

**CONSTITUTION  
OF  
THE AMERICAN LEGION  
DEPARTMENT OF FLORIDA**

As adopted at the Department Convention  
of 1946  
and Amended at Department Conventions  
through 2003

**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 association in the Great Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and goodwill on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

**ARTICLE I  
NAME**

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

**ARTICLE II  
NATURE AND PURPOSE**

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

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

3. While requiring all members of the organization to perform their full duty as a citizen according to their own conscience and understanding, the organization shall be non-partisan in politics, and shall not be used for the dissemination of partisan principles.

**ARTICLE III  
MEMBERSHIP**

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

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

**ARTICLE IV  
DEPARTMENT ORGANIZATION**

1. The American Legion, Department of Florida, Inc., is a constituent part of and subordinate to The American Legion, a federal corporation organized by Act of Congress, and is a corporation organized and existing under the laws of Florida. The Department embraces and its jurisdiction extends to the whole of the State of Florida.

2. The Department shall be divided into areas, districts and posts organized and officered as hereinafter provided.

3. The administrative and executive power shall be vested in the Department Executive Committee, and the Department shall be officered as hereinafter provided.

4. There shall be one (1) regular Annual Department Convention which shall be the legislative body of the Department Organization, and there may be a special convention called in the manner hereinafter provided.

5. There shall be a Department Headquarters maintained in the present location of Orange County, Florida.

6. There shall be such standing Commissions and Committees as shall be provided in the Department By-Laws, membership of which shall be appointed by the Department Commander, subject to ratification by the Department Executive Committee. The Department Commander may also appoint such special committees as may appear necessary or desirable, or as directed by the Department Convention, for such term as set forth in the enabling resolution.

7. By-Laws shall be adopted for the further government and regulation of the Department, not inconsistent with this Constitution.

8. There shall be at least one (1) or more Department Conferences between Department Conventions, date and place to be decided by the Department Commander.

**ARTICLE V**  
**DEPARTMENT CONVENTION**

1. The legislative body of the Department shall be a Department Convention to be held annually at a time and place to be fixed by vote of a preceding convention, or in the event the preceding convention does not fix a time and place, or if the convention city withdraws its invitation to hold the convention, or if it becomes impractical for any reason to hold the convention at the time or place designated, then such time and place shall be fixed by the Department Executive Committee.
2. In the event it becomes impractical because of travel restrictions lawfully imposed by the State or National Government to hold the convention at the time or place designated, or if by lawful authority of the State or National Government attendance at the convention be limited to less than the number of authorized delegates, then the place and the time and the manner, or either the place, the time or the manner of holding the convention during such emergency shall be as named and prescribed by the Department Executive Committee.
3. The Annual Convention shall have all of the administrative, legislative and judicial powers of the Department.
4. The Annual Convention shall be composed of delegates and alternates from each chartered Post of The American Legion of the Department of Florida. Each Post shall be entitled to two (2) delegates and two (2) alternates, and to one (1) additional delegate and alternate for each additional one hundred (100) members or fraction thereof over and above one hundred (100) members; and provided that the per capita membership fee is paid fifteen (15) days prior to the Department Convention. Alternate delegates shall be recognized in the numerical order certified.
5. Each delegate to the Department Convention shall be entitled to one (1) vote. The vote of any delegate absent and not represented by an alternate shall be cast by the majority of the delegates present from the Post. Alternates shall have the privileges of delegates except that of voting. In voting at the convention, the vote of the delegates of each Post shall be cast by the chairman of the Post Delegation.
6. Each member of the Department Executive Committee shall be a delegate to any Department Convention during their term of office, under the same conditions as applied to the other delegates. Each Past Department Commander shall be a delegate for life to all

Department Conventions, under the same conditions as applied to all other delegates, provided that they shall be in good standing in a Post of The American Legion, Department of Florida, and present on the floor of the convention.

7. The convention shall be the final judge of the election and qualification of the delegates.
8. A quorum shall exist at a Department Convention when thirty (30) per cent of the qualified Posts are represented as provided above.
9. The Department Executive Committee shall at the first Mid-Year meeting adopt or amend the rules for the procedure and government of all Department Conventions, provided, however, the Convention rules that are contained within the Department Constitution and/or By-Laws may not be changed by this action.
10. A special convention may be held upon joint call in writing by the Department Commander and at least two (2) of the Department Area Commanders or by a majority of District Commanders, or by a majority of the Department Executive Committee, or by a majority of the Posts. The same representation of Posts shall be required at a special convention to constitute a quorum as is required at the regular annual convention. No business shall be transacted at such special conventions except such as is set forth in the call therefore.

**ARTICLE VI**  
**DEPARTMENT OFFICERS**

1. The Department officers shall be:
  - The Department Commander
  - The Department Vice-Commander
  - The Department Area Commanders (6)
  - The Department Adjutant
  - The National Executive Committeeman
  - The Alternate Nat. Exec. Committeeman
  - The Department Judge Advocate
  - The Department Historian
  - The Department Chaplain
  - The Department Sergeant-At-Arms and
  - The Department Service Officer
2. Department Officers shall be elected at each Annual Convention, except that the Department Commander shall appoint a Department Judge Advocate and except that the Department Adjutant and Department Service Officer shall be appointed by and serve at the will of the Department Executive Committee. The Department Commander shall immediately after being installed appoint a Chairman of the Department Finance Committee, with the

approval of the Department Executive Committee, to take office immediately.

3. No person shall be eligible to hold the following offices for more than one elected term: Department Commander, Department Vice Commander, or Department Area Commander.

4. In case of the resignation, death, suspension or removal from office of the Department Commander, the immediate Past Department Commander in good standing and available shall immediately take office as Acting Department Commander until the Department Executive Committee shall meet to fill the vacancy, which shall be within ten (10) days from the date of the occurrence of the vacancy, or until the next Convention, whichever comes first.

5. There shall be a National Executive Committeeman and an Alternate National Executive Committeeman elected at large by the Department Convention. They shall be elected in even numbered years and shall serve for two years. Their term of office shall commence immediately upon the adjournment of the National Convention, next ensuing after their election. Should the National Executive Committeeman be unable to perform the duties of such office, the National Executive Committee Alternate shall perform those duties during the period of disability with all rights and privileges of the office. Should the National Executive Committeeman vacate such office for any reason before the expiration of the term of such office, the Alternate National Executive Committeeman shall succeed to that office for the remainder of the term. Should the office of the Alternate National Executive Committeeman be vacant for any reason, such vacancy shall be filled as provided in Section 7, Article VII of this Constitution. Should the National Executive Committeeman be unable to assume his office at the adjournment of the next ensuing National Convention, the Alternate National Executive Committeeman-Elect shall assume that office and the vacancy in the office of Alternate National Executive Committeeman shall be filled as provided in said Article VII, Section 7.

6. Department officers shall be subject to trial, discipline, suspension and removal from office as provided in the Department By-Laws.

7. The Department Executive Committee shall provide for the appointment and employment and compensation of such additional subordinate officers and employees as may be

needed for the efficient administration of the affairs of the Department.

8. In the event that any Department Commander, Department Vice Commander, Department Area Commander or District Officer shall absent himself/herself from the State of Florida for a period exceeding sixty (60) days, he/she shall submit his/her resignation from such office within a reasonable time after his/her departure from the state, and upon his/her failure or refusal so to do, such office shall be declared vacant and the vacancy filled, as provided in Article VII, Section 7, of this Constitution.

9. Only the Department Officers listed under Article VI, Section 1, and the Assistant Department Adjutant, appointed under the provisions of Article VI, Section 10, and the Department Membership Chairman while serving in office, are authorized to wear the official white Department cap with gold lettering designating their particular office.

10. The Department Executive Committee may authorize the Adjutant to employ a member of The American Legion as the Assistant Department Adjutant. The Assistant Department Adjutant shall be responsible directly to, serve as a subordinate of, and serve at the pleasure of the Department Adjutant. He/she shall perform such duties as assigned by that Officer. The Assistant Department Adjutant shall represent and act for the Department Adjutant when required.

## **ARTICLE VII**

### **DEPARTMENT EXECUTIVE COMMITTEE**

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

The Department Commander

The Department Vice Commander

The Department Area Commanders (6)

The District Commanders

Two District Vice Commanders from each District

The National Executive Committeeman

The Alternate National Executive Committeeman

The Department Chaplain

The Department Historian

The Department Sergeant-At-Arms

All Past Department Commanders

2. The Department Adjutant, Department Assistant Adjutant, Department Service Officer, and the Department Judge Advocate shall be ex-

officio non-voting members of the Department Executive Committee.

3. All Past Department Commanders, while in good standing in their respective Posts, shall be members for life of the Department Executive Committee. The District representatives shall assume their duties on the Department Executive Committee at the same time as the Department Commander and other Department Officers.

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

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

6. In cases of emergency, as provided elsewhere in this Constitution, the Department Executive Committee may provide a method and a procedure for a special convention in lieu of the regular Annual Convention to elect Officers, to make proposals for legislative enactment, to adopt and promulgate essential programs, and to enunciate and proclaim matters of policy.

7. The Department Executive Committee shall have power to fill vacancies in any Department office or in the Department Executive Committee until the next Convention, except as is herein otherwise provided; provided that any such vacancy occurring between meetings of the Department Executive Committee may be filled by appointment by the Department Commander subject to ratification or disapproval by the Department Executive Committee at its next meeting. If the Executive Committee disapproves the appointment by the Department Commander, the Executive Committee shall fill the vacancy until the next Convention.

8. The Department Executive Committee shall meet within 24 hours after the Department Officers have taken office, as provided in Article VI hereof, and also shall convene in special meeting when called for the purposes stated in Section 7 of this Article, and immediately preceding the holding of a Department Convention, regular or special; and meet at such other times as in the By-Laws may be provided.

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

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

11. Members of the Department Executive Committee shall be subject to charge and trial for the same causes and in the same manner as Department Officers are charged and tried and in the event the charge is sustained, they may be deprived of their status and privileges. They shall have the same right of appeal to the Department Convention as is provided for appeals in case of Department Officers.

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

13. Within the Department Executive Committee there shall be constituted the Department Executive Screening Committee. The members of said Committee shall be the Department Vice Commander (Chairman) and the several Department Area Commanders, together with the Department Judge Advocate and the Department Adjutant as ex-officio, non-voting members.

a. The Department Executive Screening Committee shall be charged with conducting initial investigations concerning disputes between the several Districts and Posts within The Department, between a Post and member(s) of a Post, appeals from decisions of the District Commander and such other duties as may be assigned by the Department Commander and such other duties as may be assigned by the Department Executive Committee, or by the Department Commander, when the Department Executive Committee is not in session. The Department Executive

Screening Committee may adopt such rules as may be necessary for its operation.

b. Decisions of the Screening Committee shall be effective as soon as rendered, shall be implemented by the Department Commander and shall have the same force and effect as a decision of the Department Executive Committee, sitting as a whole. All decisions of the Screening Committee shall be automatically considered by the Department Executive Committee at its next meeting and may be affirmed, modified or reversed at that time.

c. The Screening Committee shall neither take nor recommend any action which is contrary to, or which would materially alter a previous action or decision of the Department Convention or the Department Executive Committee.

### **ARTICLE VIII AREA ORGANIZATION**

1. There shall be Department areas known as the Western Area, the Northern Area, the Eastern Area, the Central Area, the Southwestern Area, and the Southern Area.
2. The Western Area shall embrace the 1st and 2nd Districts.
3. The Northern Area shall embrace the 3rd, 4th, 5th and 17th Districts.
4. The Eastern Area shall embrace the 6th and 12th Districts.
5. The Central Area shall embrace the 7th, 15th and 16th Districts.
6. The Southwestern Area shall embrace the 8th and 13th Districts.
7. The Southern Area shall embrace the 9th, 10th, 11th and 14th Districts.
8. In each of said Areas there shall be a Department Area Commander elected at each Annual Convention, who shall take office at the same time as the Department Commander. Department Area Commanders shall serve without seniority. The Department Area Commander shall be a member in good standing of a Post in the Area for which he/she is elected, and shall be nominated at a caucus of Posts within said Area held during the Convention at which elected, and preceding the time set for election. No person shall be eligible for re-election to the office of Department Area Commander; nor shall any member of a Post in which the Department Area Commander is a member be eligible for election to the office of Department Area Commander for the ensuing year, however, this shall not preclude an

appointed Department Area Commander from being a candidate for election.

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

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

### **ARTICLE IX DISTRICT ORGANIZATION**

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

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

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

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

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

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

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

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

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

District 9. This District shall embrace Broward County.

District 10. This District shall embrace the northern- most portion of Dade County inclusive of the following: Miami Beach and all areas north of S.W. 8th Street running east and west from Biscayne Bay to the county line.

District 11. This District shall embrace the following Counties: Palm Beach, Okeechobee

and Clewiston from Hendry County, Indiantown from Martin County and that part of Martin County south of the St. Lucie River.

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

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

District 14. This District shall embrace the Southern Half of Dade County beginning at S.W. 8th Street Running East and West and all of Monroe County.

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

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

District 17. This District shall embrace the following Counties: Flagler, Putnam, and Volusia.

2. There shall be a District Commander and two (2) District Vice Commanders from each District, elected at the District Conference provided in Section 8 of this Article, and their election shall be ratified at the next following Department Convention. The District Vice Commanders shall serve as members of the Department Executive Committee. The Convention may vote for ratification 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. They shall take office at the same time as the Department Commander.

3. When a vacancy in the office of District Commander occurs in any District, the Department Commander shall appoint his successor.

4. The Department Commander or the several District Commanders within their respective Districts, shall have the power to call Conferences of Posts at such times as they may deem advisable; provided, however, that at least ten (10) days notice of such Conference shall be given in writing to the several Posts. The District Commander shall hold a meeting of the Posts of his/her District at least quarterly for

the purpose of discussing programs, membership and overall communications.

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

6. District conferences shall be composed of delegates and alternates from each chartered Post in the District. Each post shall be entitled to two (2) delegates and two (2) alternates, and to one (1) additional delegate and alternate for each additional one hundred (100) members or fraction thereof over and above the one hundred (100) members and alternate delegates shall be recognized in the numerical order certified; and provided that the per capita membership fee has been received by Department Headquarters ten (10) days prior to the District Constitutional Conference. It shall be a further duty of the Department Adjutant to publish to the Post and District Officers of the respective Districts in the Department, a bulletin listing the official voting strength of each Post not later than five (5) days prior to the District Constitutional Conference.

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

8. In addition to any other conference that may be held in the Districts of the Department, there shall be held in each District a Constitutional Conference not more than sixty (60) nor less than ten (10) 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 Conferences as set forth in Sections 4, 5, 6, and 7 of this Article.

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

10. The District Commander shall, within five (5) days after adjournment of such Conference, forward to the Department Adjutant, a certified

copy of the name and address of the District Commander and the District Vice Commanders elected, and the delegates and alternates to the National Convention nominated at such District Conference.

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

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

13. Each District in the Department of Florida is authorized to have its own Constitution and By-Laws, provided that it shall not conflict with the National Constitution and By-Laws, of the National American Legion and the Department of Florida Constitution and By-Laws. The District Constitution and By-Laws, together with any subsequent amendments, shall be approved by the Department Judge Advocate, such approval confirmed by the Department Commander, and a copy filed with the Department Adjutant's Office and a Certification of Approval issued to the District before becoming effective. A District Constitution and By-Laws must meet the approval of two-thirds of the Posts in attendance at the Annual District Constitutional Conference or at a Special Conference called by the District Commander. Each Post must be given 45 days notice of a Special Conference for the aforementioned purpose.

## **ARTICLE X POST ORGANIZATION**

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

2. No Post shall be received into this organization until it shall have received its charter. Those who desire to form a Post shall make application for charter to the Department Commander. Such application shall be approved by either the Department Commander or by the Department Executive Committee and if so approved shall be countersigned by the Department Commander and the Department Adjutant. Upon such application being so approved, the same shall be forwarded by the Department Adjutant to the National Adjutant for the issuance of charter in accordance with

the Constitution and By-Laws of the National Organization of The American Legion.

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

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

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

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

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

8. Such charter, when issued, shall be countersigned by the Department Commander and the Department Adjutant.

9. Such charter may be suspended or revoked by the Department Executive Committee for the reasons and in the manner provided in Article VII hereof.

10. Area of Post activities:

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

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

Post within such area, or to rearrange areas of responsibility for activities of The American Legion for Posts in or near such areas.

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

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

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

- Post Commander
- Post Vice-Commanders-as many as  
may be required.
- Post Finance Officer
- Post Sergeant-At-Arms
- Post Historian
- Post Chaplain

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

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

Department Adjutant within one (1) week after such vacancy has been filled. No Post officer shall assume office prior to providing the Post Adjutant with proof of eligibility.

14. Members or Post Officers may be reprimanded, suspended or expelled from The American Legion only upon proper showing or cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of The American Legion. Charges must be made under oath in writing by the accusers, and no member or officer shall lose his membership or office until given a fair trial. Any Post that conducts disciplinary proceedings through a trial must notify the District Commander at least ten (10) days in advance of any such trial, of the date, time and location where the trial is to be held. The District Commander shall detail a District Officer to attend the trial as an observer. The decision at trial may be an acquittal, reprimand, suspension, expulsion or, in the case of an Officer, removal from office and shall be reported to the Post forthwith and acted upon by the Post at its next regular meeting. The Post, except for a decision of acquittal, may affirm, modify or reverse any decision of the trial.

The procedures and rules controlling the bringing of charges and the trial, for any trial held within the jurisdiction of the Department of Florida, shall be as set forth by the Department Executive Committee in that document entitled Rules Governing Trials.

15. Any member or Post Officer who has been suspended or expelled shall have the right to appeal to the Department Executive Committee, provided however, that no factual determinations made by the trier of fact shall be disturbed or set aside by the Department Executive Committee. The procedure and rules governing an appeal as to any trial held within the jurisdiction of the Department of Florida shall be as set forth by the Department Executive Committee in that document entitled Rules Governing Appeals. A Notice of Appeal must be received by the Department Adjutant within forty-five (45) days of final action by the Post initiating the trial or any right to appeal is waived. If no appeal is made the final action of the Post shall become binding. The decision of the Department Executive Committee shall be final. The provisions of Sections 14 and 15 do not apply to disciplinary procedures carried out in compliance with any state or local law, not

affecting the right of the member to attend Legion Meetings.

16. Any member in good standing may transfer to another Post willing to accept him, subject to the provisions of Section 5 of Article X of this Constitution. Such member shall be entitled to a certificate of membership from his Post upon transfer and acceptance by another Post. The transfer shall be effective upon notice sent to the Department Adjutant.

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

18. Each Post shall use and follow The American Legion Post Officers Guide in conducting its meetings, initiation of members and other ceremonies prescribed therein.

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

20. No Post of the Department of Florida shall sell or otherwise dispose of any real property (real estate) without first obtaining the written consent of the Department Commander acknowledging receipt of written notice to The American Legion, Department of Florida NOT LESS than thirty (30) days prior to such sale or disposal, that all members of that Post have been given written notice, sent via U.S. Mail, of the proposed sale or other disposition. Each Post shall provide The American Legion, Department of Florida written acknowledgment of the foregoing, duly executed by the Post Commander and Adjutant, and in a form suitable to the Department. The Department Adjutant shall cause this written acknowledgment to be recorded through the County Recorder's Office in the county wherein the Post is located.

Upon a Post purchasing a parcel of real property the Post shall cause the following language to be inserted into the deed for said real property before the deed is recorded into the public records:

"Article X Section 20 of the Constitution of the American Legion requires all American Legion Posts within the State of Florida prior to transferring a parcel of real property to 1. Provide written notice to all members of the Post who are in good standing and 2. Obtain written consent for the transfer of said real property from the Department Commander."

21. Each Post shall make reports to the membership of the Post at least once a month, concerning the status of all financial activities

and all facilities of the Post. Such report shall include, but is not limited to total income, cost of sales, expenses, accounts receivable, accounts payable, inventory, a profit and loss statement, any agreement concerning use of facilities and any other information necessary to provide the membership with sufficient information to make decisions concerning these activities and facilities.

## **ARTICLE XI FINANCE**

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

2. The amount of such annual dues shall be determined by the Department Convention and remain in effect until changed by action of a subsequent Convention.

3. The annual Dues, both National and Departmental, shall be collected by each Post and transmitted within thirty (30) days after receipt to the Department Finance Officer.

4. The failure on the part of any Post for more than thirty (30) days to remit Department and National dues collected from members shall be a cause for the suspension or revoking of the charter of such Post.

5. All Department Officers responsible for National or Department funds shall furnish adequate bonds conditioned for the faithful performance of their duties. Said bonds shall be made and deposited as the Department By-Laws provide.

6. The fiscal year of the Department shall be July 1 to June 30, each date inclusive.

7. There shall be a Financial Review of the finances, accounts, property and business affairs of the Department made at least once annually, and at such other times as the By-Laws provide. The Financial Review shall be made by a Certified Public Accountant retained by the Department Finance Committee. The Department Comptroller shall have on file at all times receipted bills, or vouchers covering all expenditures of the office. Such records shall be available at any time for examination by the Department Commander, members of the Finance Committee, or both. Report of the Financial Review shall be made to the Department Executive Committee and to the Department Finance Committee.

8. No Post with past due accounts owing to the Department and unsettled before convening of

the Annual Department Convention shall be entitled to seat their Post delegation in that Convention.

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

10. All contracts entered into on behalf of the Department shall be in writing, executed by the Department Commander and evidenced by its corporate seal which shall be affixed by the Department Adjutant and attested by his signature.

11. The Department Convention may establish special funds or accounts which shall be maintained as provided for in the By-Laws, or as directed by the Department Convention. Investments of the monies of such funds or accounts shall be as provided for in the By-Laws as directed by the Department Convention, or in the absence of specific provisions in the By-Laws or the Department Convention, as directed by the Department Executive Committee. No withdrawals from, or reinvestment of such monies shall be made except by like authority.

12. The Department Commander shall appoint, subject to ratification by the Department Executive Committee, a member to the Department Finance Committee, in addition to the ex-officio members hereinafter provided, for a full five (5) year term or until removed by a majority vote of the Department Executive Committee. The Department Commander and the Department Adjutant shall be ex-officio non-voting members of said Committee, and the Department Adjutant shall be ex-officio secretary of said Committee. Between sessions of the Department Executive Committee, the Department Commander may fill vacancies of the Department Finance Committee subject to ratification by the Department Executive Committee at its next meeting. The Department Finance Committee shall have such powers and perform such duties as provided in this Constitution and in the Department By-Laws or by the Department Convention provided and shall be prescribed by the Department Executive Committee in cases not covered by the Department Constitution and By-Laws or by actions of the Department Convention.

## **ARTICLE XII**

### **THE AMERICAN LEGION AUXILIARY**

1. The Florida Department of The American Legion recognizes an auxiliary organization known as the American Legion Auxiliary.

2. Membership in the Auxiliary shall be limited to the mothers, wives, daughters, sisters, granddaughters and great granddaughters of members of The American Legion, and to the mothers, wives, daughters, sisters, granddaughters and great granddaughters of all men and women who were in the Army, Navy, Marine Corps, Coast Guard and the Air Force of the United States between April 6, 1917 to November 11, 1918; or December 7, 1941 to December 31, 1946; or June 25, 1950, to January 31, 1955; or February 28, 1961 to May 7, 1975; or August 24, 1982 to July 31, 1984; or December 20, 1989 to January 31, 1990; or August 2, 1990, to the date of cessation of hostilities as determined by the Government of the United States all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served on active duty in the Armed Forces of any of the Governments associated with the United States during any of said periods and died in line of duty or after honorable discharge and to those women who of their own right are eligible to membership in The American Legion.

3. The Auxiliary shall be non-partisan in politics and shall not be used for the dissemination of partisan principles.

4. Each Auxiliary shall be an independent Unit, and shall be attached to a regularly chartered and active Post of The American Legion and shall at all times, be subject to regulations by the National and Department Executive Committees.

## **ARTICLE XIII**

### **SONS OF THE AMERICAN LEGION**

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

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

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

4. Each Squadron of The Sons of The American Legion, Detachment of Florida, shall be organized under the jurisdiction and sponsorship

of a chartered and active local Post of The American Legion in the Department of Florida, and shall, at all times be subject to regulations by the local Post, the Department Executive Committee, the Department Convention, the National Executive Committee of The American Legion, the National Sons of The American Legion Constitution, the Detachment of Florida Executive Committee and the Detachment of Florida Convention.

5. The Department Organization of The Sons of The American Legion shall be known and designated as the Department Sons of The American Legion Advisory Committee and shall consist of members of The American Legion, Department of Florida. The Chairman shall be appointed by the Department Commander. Committee members shall be one (1) from each Area, appointed by the Department Area Commander, one (1) from each District, appointed by the District Commander. The duties of this committee are to govern and advise The Sons of The American Legion, Detachment of Florida, intermediate bodies and all Sons of The American Legion Squadrons in the Department of Florida. The Department Sons of The American Legion Advisory Committee shall be ex-officio members of all committees or commissions of the Detachment organization of The Sons of The American Legion. The Chairman shall be the Department Sons of The American Legion Advisor at all Sons of The American Legion Detachment meetings, conferences and conventions.

6. The revenue of this Detachment shall be derived from annual dues of members, and by such other means as may be determined by the Department Executive Committee. Each Annual Department Convention shall determine the amount of Detachment dues for the succeeding fiscal year. In the absence of such determination at any Convention, the dues shall be as last previously determined.

7. There shall be only one (1) Squadron of The Sons of The American Legion for each Post of The American Legion, Department of Florida. The commander of each Post where a Squadron has been formed shall appoint a committee of three (3) or more members from the Post to govern and advise the Squadron.

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

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

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

(b) The immediate Past Commander shall be a delegate to the National Convention held in the same year he served as Commander. He shall be designated as Chairman of the Delegation.

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

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

(e) The Alternate National Executive Committeeman, by virtue of his office, shall be a delegate to the National Convention.

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

#### **ARTICLE XV MISCELLANEOUS**

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

#### **ARTICLE XVI AMENDMENTS**

1. This Constitution may be amended at any Department Convention by a vote of two-thirds of the total authorized representation thereat. Provided, however, that no amendments to this Constitution shall be made except as herein provided unless a copy of such proposed amendments shall be typewritten, prepared in triplicate on forms supplied by Department Headquarters, and be submitted to the Department Adjutant at least forty (40) days prior to the date of the Annual Department Convention, who shall send a copy thereof to each Post of the Department at least thirty (30) days prior to such Annual Convention. A proposed amendment shall not be submitted through the office of the Department Adjutant to the several Posts, as provided in this section, unless said proposed amendments shall have been first submitted by a Post, the Department Executive Committee, or the Department

Standing Committee on Constitution and By-Laws.

2. Amendments to this Constitution proposed at the Annual Convention of which the notice required by Section 1 of the Article shall not have been given shall be adopted only by the unanimous consent of all delegates present at the Convention at which such amendments are voted upon.

## **ARTICLE XVII**

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

## **BY-LAWS OF THE AMERICAN LEGION DEPARTMENT OF FLORIDA**

### **ARTICLE I DEPARTMENT CONVENTION**

1. The Department Convention shall be called and held pursuant to the provisions of the Department Constitution. The call shall be issued by the Department Commander by bulletin mailed by the Department Adjutant to each Post and to each Department and District Officer and to each member of the Department Executive Committee not more than forty-five (45) days nor less than fifteen (15) days prior to the first day of the Convention.

2. No Post shall be allowed to have its delegates and alternate delegates seated at the Department Convention unless it has complied with Article X, Section 13, Article XI, Section 8 of the Department Constitution and has filed a Consolidated Post Report.

3. No delegate except those for which provision is made in Article V, Section 6 of the Department Constitution shall be accredited without proper certificate signed by the Commander and Adjutant of the Post represented by such delegate, and said certificate shall be presented to and be countersigned by the Department Adjutant or such other officer or person as may be appointed in charge of credentials at the Department Convention. A registration fee, as set by the Department Executive Committee, shall be paid by each delegate and each alternate delegate, or by the Post represented, before any such delegate or alternate shall be certified and seated in the Convention.

4. The Department Commander shall appoint a chairman and a vice-chairman of the following Convention Committees:

Amendments to Constitution & By-Laws  
Credentials  
Resolutions  
Time and Place of Next Meeting

and such other Convention Committees as may be necessary. Each Post in the Department having a duly qualified delegation present at the Department Convention may send a representative as a member of each of said Committees named in this Section.

5. Resolutions:

(a) All resolutions submitted to the Department Convention must first be adopted by a Post of The American Legion, Department of Florida, the Department Executive Committee or by the Standing Committee on Resolutions.

(b) All resolutions submitted to the Department Convention shall be typewritten on forms provided by Department Headquarters and submitted in triplicate, so as to provide that the resolution was adopted by The American Legion, Department of Florida, in Convention assembled, and any resolution not so drawn shall be returned by the Department Adjutant to the sponsor for correction.

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

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

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

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

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

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

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

(2) Resolution was not submitted in proper form.

(3) Subject matter not germane to the purposes of The American Legion.

(4) Resolution is couched in ambiguous wording, not clearly defining an intent.

(5) Resolution would be impossible to use since it contains errors of fact or law.

(6) Resolution is actually a proposed amendment to the Department Constitution or By-Laws.

(i) The Resolution Committee shall be empowered to:

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

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

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

6. When a delegate desires to make a motion or address the Convention he/she shall rise, address the Chair and state his/her name and the name and number of his/her Post before proceeding.

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

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

9. The annual election of the Officers of the Department shall be the special order of business of the Annual Convention at 11:00 A.M. on the day set for the adjournment of the Convention.

10. Nominations for Department Officers shall be from the floor.

11. Nominating speeches shall be limited to five (5) minutes each. Nor more than two (2) seconding speeches shall be made for each candidate, each not to exceed two (2) minutes.

12. Each officer to be elected at the Department Convention shall be voted on separately except that the election of the Department Area

Commanders, District Commanders, and District Vice Commanders may be elected and ratified collectively.

13. The final official tally sheets and the ballots shall be retained as permanent record of the Department for a period of two (2) years.

14. In the event more than two (2) candidates are nominated for any one office, all candidates, except the two (2) receiving the highest number of votes shall be eliminated following the first ballot. The Department Adjutant shall announce that the second ballot is about to begin, and allow five (5) minutes time for the delegates to return to the convention floor and their respective delegation. Thereafter, the balloting shall continue until one (1) candidate shall receive a majority of the votes cast.

15. The Department Commander, or in his/her absence or inability, the Department Vice Commander shall serve as Chairman of the Convention. The Department Adjutant shall serve as Secretary of the Convention. There shall be appointed by the Chair as many Assistant Secretaries as may be required, a Parliamentarian, and such other Officers of the Convention as may be needed.

16. Each retiring Commander shall, upon the installation of his/her successor, be declared to be a Past Department Commander, and shall be presented with a Past Department Commander's lapel pin with diamond. He/she shall enjoy the status and the privileges thereof as set forth in these By-Laws and the Department Constitution unless he/she is deprived of them as provided herein and in the Department Constitution.

## **ARTICLE II**

### **DEPARTMENT EXECUTIVE COMMITTEE**

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

2. No business shall be transacted at any special meeting of the Department Executive Committee except such as shall be specifically stated in the call or business of a routine nature which may be proper to come before such meeting.

3. The Department Commander, or in his/her absence or inability, the Department Vice Commander shall preside over the Department Executive Committee. The Department Adjutant shall act as Secretary of the meeting, and in his/her absence or inability, the Chairman of the meeting shall appoint some member of the Committee to serve as Secretary of the meeting.

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

5. Department and District Officers may be reprimanded, suspended, or removed from office on charges based upon disloyalty to The American Legion or the National Government, neglect of duties, dishonesty, and conduct unbecoming a member or officer of The American Legion. All charges shall be made in writing by an accuser, and no officer shall be reprimanded, suspended, or removed from office until given a fair trial. The charge shall be filed forthwith at Department Headquarters and shall be referred to the Department Executive Committee by the senior qualified Department Officer not under charge. A copy of said charge shall be served on the accused officer. Within thirty (30) days thereafter the Department Executive Committee shall convene in special session on call of the senior qualified Department officer not under charge and shall try the charges against the accused officer. The accused officer shall have the right to appear in person and defend himself and may be attended by any member of the Florida Department of the American Legion in good standing as counsel. The Department Judge Advocate, if available and qualified, shall prosecute the charges, and if the Department Judge Advocate be unavailable or fail to act or be disqualified, the senior qualified Department Officer not under charge shall appoint some member of the Department to prosecute the charge. The decision of the Department Executive Committee may be acquittal, reprimand, removal from office, or suspension, and shall be forthwith reported to the next Department Convention. The Department Convention, except in the case of an acquittal by the Department Executive

Committee, may affirm, modify, or revoke the finding and sentence of the Department Executive Committee. The Department Convention shall conduct its hearing upon the transcribed testimony heard by the Department Executive Committee or oral testimony, or both. In case of acquittal the decision of the Department Executive Committee shall be final, and its decision in any event shall be final unless appeal be made to the Department Convention, and in event of appeal to the Department Convention its decision shall be final. Pending the appeal from a conviction, the accused Officer shall not act in an official capacity as a member of The American Legion of the Department of Florida.

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

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

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

the same shall be null and void. In all events the members of the Department Executive Committee shall be promptly advised by mail of the results of the poll.

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

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

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

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

(b) Each of such Commissions shall consist of a Chairman who shall be appointed by the Department Commander with the approval of the Department Executive Committee. Each Commission shall act under the immediate administrative direction of its Chairman, and shall meet and organize on call of the Department Commander.

(c) One member of each Commission, other than the Chairman, shall be appointed by each of the Department Area Commanders. A member's term shall be for a period of one (1) year.

2. The Americanism Commission shall have jurisdiction over, and supervise and direct all activities of all committees coming under the supervision of the National Americanism Commission.

3. The Rehabilitation Commission shall have jurisdiction over and supervise and direct the activities of all committees on veterans' service.

4. The Security Commission shall have jurisdiction over such matters within the Department as are within the jurisdiction of the National Security Commission of The American Legion.

5. The Internal Affairs Commission shall have jurisdiction over and coordinate the activities of all administrative or support committees except Finance, Religious Emphasis, and Publication Committees.

6. The Children and Youth Commission shall have jurisdiction over and coordinate the activities of the Children and Youth Committee, the Special Olympics Committee and such other committees which are involved with American Legion Programs on Children and Youth or as may be directed by the Executive Committee.

7. The five (5) Commissions respectively shall have jurisdiction over and responsibility for the several committees using the commission/committee jurisdiction of the National organization provided further that the Finance Committee, Religious Emphasis Committee and Publication Committee will report directly to the Department Executive Committee.

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

(b) Each Chairman shall be appointed by the Department Commander subject to confirmation by the Department Executive Committee. If the appointment be made at a time when the Department Executive Committee is not in session, the appointee shall serve until the next meeting of the Department Executive Committee and thereafter during the term for which appointed, unless the appointment be specifically disapproved at such meeting by the Department Executive Committee or unless removed by the Department Commander.

(c) Each District Commander shall appoint a District Chairman of each Department Committee, and each District Chairman shall be ex-officio a member of the Department Committee. The proposed District appointments for the ensuing year shall be certified to the Department Adjutant as a prerequisite to the installation of the District Commander, and a

bulletin shall be mailed to all the Posts by the Department Adjutant, as soon as practicable, listing the names and addresses of the Chairmen and members of the Committees. The District appointees shall serve at the pleasure of the District Commander, unless removed by the Department Commander.

(d) Each member of the standing Committees of the Department, of the Districts, and of each Post shall take office at the same time as the Department Commander, District Commander, or Post Commander, respectively, and shall serve until his/her successor is qualified; provided, however, that the Department Commander may direct the specific dates of the commencement and termination of any Committee appointment and the Post Commander may direct the specific dates of commencement and termination of any Committee appointment in his Post.

9. All committees shall faithfully perform their duties, keep records of their acts, and report the same to their respective Commissions, or if so required, to the Department Executive Committee or Department Commander. The Commissions shall report fully to the Department Executive Committee and Department Commander prior to the Annual Convention, and at such other times as may be required. The Department Commander may remove any member of a Commission or Committee for failure to perform his/her duties.

10. The Department Commander may, from time to time, appoint such special committees of the Department as necessity therefore may arise; and he/she shall appoint such special committees as either the Department Convention or the Department Executive Committee may authorize or direct.

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

have such powers and perform such duties as shall be prescribed by the Department Executive Committee, or by the Department Constitution and By-Laws, or by action of the Department Convention.

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

#### **ARTICLE IV FINANCE**

1. The offices of Department Adjutant and Department Comptroller shall be held by two (2) separate individuals. The Department Adjutant shall be nominated as provided in Article VI, Section 2 of the Department Constitution. The Department Comptroller shall be nominated by the Department Finance Committee and ratified by the Department Executive Committee.

2. (a) No real property shall be bought or otherwise acquired except by gift, and not then if any expense is involved, without prior consent and approval of the Department Executive Committee. Personal property, tangible and intangible, may be acquired on the approval of the Department Finance Committee between sessions of the Department Executive Committee. Any property purchased or otherwise acquired by this Department shall be taken in its corporate name. If purchased or acquired with money of any Fund mentioned in Section 10 of this Article, such property shall be credited and carried on the Department books in the account of such Fund. Such property shall be sold, assigned, transferred or conveyed only upon authorization and approval of the Department Executive Committee, except that

between meetings of the Department Executive Committee, the Department Finance Committee may authorize sale or exchange of any tangible or intangible personal property held by the Department for itself or for the account of any fund herein and in section 10 of this Article mentioned.

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

3. The Department Adjutant may employ necessary clerical help on authorization of the Department Executive Committee or approval and consent of the Department Financial Committee between sessions of the Department Executive committee at such compensation as the Department Executive Committee, or the Department Finance Committee, as the case may be, may allow.

4. The books and accounts of the Department shall be reviewed at least once each year at such time as the Department Finance Committee shall prescribe, and at such other times as the Department Executive Committee or the Department Finance Committee may direct, by a Certified Public Accountant employed by the Department Finance Committee, or by the Chairman of the Department Finance Committee with the approval of the Department Executive Committee or the Department Finance Committee, if the Department Executive Committee be not in session. Report of the Financial Review shall be promptly made and two (2) copies shall be sent to the Department Finance Committee of which one (1) shall be retained with its records and one (1) shall be transmitted with its next report to the Department Executive Committee.

5. The Department Finance Committee shall meet not less than four (4) times a year, and it shall make full report of the Department financial affairs at each regular meeting of the Department Executive Committee and such as may be required at special meetings of the Department Executive Committee and for such purposes may call upon the Department Adjutant and Department Comptroller to furnish it such inventories and financial statements as it may require.

6. At least once each year the Chairman of the Department Finance Committee, alone or accompanied by such members of the Committee as he/she may designate, and in the absence of the Chairman two (2) or more regular members of the Department Finance committee shall personally inspect the Department Headquarters and examine all property of the Department, including intangible property owned by the Department or held by it for any fund or other account, and shall procure from depositories, statements of deposit accounts of the Department, including the various funds mentioned in Section 10 of this Article.

7. The Department Commander, upon recommendation of the Department Executive Committee or the Department Finance Committee when the Department Executive Committee is not in session may initiate actions to insure that improper management, dishonesty, conflicts of personalities or any other factors do not jeopardize the continued existence of any Post in the Department of Florida. These actions may include but are not limited to, the following:

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

(b) If such initial investigation/mediation does not indicate a recommended solution to the problem, the Department Commander, after consultation with Chairman of the Internal Affairs commission, shall appoint a member of that Commission, not from the same District as the Post involved, to conduct a further investigation into the affairs of the Post and to act, if possible, as a mediator if he should feel that mediation could be successful. A report of such investigation, to include recommendation for further actions by the Department, shall be

rendered to the Department Commander as soon as practicable.

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

(d) The Post involved shall be responsible for the cost of the investigation detailed above, to include travel expenses, lodging and other expenses for the investigator, auditors, accountants or other personnel.

8. No Department or District Officer shall be allowed any compensation for his/her services except the Department Adjutant and the Assistant Department Adjutant. No Department or District Officer or Department Committee member shall be paid or reimbursed for his expenses for travel or otherwise unless the same shall have been authorized by the Department Executive Committee or by the Department Finance Committee when the Department Executive Committee is not in session. All regular expense allowances shall be carried in the annual budget. Officers who are allowed a fixed sum annually for their expenses shall have the same paid to them in equal monthly installments.

9. The Department Finance Committee shall be charged with the preparation of the annual budget and the handling of funds under the budget, and such other duties as shall be prescribed by the Department Executive Committee. The Department Finance Committee may authorize the transfer of money, in any amount, from one account to another in the

budget, but it may not increase or decrease the total amount in any account of the budget more than \$3,000.00 in any year, without the approval of the Department Executive Committee.

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

(a) The General Fund:

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

(b) The Sinking Fund:

This Fund consists of the sum of \$300,000.00 which shall be used for any emergency which may arise requiring funds in excess of the amounts budgeted and allocated in the General Fund. Such an emergency must be found to exist by action of the Department Finance Committee and the necessary allocation of funds be authorized by the Department Executive Committee. In the event any sums of money are expended from this Fund, said amount shall be replaced by depositing 12.5 cents per member per year, plus accruing interest into said Fund until the Sinking Fund shall again reach \$300,000.00. All surplus and interest income which accrues after the sum of \$300,000.00 has been reached shall be placed in the General Fund.

(c) The Emergency Rehabilitation Fund

This Fund shall consist of the following named Funds:

(1) The Gilchrist Endowment Fund:

A Fund consisting of a legacy of \$3,000.00 bequeathed to The American Legion and such other funds as may be received through memorials, last wills and testaments, or other means, plus accrued interest. The earnings of this Fund are to be used for rehabilitation and service to veterans and their families, and the expenditures thereof shall be as directed by these By-Laws.

(2) The Melvin T. Dixon Memorial Rehabilitation Fund:

A Fund consisting of such funds which have been or may subsequently be contributed or bequeathed through memorials, last wills and testaments, or other means, plus accrued interest. The earnings of this Fund are

to be used for rehabilitation and service to veterans and their families, and the expenditure thereof shall be as directed by these By-Laws.

(d) The Florida Children and Youth Fund: A Fund shall be set aside with donations from individuals and Posts and any other source which shall be restricted to funding to appropriate projects that enhance the lives of children in Florida. Expenditures for this Fund shall be awarded annually by a committee made up as follows: Children and Youth Commission Chairman, Department Commander, Department Adjutant, three (3) members appointed by the Department Commander, and a member of the Sons of The American Legion. The three appointed members shall serve for a three-year term. Upon approval of the amendment, the Department Commander shall appoint three people for a 1,2 & 3 year term. Each Department Commander thereafter will then make 1 three-year appointment.

(e) It shall be the duty of the Department Adjutant to manage and account for the several Funds which have been established by the Department Convention or these By-Laws. Investments of the monies from these Funds will be as directed by the Department Finance Committee.

11. No funds of The American Legion Department of Florida shall be withdrawn, expended, invested, reinvested or transferred from one (1) Fund to another except as authorized by the annual budget, by the Department Executive Committee or by the Department Finance Committee when the Department Executive Committee is not in session.

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

13. Each Post shall pay such per capita membership fee as shall be fixed by National and Department Convention, said fee to be paid to the Department of Florida.

14. Dues shall be payable at such time as may be provided from time to time by the National Organization of The American Legion.

## **ARTICLE V DUTIES OF OFFICERS**

1. All Officers shall perform such duties as are required of them, respectively by these By-Laws or by the Department Constitution.

2. **Department Commander.** The Department Commander shall be the executive head of the Department of Florida, The American Legion, with full power to enforce the provisions of the National Constitution and By-Laws and the Department Constitution and By-Laws. He/she shall be the Chairman of the Department Convention and Department Executive Committee and shall appoint all committees subject to ratification of the Department Executive Committee at its next meeting succeeding the appointment, and shall perform such other duties as are usually incident to the office.

3. **Department Vice Commander.** The Department Vice Commander shall be the personal representative of the Department Commander in the Department of Florida. He/She shall preside at Conventions and meetings of the Executive Committee in the absence of the Department Commander. The Department Vice Commander shall perform such other duties as may be assigned him/her by the Department Convention, the Department Commander, the Department Executive Committee and such other duties required of him/her by the Department Constitution and By-Laws.

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

(a) They shall regularly communicate with the District Commanders in their Area and assist them in the furtherance and coordination of the work of the American Legion and in the promotion of membership in their respective areas.

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

5. **District Commanders.** The District Commanders shall be the representative of the Department Commander on all matters referred to him/her, in his/her District.

(a) It shall be the duty of the District Commander at all times to cooperate with officers of the Post in his/her District.

(b) The District Commander shall visit each Post in his/her District at least once each year.

(c) The District Commander shall lend his/her best efforts to stimulate Legion growth; to

investigate all new applications of new Post Charters and to recommend the granting or refusal of such application to the Department Executive Committee; to recommend the revocation of existing charters for good and sufficient reasons; to encourage the amalgamation of weak Posts into strong and representative Posts; to promote inter-post activities; to promote a spirit of cooperation among the Posts in his/her District for the development of the principles of The American Legion.

(d) The District Commander or his/her designated representative shall install the Post Officers of all Posts in his/her District.

**6. District Vice Commanders.** In addition to serving on the Department Executive Committee, District Vice Commanders shall assist the District Commander in the performance of his duties, and shall have such other duties as the District Commander, the Department Executive Committee, the Department Convention and the Department Constitution and By-Laws may assign.

**7. Department Adjutant.** The Department Adjutant shall be charged with the administration of the policies and mandates of the Department Convention, the Department Executive Committee and the Department Commander. He/she shall also have the custody of all equipment and movable property of the Department. He/she shall keep a record of all activities of the Department and Conventions and meetings of the Department Executive Committee. He/she shall at each regular Convention and meeting of the Department Executive Committee read the minutes of the preceding meetings and make such corrections as may be directed unless by a majority vote of the Delegates or members of the Executive Committee present, the reading be dispensed with. He/she shall have the proceedings of each Annual Convention recorded electronically and as soon as practicable thereafter the pertinent portions thereof shall be transcribed by a typist employed by him/her. The pertinent portions thereof shall be transcribed, consisting for the most part of motions and election activities, shall be selected by the Department Commander who presided at the Annual Convention and the Department Adjutant and the electronic tape and the transcribed portions shall be kept in permanent record. He/she shall cause notice to be given of all meetings of the Department Convention and Department Executive Committee. He/she shall keep a record of the

membership of the local Posts. He/she shall keep all the Department Officers and all the Posts in the Department advised of the information, suggestions and requests from National Headquarters, and shall issue bulletins to all Posts in the Department when necessary. The Department Adjutant shall appoint, with the approval of the Chairman of the Department Finance Committee, subject to the ratification of the Department Executive Committee, an Official Reporter, who shall take the Convention and Department Executive Committee proceeding verbatim and shall be charged with the compiling of such proceedings. At the direction of the Department Finance Committee and the Department Adjutant, the Department Comptroller shall collect all annual dues and other monies due and payable to the Department and deposit all monies received from all sources in a bank approved by the Department Finance Committee and the Department Executive Committee, and shall keep a proper record of the same. The Comptroller shall be the custodian of the monies, bonds, stock, and other funds and securities of the Department. All checks disbursing funds of the Department shall be under the guidance of the Department Finance Committee. The Comptroller shall keep proper records of such disbursements and make such reports of the condition of the Treasury as the Department Commander, the Department Adjutant, the Department Finance Committee, and the Department Executive Committee may at any time call for. He/she shall keep complete records of all funds, accounts, receipts and disbursements of the Department and have same ready at all times for inspection by the Department Adjutant, the Finance Committee or Certified Public Accountant or other Agent employed for the purpose by the Department Executive Committee. The Department Adjutant or Comptroller shall make and at all times keep in force and effect in favor or/and payable to The American Legion Department of Florida a bond with a good and solvent Surety Company as surety in such sum as the Department Executive Committee shall prescribe and direct, conditions to faithfully perform his/her duties, including but not limited to the accounting for and paying over by him/her of all money coming into his/her hands as such Officer. Said bond shall be approved by the Department Judge Advocate and the chairman of the Department Finance Committee and shall be deposited with and kept by the Chairman of the Department

Finance Committee. The premium on said bond shall be paid by the Department. The Department Adjutant shall give additional bond or other surety to the Department if the same is at any time deemed desirable and ordered by the Department Executive Committee or the Department Finance Committee when the Department Executive Committee is not in session in such sum and condition as such Committee may prescribe, and the same shall be approved, deposited and premium paid as here in above provided. The Department Adjutant shall engage in no other occupation or profession during the incumbency in his/her office, but shall devote his/her entire time and interests to the duties of his/her office. He/she shall receive for his/her services an annual income, the amount to be determined by the Department Executive Committee, payable in monthly installments. He/she shall perform such other duties as are usually incident to his/her office.

8. **Department Judge Advocate.** The Department Judge Advocate shall advise the Department Officers, Department Executive Committee, District and Post Commanders on all legal matters, including construction and interpretation of the National, Department and Post Constitution and By-Laws, and shall perform such other duties as are incident to the office. The Department Judge Advocate shall file a copy of all opinions rendered by him/her with the Department Adjutant. In dealings with the Department Judge Advocate, the American Legion Auxiliary shall adopt and follow the provisions set forth in this section to the same extent and as fully as if the same had been incorporated in, and made a part of, its own Constitution and By-Laws.

9. **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 National Headquarters from time to time.

10. **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/her term of office a complete history of the year's activities. He/she also shall assist Post Historians so as to coordinate and unify the work of these officials, and shall have such other duties as the Department Executive Committee shall prescribe.

11. **Department Sergeant-At-Arms.** The Department Sergeant-At-Arms shall preserve the order at the Conventions of the Department and meetings of the Department Executive Committee and perform such other duties as may be prescribed by the Department Executive Committee, and he/she is authorized to appoint such assistants as he/she may choose.

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

## ARTICLE VI

### THE DEPARTMENT PUBLICATIONS

1. The official publication of The American Legion, Department of Florida shall be the Florida Legionnaire and it shall be sent to each member of the Department, at such time as budget constraints may allow.

2. The management and control of the publication shall be vested exclusively in the Department Executive Committee.

## ARTICLE VII

### AMENDMENTS

1. These By-Laws may be amended and changed at any Department Convention by two-thirds vote; all changes and amendments must be in writing. Provided, however, that no amendments to these By-Laws shall be made except as in Section 2 of this Article provided, unless a copy of such proposed amendments shall be typewritten, prepared in triplicate on forms supplied by Department Headquarters, be submitted, at least forty (40) days prior to the date of the Annual Convention, to the Department Adjutant, who shall send a copy thereof to each Post in the Department at least thirty (30) days prior to such Annual Convention, provided that proposed amendment shall not be submitted through the office of the Department Adjutant, as provided in this Section, unless said proposed amendment shall have been first submitted by a Post, the Department Executive Committee or the Department Standing Committee on Constitution and By-Laws.

2. Amendments to these By-Laws proposed at the Annual Convention, of which notice required

by Section 1 of this Article shall not have been given shall be adopted only by the unanimous consent of all delegates present at the Convention at which such amendments are voted upon.

**AMENDED CHARTER  
OF  
THE AMERICAN LEGION  
DEPARTMENT OF FLORIDA, INC.**

**ARTICLE I**

The name of the corporation shall be **THE AMERICAN LEGION, DEPARTMENT OF FLORIDA, INCORPORATED.** Its principal office, to be known as Department Headquarters, shall be located at Orlando, Florida, or at such other place as the Department Executive Committee shall designate and establish in accordance with the provisions of the provisions of the Department Constitution and By-Laws.

**ARTICLE II**

The general nature of the object of the corporation shall be to uphold and defend the Constitution of the United States of America; to promote peace and good will among the peoples of the United States and all the nations of the earth; to preserve the memories and incidents of the World Wars fought to uphold democracy; to cement the ties of comradeship born of service; and to consecrate the efforts of its members to mutual helpfulness and service to their country.

**ARTICLE III**

Membership in **THE AMERICAN LEGION, DEPARTMENT OF FLORIDA INC.,** is membership in the National Organization of The American Legion by affiliation with Posts under the jurisdiction of The American Legion, Department of Florida. Admission to membership in a Post shall be in the manner prescribed in the National Constitution and By-Laws of The American Legion, in the Constitution and By-Laws of The American Legion, Department of Florida, and in the Constitution and By-laws of the local Post. No person shall be a member of this corporation unless he or she has served in the naval or military services of the United States at some time during the period between April 6, 1917 and November 11, 1918, or during the period between December 7, 1941 and December 31, 1946, or during the period between June 25,

1950 and January 31, 1955, or during the period of February 28, 1961 to May 7, 1975, or during the period between August 24, 1982 to July 31, 1984, or during the period of December 20, 1989 to January 31, 1990, all dates inclusive, or who, being a citizen of the United States at the time of enlistment, served in the military or naval services of the governments associated with the United States during either of said World Wars: provided, however, that such persons shall have an honorable discharge or separation from such service or continue to serve honorably after August 2, 1990 to a date to be determined.

**ARTICLE IV**

The term for which this corporation is to exist shall be perpetual.

**ARTICLE V**

The affairs of this corporation are to be managed by the Department Commander and such other Department Officers and Department Executive Committee and other Commissions or Committees as may be fixed or specified in the Department Constitution. All Department Officers shall be elected or appointed, as fixed from time to time in the Department Constitution, shall have such powers and duties respectively as therein prescribed, and shall be elected or appointed at the time of the Annual Department Convention to be held at a place and time fixed by the preceding Convention, by the Department Executive Committee, or in the manner prescribed in the Department Constitution.

**ARTICLE VI**

The corporation and its officers shall be governed by the Department Constitution, as amended at the Department Convention of 2000, composed of delegates from local Posts and other delegates as therein prescribed. The Department Constitution from time to time may contain any provision not contrary to law. It may be amended at any Department Convention by a two-thirds vote of the total authorized representation thereat, provided, however, that no amendment shall be made unless a copy of the proposed Amendment be filed with the Department Adjutant at least forty (40) days prior to the date of the Annual Department Convention and notice given to the Posts as prescribed therein, or if notice has not been so given, by the unanimous consent of all

delegates present at the Convention at which such amendments are voted upon.

## **ARTICLE VII**

The Department Organization shall be as set forth in the Department Constitution. The Executive Committee shall be the Board of Directors of the corporation with such composition and powers as set forth in the Department Constitution.

### **RULES GOVERNING TRIALS**

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

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

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

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

4. The Adjutant of the Convening Authority shall cause to be served upon the Accused, in the same manner as above mentioned, a Summons for the Accused to appear on a specified date, time, and location for a trial. No trial shall be held until fifteen (15) days have lapsed from the time of service of the charges upon the Accused.

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

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

7. Either the Convening Authority or the Accused may apply for a continuance before the day of the trial. However, such a request must be in writing, show just cause for said request,

and be sworn to by the moving party. The presiding Judge Advocate shall rule on any such motion filed.

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

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

10. The jurors for the trial shall be selected from the members of the Post that brought the charges. The Convening Authority shall select five (5) such members and the Accused shall select five (5) such members. All members selected must be in good standing. Any member so selected shall be disqualified to serve as a juror if they are an accuser or witness at the trial.

11. If any juror so selected states that he or she cannot fairly and impartially render a verdict in accordance with the evidence, then the presiding Judge Advocate shall strike those individuals as jurors.

12. Both the Convening Authority and the Accused shall have the right to strike two (2) jurors from the panel without showing any cause for such challenge. If the number of jurors is reduced below six (6), then each Party shall select one (1) additional juror.

13. The jury actually selected to hear the facts shall consist of at least six (6) individuals.

14. If six (6) impartial individuals cannot be selected from the Post then the presiding Judge Advocate shall so notify the Department Commander and the Department Commander shall detail additional members from the American Legion, within the Department of Florida to act as jurors. The entity bringing the charges shall be responsible for any cost associated therewith.

15. At any time before the trial commences, the charges may be amended. However, if the charges are amended the Accused must be served with the amended charges and allowed

fourteen (14) days before the trial can commence.

16. All testimony of witnesses must be taken under oath. The Accused shall have the right to confront and cross examine any witnesses against him or her. No written statements, whether sworn or not, shall be admitted into evidence if the person who wrote the statement is not present to confront and be cross examined by the Accused or counsel.

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

18. The jury's decision must be presented to the membership of the Post at the next regularly scheduled meeting of the Post. At that meeting, the membership of the Post can approve, disapprove, or modify the findings of the jury and any punishment awarded. Such decision at the general membership meeting of the Post shall be binding upon the Accused and the Post unless the Accused, within forty five (45) days from such decision, appeals to the American Legion, Department of Florida. Any appeals, including filing deadlines, shall be governed by those rules enacted by the Department Executive Committee entitled " Rules Governing Appeals."

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

#### **RULES GOVERNING APPEALS**

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

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

2. The Notice of Appeal shall contain the following:

a. The date, location, participants (Accused, Judge Advocate, witnesses and jurors) and verdict.

b. A concise and specific statement of why the accused believes he or she did not receive a fair trial.

c. A brief summary of the testimony of each and every witness.

d. A concise statement of the final disciplinary action taken by the charging entity.

e. Attached to the Notice of Appeal shall be a copy of the charges against the Accused and any evidentiary material such as papers or photographs used during the trial. If no such documents were used, then this shall be so stated.

f. A copy of the Notice of Appeal must be delivered to the Commander of the charging entity contemporaneous with delivery to the American Legion, Department of Florida.

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

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

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

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

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

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