignation, removal, or failure of any candidate to stand for election, the Region Commander shall fill such vacancy by appointment, in so doing, that Region Commander may select any member of The American Legion belonging to a Post located within that Region, regardless of whether the appointees Post is or is not located in the District wherein such vacancy exists.

Section 2. The insignia of a District Commander shall be as prescribed by the National Emblem Committee of The American Legion.

ARTICLE XV

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 DEC by mailing same to them at least thirty days prior to the convening of the next Department Convention, and provided further, it may be amended by unanimous vote at any Department Convention without notice.

ARTICLE XVI

Effective Date

Section 1. This Constitution and accompanying Bylaws are effective upon the closing of the 103rd Department Convention, and at that time the provisions adopted of all other Department Constitutions shall be completely superseded hereby.

Any elections or caucuses held in connection therewith or attendant to the 103rd Department Convention are to be conducted utilizing this Constitution's procedures.

Section 2. Any adopted amendment shall take effect immediately upon adjournment of the Department Convention at which it is approved, unless otherwise provided for in such amendment.

**BY-LAWS
OF
THE AMERICAN LEGION
DEPARTMENT OF MARYLAND, INC.**

**ARTICLE I
Department Commander**

Section 1. The executive power of The Department shall be vested in the Department Commander, who shall be responsible for the execution and implementation of all policies of the Department under the Constitution and as established by the Department Convention and the DEC.

Section 2. The Commander, if present, shall preside at the Department Convention and all meetings of the DEC.

Section 3. The Commander shall nominate appointees to all Department Commissions and Committees unless otherwise provided in these By-Laws, and shall serve as an ex-officio member of the same.

Section 4. The Department Commander shall perform such other duties as are incident to this office.

**ARTICLE II
Department Senior Vice-Commander**

Section 1. The Senior Vice-Commander shall be second in command in The Department, and shall act on behalf of the Commander at any time when requested by the Commander.

Section 2. In the event of the death, resignation, or removal of the Department Commander, the Senior Vice-Commander shall immediately assume the position of Department Commander with full powers to act, and for the period as if elected at the preceding Department Convention,

Section 3. The Senior Vice-Commander shall have the primary mission of increasing and stabilizing membership of The Department, and shall serve as Chairperson of the Membership Committee during the term of office.

Section 4. The Senior Vice-Commander shall perform such other duties as may be assigned by the Commander, the Department Convention, and/or the DEC.

ARTICLE III

Department Vice-Commander/Region Commander

Section 1. The Department Vice-Commander elected from each Region, shall serve ex-officio as the Commander of such Region, and shall command the respective Region. The Region Commander shall be responsible for the execution and implementation of the policy of this Department throughout the Commander's said Region. The Region Commander shall also be responsible for the execution and implementation of the policies of the Region established by the Region Council. The Region Commander shall regularly visit the District Councils and Posts in the Region.

Section 2. The Region Commanders shall have as a mission the inspection of subordinate bodies within the Region, and to this end shall inquire into the proper organizational functioning of District Councils, and individual Posts of The American Legion in order to assist them in conducting their business and affairs in accordance with the policies of The American Legion and sound business practices. These Region Commanders shall inquire into any irregularities reported to them and shall take such steps as may be necessary either to correct the irregularities or to recommend their correction to the DEC. They shall assist the Department Commander whenever called upon and shall perform such other duties as may be assigned them by the Department Commander, the Department Convention, and/or the DEC.

Section 3. Each Region Commander shall hold not less than four meetings with the Region's District Commanders during the Region Commander's term of office for the purpose of improving the administration of the affairs of the Department within the Region. If the Region has been organized into a Region Council, the meeting of the Region Council shall be sufficient to satisfy the requirements hereof.

Section 4. The Region Commander shall provide, insofar as is practical, at least one Region-wide meeting of the membership, at which time the Department Commander should be presented to the Region.

Section 5. The Region Commander shall issue proper written notice of the annual Region Caucus, and shall preside at such Caucus.

Section 6. The Region Commander shall report the status of the Region to the Department Commander, the DEC, and the Department Convention when called upon, and shall perform such other duties as the foregoing may assign to them.

Section 7. The insignia of the Department Vice-Commanders/Region shall be a cap as prescribed by the National Emblem Commission for Department Officers.

ARTICLE IV

Judge Advocate

Section 1. The Department Judge Advocate shall advise the Department Officers and the DEC on all legal matters relating to The Department including the interpretation and construction of the Department Constitution and By-Laws; and shall perform such other duties as are incident to this office.

Section 2. If the Department Judge Advocate is not an attorney, such advice as described in Section 1 shall be considered to not be of a legal nature, and shall be based off of American Legion experience. The Department Judge Advocate shall ensure the Department receives appropriate legal support in legal matters.

ARTICLE V

Department Treasurer

The Department Treasurer shall be the custodian of all funds and securities of The Department and shall faithfully keep a record of all receipts and disbursements. The Treasurer shall render a detailed statement of the assets and liabilities, receipts and expenditures of The Department at each meeting of the DEC; prepare and submit an itemized account for incorporation in the annual report of the DEC to the Department Convention; be covered by crime and fidelity insurance with a good and solvent insurance company, to cover at least double the average amount of funds handled in a single year, which amount is to be determined annually by the DEC, and such insurance coverage to be approved by said Committee and the Department Judge Advocate.

ARTICLE VI

Department Adjutant

Section 1. The Department Adjutant shall keep a permanent record of all proceedings of the annual Department Convention and of all meetings of the DEC. The Department Adjutant shall, under the direction of the Department Commander, cause due notice to be given of the time and meeting place of such Conventions at all meetings of the DEC, and be covered by crime and fidelity insurance with a good and solvent insurance company, to cover at least double the average amount of funds handled in a single year, which amount is to be determined annually by the DEC, and such insurance coverage shall be approved by said Committee and the Department Judge Advocate.

Section 2. The Department Adjutant shall keep a correct record of all Posts within The Department and shall obtain from each Post a complete record of all the personnel of such Posts; keep a record of the number of Posts within The Department and their locations; assist in the organization of any new Posts and shall endeavor to increase the membership of the several Posts through publicity and such other means as may be deemed expedient; keep the books of the Department Headquarters, which shall contain a complete record of all financial transactions.

Section 3. The Department Adjutant shall render to each member of the DEC a report of the office at each meeting of said Committee.

Section 4. The Department Adjutant shall employ a Service Officer, Assistant Adjutant and such other assistants as may be approved by the DEC, and be the medium of contact between National Headquarters, Department Headquarters and Posts in the Department of Maryland, and shall transmit to Posts such information as National Headquarters and/or Department Headquarters may suggest or request. The Assistant Adjutant shall perform such duties as may be assigned by the Department Adjutant, including attendance at DEC and other meetings as directed by the Department Adjutant or the Department Commander and in the absence of the Department Adjutant, the Department Assistant Adjutant's duties will temporarily include the normal duties assigned to the Department Adjutant. The Assistant Adjutant shall also perform such other duties as are incident to this office.

Section 5. The Department Adjutant shall approve all vouchers before payment thereof is made. In the absence of the Department Adjutant, the Department Commander may approve such vouchers when immediate approval is necessary.

Section 6. The Department Adjutant and other Headquarters personnel shall receive such salaries as may be fixed by the DEC.

Section 7. The Department Adjutant shall perform such other duties as are incident to the office.

ARTICLE VII

Department Historian

Section 1. The Department Historian shall be to keep a complete history of The American Legion, Department of Maryland, Inc., during the term of office, and prepare and submit an annual report to the Department Convention of such organization's progress during the preceding year.

Section 2. The Department Historian shall perform such other duties as are incident to the office.

ARTICLE VIII

Department Sergeant-at-Arms

Section 1. The Sergeant-at-Arms shall preserve order and decorum during the sessions of the Department Convention and DEC. The Sergeant-at-Arms shall conduct absentees to the Convention Hall in the event their presence is necessary for a quorum.

Section 2. The Sergeant-at-Arms shall take charge of the Colors at all official functions of The Department.

Section 3. At each specific Department function the Sergeant-at-Arms shall determine the number of Assistants needed to properly carry out all assigned duties, and shall appoint such assistants for that function only. A suitable armband or other detachable insignia shall be provided such assistants and shall be returned to the custody of the Sergeant-at-Arms when the Department function has ended. No permanent or yearly Assistants shall be appointed.

Section 4. The Sergeant-at-Arms shall perform such other duties as are incident to the office.

ARTICLE IX

Department Chaplain

The Chaplain shall be charged with the spiritual welfare of The Department and its members and attending meetings and events as required, which shall be opened and closed with non-sectarian prayer. The Chaplain will offer non-sectarian, service in the event of dedications, funerals, and other public functions in which The Department is involved. The Chaplain shall perform such other duties as are usually incident to the office, or assigned by the Department Commander or the DEC.

ARTICLE X

District Commanders

Section 1. District Commanders shall be elected at a District Caucus for each District in The Department. The District Commanders shall represent The Department in their Districts, and shall carry out all policies of The American Legion through appropriate District Committees. The District Commanders shall strive to strengthen and unify the work of The American Legion by promoting cooperation among the Posts.

Section 2. It is recommended that District Councils be organized, to meet at least quarterly before the Region Council meetings, and that their organization and function be formalized by a Constitution to be approved by the DEC. Such Constitution shall provide for two (2) District Vice-Commanders to assist with the administration of the

District and may provide for other appropriate District officers.

Section 3. The Department may prescribe the Constitution and By-Laws for its Districts

Section 4. The District Commander and District Vice-Commanders shall regularly visit the Posts in their District and shall ensure that each Post is in fact functioning as a Post of The American Legion. The District Commander and/or the District Vice-Commanders shall instruct Post officers, where necessary, as to the practices followed, and policies of The American Legion. The District Commander, or one of the District Vice-Commanders, shall conduct an annual inspection of the records of each Post with respect to the following:

- (a) Regularity of meetings
- (b) Membership records and dues transmittals
- (c) Minutes of meetings
- (d) Records of the Post Treasurer or Finance Officer
- (e) Location and amount of bank accounts and the manner in which the accounts are carried
- (f) Value and location of real estate paid for by American Legion funds and/or titled in the name of the Post
- (g) Production of the crime and fidelity insurance policy on officers shall be required, and the name of the insurance company, number of the policy, amount thereof, and last paid premium shall be noted
- (h) Such other items shall be inquired into as will accurately portray the proper or improper function of the Post, or as may be directed by the Department Convention or the DEC

The District Commander or District Vice-Commanders shall not be assigned to inspect a Post in which that District Officer holds membership. The District Commander shall immediately, following the annual inspection of the aforesaid, forthwith, forward a report of the same to the Region Commander.

Section 5. The prerogative of installing Post Officers shall belong to the District Commander, and the District Commander's consent shall first be obtained before any other person shall conduct the Post installation.

Section 6. The District Commander shall perform such other duties as may be assigned or delegated by the Department Commander, Region Commander, DEC, or Convention.

ARTICLE XI

Department Executive Committee

Section 1. Any vacancy in any Department office shall be filled by the DEC unless otherwise provided for in this Constitution or By-Laws.

Section 2. The successor to any Region Commander shall be the Region Vice-Commander as stated in Article VI, Section 3 of the Department of Maryland Constitution. The successor to any DEC member, Region Vice-Commander, or Region Commander that assumes duties as in the Department Constitution whose office is subsequently vacated for any reason shall be selected at a meeting of the Region from whose representation such vacancy arose. Such meeting shall be called by the Region Commander within thirty days after such vacancy shall have occurred. In the event the Region Commander fails to call such a meeting, the Department Commander shall do so. In any event, where the vacancy is in the office of Region Commander, the Department Commander shall convene such meeting in the time set forth above, and if for any reason such meeting should not be convened by the Department Commander, then the District Commanders of said Region shall call such meeting which then may lawfully proceed. At any such meeting each Post shall be represented by the same number of votes to which it was entitled when the vacant office was originally filled, for the term in which the vacancy occurred.

Section 3. All questions affecting the election, eligibility and conduct of the Department Officers, The Department and National Executive Committee members, shall be referred to and be determined by the DEC as the final authority thereon.

Section 4. Removal of Department Executive Committee Members by Region Councils

(a) Notwithstanding Section 3, a Department Executive Committee member, after being given thirty (30) days' notice of the intended action, may be removed from office for neglect of duty, or conduct unbecoming the office the member holds, by action of two-thirds (2/3) of the Region Council that elected the DEC member present and voting at a regular meeting of such Region Council.

(b) No formal charges shall be necessary to initiate such removal. However, the DEC member shall be entitled to know the reasons for such action and may request to be heard at the regular meeting to present the DEC member's own defense before action shall have been taken.

(c) Such action shall be reported to the Department Executive Committee at the next regular DEC meeting.

(d) The Region Council may recommend to the DEC a member in good standing from the Region for appointment to fill the vacancy created by such removal for the remainder of the unexpired term.

Section 5.

(a) It shall be the duty of the DEC to pass upon all policies and all matters relating to the administration of the Department. It may at any time call upon any American Legion officer, agent or employee for a report or accounting of their activities and of American Legion property and funds in said person's custody, and may examine and audit all books of account, checks, papers, securities, deeds, leases, insurance policies, contracts, and vouchers relating to any of the same.

(b) The DEC at its first meeting each year shall approve a list of officers authorized as signers on the accounts of the Department and shall provide the signatures authorized to appear on the checks of the Department. The DEC has the authority to make amendments to the list of authorized signers on any account and the designation of officers permitted to sign checks.

Section 6. Budget and Finance

The DEC, upon recommendation of the Department Commander shall appoint, up to, a nine member Finance Commission in accordance with the requirements of Article XII, Section 1, of these By-laws. In addition to the regular members, the Department Treasurer shall be the Commission Chairperson. The Department Commander is an ex-officio member of the Commission, and the Department Adjutant is ex-officio Secretary, but not a voting member of the Commission.

Section 7. The DEC shall appoint such subcommittees to the Finance Commission as may be required by the Department Constitution, or as may be deemed necessary. It shall also appoint from among its members a subcommittee on Fund Raising Activities which shall pass upon the propriety and advisability of specific activities and promotions by subordinate components in this Department.

Section 8. Standing Commissions. The following Commissions; Americanism, Finance, Internal Affairs, National Security, and Veterans Affairs & Rehabilitation, shall be permanently maintained, and shall consist of up to nine members. The Department Commander shall solicit representation on each Commission from each District. Up to three members shall be appointed to terms of

three years, two years, and one year staggered. There shall be no more than three members serving on the Commission from any one Region.

(a) Members appointed to complete a term on a Commission due to death, resignation, or other reason shall serve only until the normal expiration of the term of that seat.

(b) Each succeeding appointee shall serve a term of three years unless removed by a majority vote of the DEC.

(c) All appointments shall be made by the DEC upon nomination by the Department Commander at the first meeting after the Department Convention, and each Region shall be represented on each Commission. The Department Commander shall appoint a Chairperson for each Commission listed above, with the exception of the Finance Commission, subject to the approval of the DEC. The Chairperson of any commission failing to function may be removed by the DEC.

(d) The Standing Commissions shall supervise all committees assigned to the Commission by the DEC, shall develop and recommend policies and programs to the DEC, and shall strive for continuity and progressive improvement over a period of years.

(e) The DEC may create additional rotating Commissions by a two-thirds vote provided their composition and mode of appointment and rotation conform in all respects to all the provisions of this section.

Section 9. Standing Committees. The DEC is empowered to designate such Standing Committees as it deems desirable for terms of one year, and shall appoint the members thereof upon nomination by the Department Commander. Upon creating Standing Committees, The DEC shall designate the Commission (if a related one exists) which shall supervise said Committee. The DEC may retain supervision of any Committee in lieu of assigning to a Commission.

Section 10. The DEC shall provide for proper publicity for the purposes and work of The Department and shall make such rules in respect thereto as will prevent unauthorized statements as to the policies of The Department.

Section 11. The DEC shall meet for business sessions at least quarterly upon not fewer than ten days' notice, or upon call for special session upon not fewer than five days' notice by the Department Commander or one-fifth of the DEC except that the Department Commander may call a DEC meeting at a Department Convention upon three hours' notice from the rostrum; and twenty members thereof shall constitute a quorum.

Section 12. The Department Commander shall appoint a Legislative Advisory Committee consisting of all Department Officers, all District Commanders, and the members of the Legislative Committee. Whenever the Department Commander determines that a legislative emergency exists, said committee may in reference to pending legislation or voting position, deviate from the technical mandates of the Convention and/or the DEC, and report said deviations at the next meeting of the DEC.

ARTICLE XII

Charters

Section 1. The DEC shall pass upon, accept, or reject applications for Posts, or mergers among the various Posts within The Department.

Section 2. Post Charters may be cancelled, suspended, or revoked for failure to maintain the requirements of Article VIII, of the Department of Maryland Constitution, or as provided in Article X of the Department Constitution and in the National Constitution and By-Laws. The DEC may order the suspension of a charter for a period not to extend beyond the closing of the next succeeding Department Convention as a disciplinary measure or pending action relative to final revocation. The cancellation of a charter is a matter of business wholly, the request therefore being made through proper channels to the National Executive Committee for final action. Cancellation shall be in order where two or more Posts merge, where a Post voluntarily ceases to function, when the eligibility of any Post shall be found defective, or under such other conditions as might make such action necessary within The Department.

Section 3. Any Post failing to meet the obligations imposed upon it by the National or Department Constitution and By-Laws, or its own Constitution and By-Laws, or ceasing to function for six months as an American Legion Post, or refusing to pay the per capita tax due The Department or National Headquarters shall upon order of the Department Commander, surrender its charter. Upon failure to surrender its charter, immediate steps may be taken for its revocation.

ARTICLE XIII

Discipline of Post Members

Section 1. Each Post has the power to discipline its own membership. This discipline, however, is subject to the restrictions of the National and Department Constitutions and By-Laws, along with rules and regulations promulgated by National or Department to carry out such restrictions.

Section 2. Members may be suspended or expelled from The American Legion only upon a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty, or conduct unbecoming a member of The American Legion. All charges shall be made under oath, in writing, by the accuser or accusers, and no member in good standing shall lose their membership until given a fair trial by the Post in such manner and form as are provided herein.

Section 3. The charges shall be filed with the Post Commander or Post Adjutant, and a copy of the charges shall be served upon the accused either by an officer of the Post who shall certify as to delivery of said charges into the presence of the accused, or by registered mail directed to the address of the accused shown on the current year's membership record of the Post. The copy of the charges so served shall contain a notice to the accused of the date, time and place of the hearing of such charges, such date to be not sooner than fifteen days after service has been obtained. A copy of all papers served upon the accused, and the certification of the officer who made the service, or the return receipt, signed by the accused, reflecting the registered mail service, shall be preserved in the Post records for reference in the event of appeal. The accused shall be entitled to obtain representation at the hearing and to cross-examine all witnesses against him/her. Reasonable postponement should be accorded to permit the hearing to be held at such time as will best ensure the production of all real evidence bearing on the charges provided, however, that the accused may insist upon the hearing within thirty days of the service of charges upon the charged member.

Section 4. Punishment. By a two-thirds majority of those present and voting, upon a finding of guilty, a member may be reprimanded, or suspended for a time not to exceed one year, or expelled from The American Legion. Notice of suspension or expulsion of any member shall immediately be sent to the Department Adjutant. The decision of the Post shall be final unless changed by the DEC.

Section 5. Appeal. Any member who has been so disciplined has the right to appeal to the DEC, whose decision on appeal shall be final. Said appeal must be in writing and filed with The Department within thirty days after the action appealed from is taken, provided however, if the punishment is suspension or expulsion from The American Legion, the accused may also appear personally before an Appeals Committee named by the Department Commander; which Committee shall report its findings and recommendations to the DEC.

Section 6. When an appeal is taken, the Post shall be notified by The Department and given at least twenty days within which to

answer said appeal. When a request is made to appear before the Appeals Committee, the Post shall be given at least twenty days' notice and afforded an opportunity to also appear.

Section 7. In order to maintain order and decorum within the Post facilities, nothing contained herein shall prohibit a Post, with or without a hearing, from suspending a member from the use of the Post facilities for a period not to exceed ninety days, provided however, that the member shall have the right to a hearing before the Post Executive Committee or the Post Membership if the member requests same in writing within ten days after being advised of said suspension and said hearing shall be held within ten days after the Post is so notified.

Section 8. A Post Officer, after being given thirty days' notice of the intended action, may be removed from office for neglect of duty, or conduct unbecoming the office the member holds, by action of two-thirds of the membership of the Post present and voting at a regular meeting. No formal charges shall be necessary to initiate such removal. However, that Post Officer shall be entitled to know the reasons for such action and may request to be heard at a regular meeting to present that Post Officer's own defense, either before or after the action shall have been taken; and if this defense is first heard after the action has been taken, the membership of the Post shall reconsider such Post Officer's removal from office.

ARTICLE XIV

Monies and Collections

Section 1. All Department and Post Officials handling American Legion monies shall be covered by crime and fidelity insurance with a good and solvent insurance company, to cover at least double an average amount of money handled in a single year. In case of delinquencies in the payment of amounts due The Department or National Headquarters, action shall be taken at once by the proper officials to bring about a speedy and complete settlement. The crime and fidelity insurance provided for Department Officials shall be approved by the Department Judge Advocate and the DEC.

Section 2. The classifications of delinquency, suspension from all privileges, and forfeiture of membership because of failure to pay dues and reinstatement there from, shall be as set forth in the National Constitution and By-Laws of The American Legion.

ARTICLE XV

Department Convention

Section 1. The Department shall cause to be formed and maintained a Convention Corporation, whose assets and liabilities

shall be separate and distinct from The Departments'. No officer of said Corporation shall be authorized or empowered to obligate The Department or its treasury or assets in any respect. The Convention Corporation shall function under a charter approved annually by the DEC.

Section 2. Standing Committees of each Department Convention shall be the following: Credentials, Convention Rules, Constitution and By-Laws, Resolutions, Finance, Public Relations, Americanism, Convention, Time and Place, Sons of The American Legion, and such other committees as the Department Convention or the DEC may deem necessary. When there exist a corresponding DEC, Standing Commission, Committee, or Subcommittee, the Convention Committee shall consist of the same members, provided the members are registered delegates or alternates.

ARTICLE XVI

Rules

The rules of procedures at the Department Convention and all meetings of the DEC, Region Councils, District Councils, and Posts shall be those set forth in Roberts Rules of Order, Newly Revised, except as hereinbefore provided in this Constitution and By-Laws, or as separately provided in the Constitution and By-Laws of the subordinate body.

ARTICLE XVII

Amendments

These By-Laws may be amended in the same manner as prescribed in Article XV of the Department Constitution.

ARTICLE XVIII

General Provisions

All matters relating to the business of The Department not covered specifically by these By-Laws shall be referred to the DEC for determination and adjustment, which Committee shall have full power to act.