



Constitution

The American Legion

Department of Utah

Preamble

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

To uphold and defend the Constitution of the United States of America;

to maintain law and order;

to foster and perpetuate a one hundred percent Americanism;

to preserve the memories and incidents of our associations in the great wars;

to inculcate a sense of individual obligation to the community, state and nation;

to combat the autocracy of both the classes and the masses;

to make right the master of might;

to promote peace and good will on earth;

to safeguard and transmit to posterity the principles of justice, freedom and
democracy;

to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

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Article I

Name

The name of this organization shall be:

The American Legion, Department of Utah

1. The American Legion, Department of Utah shall be located in Salt Lake City within the State of Utah

Article II

Nature

1. The American Legion, Department of Utah is a civilian (fraternal) organization; membership therein does not affect nor increase the liability for military or police service.
2. The use of the name and/or insignia of the American Legion shall be confined to its membership. No member, Post, District, Area or this Department shall lend such name or insignia to any person, firm or corporation for reward or otherwise.
3. This revision mirrors the Constitution of the American Legion; By-Laws have been deleted and will be included in a Department Administrative Manual as required by the Department Executive Committee that outlines specific duties/responsibilities of the officers and employees of the Department. "Officer" titles refer to Department level officers unless otherwise stated. Areas and Districts have been reorganized as intermediate bodies between the Department and Posts with clarification of their relationship to each other and their constituents.

Article III

Organization

1. The American Legion, Department of Utah shall be organized in Areas, Districts and Posts within the boundary lines of the State of Utah.

Article IV

Eligibility

1. No person shall be a member of The American Legion unless they have served at least one day of active duty in the Army, Navy, Marine Corps, Air Force or Coast Guard (or Merchant Marine during WW-II) of the United States of America at sometime during any of the following periods:

- April 6, 1917 to November 11, 1918 (WW-I);
- December 7, 1941 to December 31, 1946 (WW-II);
- June 25, 1950 to January 31, 1955 (Korea);
- February 28, 1961 to May 7, 1975 (Vietnam);
- August 24, 1982 to July 31, 1984 (Grenada);
- December 20, 1989 to January 31, 1990 (Panama);
- and dates inclusive of August 2, 1990 until cessation of hostilities as determined by the U. S. Government, or who being citizens of the United States at the time of entry herein, served in the Military or Naval Services of the governments associated with the United States during said wars or hostilities; provided, however that such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal date

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

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

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

5. An Act of Congress, approved December 28, 1950, Public Law 895, states "that no person shall be entitled to membership who, being in such service during any of said periods, refuse on conscientious, political or other grounds to subject themselves to military discipline or unqualified service".

6. In the event the Congress of the United States shall amend the eligibility clause in the Act of creating the American Legion, this Constitution shall be deemed amended in conformance therewith, but subject to all consistent limitations and restrictions in this Constitution contained.

7. Membership in the American Legion is membership in the National Organization of the American Legion by affiliation with Posts.

Article IV. a

American Legion Uniform

1. Wearing of the American Legion “uniform” and all it entails is as follows:
 - a. A Legionnaire is considered to be “in uniform” if wearing an official American Legion cap.
 - b. It is “not” proper to wear an American Legion cap (except for female Legionnaires) while eating a meal at any official American Legion or civic function.
 - c. At all American Legion meetings the American Legion cap should be worn except during moments of Prayer, the Pledge of Allegiance, the National Anthem, and/or except when standing in silent reverence in memory of departed comrades when the cap should be held with the right hand over the heart. In instances where the Legion cap is placed over the heart, it should be held in such a manner that the American Legion emblem faces outward.
 - d. Legionnaires wishing to attach decorations and/or other official insignia to their caps are advised of the following: **Restricted:** a. The left (emblem) side of any American Legion cap WILL NOT contain other than the official American Legion emblem and lettering for Post, District, Area, Department or National cap. b. The right side of the official American Legion cap may contain decorations and/or other official insignia of the American Legion.
 - e. Flag patches are available for wear on either uniform shoulder; however; this patch should always be worn with the field of blue facing forward when walking. Most protocol suggestions are contained in the American Legion Post Officers Guide and Manual of Ceremonies. You are urged to use the “Guide” to answer any specific situation which may arise.

Article V

Department Convention

1. The legislative body of the American Legion Department of Utah shall be the Department Convention and must convene during June of each year. The place and time of such successive convention(s) shall be fixed by vote of the presiding convention, provided that in the event the place is not fixed by the convention or for any reason a change is necessary, the Department Executive Committee is authorized to make such arrangements or to effect such changes.
2. The place and time of the next convention shall be fixed by a vote of the proceeding convention. The place and time of the convention shall be announced in writing by the Department Adjutant at least sixty (60) calendar days prior to the

date upon which the convention shall be held to Areas, Districts, Posts and the general public.

3. The annual convention shall be composed of delegates and alternates from each post. Each post shall be entitled to two delegates and two alternates and to one additional delegate and one additional alternate for each fifteen (15) members or majority fraction thereof whose dues shall have been paid to the Department Treasurer thirty days prior to the date of the Department Convention. The vote of each post shall be equal to the total number of registered delegates to which the post is entitled.

4. Convention registration fees shall be fixed by the Department Executive Committee. Each delegate must register and pay his/her registration fee before he/she shall be entitled to vote on any matters placed before the Convention. The Department Adjutant shall notify each post thirty (30) days prior to the convention, as to the number of delegates and alternates each post is entitled. The registration fee shall be for the use and benefit of the post or district hosting the convention and shall be paid prior to 10:00 AM of the closing day of the convention; provided however that the Convention Credentials Committee may seat any delegate whose registration fees has not been paid within the time herein provided upon payment of the fee or upon showing that the delegate had previously paid the fee to his/her post.

5. Each post shall elect delegates and alternates to the Department Convention at least twenty days prior thereto and shall certify their election thereto to the Department Adjutant at least twenty (20) days prior to the opening of the Department Convention in writing. Certification forms must be authenticated by the Post Commander and the Post Adjutant, providing however, upon failure of the proper post officers to comply with the above provision the Convention Credentials Committee shall have the authority to seat such delegates as shall establish their election to the satisfaction of the Credentials Committee and shall have paid their registration fee.

6. A quorum shall exist at the Department Convention when sixty (60%) percent of the duly paid Post delegates are represented as provided above.

7. The Department Executive Committee shall provide a Uniform Code of Procedure for the orderly organization and operation of the Department Convention, and said Code shall be applicable at all Department Conventions unless it is amended, suspended or repealed by a majority vote of the total authorized delegate strength at the Department Convention.

8. The rules of procedure at the Department Convention shall be those set forth in Roberts Rules of Order, Revised.

Article V. a

Delegates to the National Convention

1. Delegates and alternates to the National Convention shall consist of such members as is prescribed by the National organization and as outlined below.
2. So long as the Department of Utah shall be entitled to nine (9) or more delegates to the National Convention, said delegates shall be selected as follows:
 - The incoming Department Commander, Department Vice-Commander, NEC, and Alternate NEC shall be automatic delegates from the Department at large
 - The Department Adjutant and the Department Service Officer shall be automatic alternates from the Department at large
 - All incoming District Commanders of the respective Districts shall be automatic delegates to the annual National Convention and their respective First Vice-Commanders shall be alternates and in the event that the First Vice-Commander cannot attend, then the Second Vice-Commander of said District shall be the alternate. If neither of the vice-commanders of the District can attend, then the Area Commander shall appoint a member in good standing in the District to be the alternate
3. The Immediate Past Department Commander (or his assigned representative) shall be the Chairman of the Department delegation to the National Convention occurring in the year in which his/her term expires. The Department Adjutant shall serve as delegation secretary with voice but no vote. Vacancies in these offices occurring between Department Conventions shall be filled by the Department Executive Committee, except in the case of vacancy in the office of the Department Commander; the Department Vice-Commander shall succeed to that office.

Article VI

Department Officers and Duties

1. The presiding elected officers of the organization shall be the Department Commander, Department Vice-Commander, four (4) Department Area Commanders (North Area (1), Central Area (2), South Area (3) and East Area (4) {with the election of each Department Area Commander determined by those delegates represented by the individual District under his/her jurisdiction during Department Convention}), nine (9) District Commanders, one (1) National Executive Committeeman, one (1) Alternate National Executive Committeeman, and Three (3) Immediate Past Commanders with voice and vote. Appointed officers of the Department Executive Committee shall consist of the Adjutant, Service Officer,

Treasurer, Judge Advocate, Chaplain, Historian, Sergeant-at-Arms, and such assistants thereto as shall, from time to time be appointed who shall have voice, but no vote.

Department Commander: The Department Commander shall be the **Chief Executive Officer (CEO)** of this Department of the American Legion with full authority to enforce provisions of this Department Constitution, and the will of the Department Convention. The Department Commander shall be the Chairman of the Department Convention and the Department Executive Committee, and shall appoint all committees and adoptive officers whose appointment is not herein otherwise provided for, subject to the ratification of the Department Executive Committee. The vote of the Department Commander shall be exercised during Department Conventions and Department Executive Committee meetings **only** in his/her capacity as chair of the applicable meeting in order to break a tie vote. The Department Commander shall see that the officers properly execute their duties and shall perform such other duties as are usually and customarily incident to the office. Each Past Department Commander shall be a “delegate for life” to all Department Conventions, however provided that he/she shall be a delegate to the convention under the same conditions as applies to all other delegates, as prescribed by Article V paragraph 3 and 4 above and shall be included in the total delegate strength for his respective post, provided that he/she shall be a member in good standing in a Post of the American Legion Department of Utah, and present on the floor of the Convention.

Department Vice-Commander: The Department Vice-Commander shall be in charge of membership and shall be a member of the Department Executive Committee and shall act as the personal representative of the Commander in all matters which the Department Commander shall refer him/her and shall, at the request of the Department Commander, preside over Department Conventions and Department Executive Committee meetings. The duties of the office of Department Vice-Commander shall be performed by an Department Area Commander designated by the Department Executive Committee in the absence or inability of the Department Commander or Department Vice-Commander to act.

National Executive Committeeman (NEC) and Alternate National Executive Committeeman (ANEC): The term of the Department NEC-man and Department ANEC-man shall be two years and both positions shall be elected for a two (2) year term during odd years. The term of office shall commence immediately upon the adjournment of the National Convention next ensuing after their election and shall continue until the second successive National Convention adjourns. Members of the NEC shall be delegates to the National Convention with vote, which vote shall be exercised with their respective Departments, except that the vote of the National

Commander shall be exercised only in his capacity as chairman of the National Convention.

Department Area Commanders: The Duties of the Department Area Commanders are as the Department Second Vice-Commanders over their respective Districts and to oversee the operation of their respectively assigned Posts within the American Legion, Department of Utah and to act as liaison between District's, Posts and the Department Commander. Area Commanders shall act upon the authority of the Department Commander in cases where the Department Commander and/or Department Vice-Commander are fulfilling other duties, or upon request of the Department Commander. Department Area Commanders are responsible for the membership statistics of Posts within their representative Districts and will report to the Department Commander any inconsistencies or disciplinary actions taking place within Posts of their representative Districts. Department Area Commanders will attend all Department Executive Committee meetings and the Department Convention. Area Commanders shall make a report before the Department Convention each year concerning all under their jurisdiction.

- a. The Department Area Commanders shall act as the intermediate entity between their representative Areas and the Department Executive Committee. These bodies have membership responsibilities and associated powers over their representative Districts, with their authority granted by the Department Executive Committee.
- b. Area Commanders shall oversee their representative Areas as designated by geographical areas as outlined in Article VIII, paragraphs 5 and 6.

District Commanders: The duties of the District Commander are to oversee the operation of each Post within their representative District and to report any inconsistencies or disciplinary actions within their District to the Department Area Commander in the event action is needed by the Department. District Commanders shall act as liaison between the Posts within his/her assigned District as outlined in Article VIII, paragraph 6. District Executive Committee members shall assist and oversee Posts by providing advice, assistance and coordination for the promotion of all American Legion programs, including the preparation and submission of Annual Consolidated Post Reports. District Commanders shall have no direct command, management or supervisory authority over any individual Post within their District as outlined in Article VIII, paragraphs 3 and 7. District Commanders will attend all Department Executive Committee meetings and the Department Convention. District Commanders shall report annually before the Department Convention each year concerning all under their jurisdiction. District Commanders shall also:

- a. Report to the Department Adjutant within fifteen (15) days of adjournment of the Department Convention the current officers (Post Executive Committee) of each Post within their representative District

- b. Personally visit each Post within his/her representative District at least once per calendar year in order to provide assistance on any matters the Post may need, and to report to Post members any information provided by the Department Commander, Department Vice-Commander or Department Area Commander
- c. Accompany all visiting dignitaries visiting within their representative District to include National Officers, the Department Commander or Vice-Commander or Department Area Commander

Department Adjutant: (Doing business as {DBA} the assistant Department Service Officer). The Department Adjutant shall be the **Chief Operating Officer (COO)** of the Department and is charged with the administration of policies and mandates of the Department Convention and the Department Executive Committee and for preparation of the minutes of the Department Convention and of the Department Executive Committee and shall prepare the same for permanent record in a book kept for this purpose. All meetings of the Department Executive Committee shall be open to any Legionnaire and a report of all proceedings shall be furnished to all Department officers, commission and committee chairmen, Area, District and Post Commanders and to any Legionnaire upon request. The Department Adjutant shall prepare meeting minutes and mail same within thirty (30) days a report of proceedings to voting members of the Department Executive Committee and to any other Legionnaires upon request. The Adjutant shall, under direction of the Department Commander, cause notice to be given to all Department Conventions and all meetings of the Department Executive Committee and shall attend all of the aforesaid proceedings. The Adjutant shall keep a record of all Posts in the Department and shall obtain from such Posts a record of their Post Executive Committee members within fifteen days of adjournment of the Department Convention from District Commanders. The Adjutant shall collect from the local Posts all annual per capita dues or assessments that may be levied upon them and shall keep a record of all receipts and transmittals promptly for all monies received to the Department Treasurer. The Adjutant shall, by virtue of the office, have the authority of incurring any and all Department expenditures for the transaction of the business of the department subject, however to the approval of at least three (3) members of the Department Finance Commission, and shall be empowered to countersign all checks. The Department Adjutant shall have supervision of paid personnel at Department headquarters and within the Department Service Office and shall be responsible for the efficient performance of their respective duties. The Department Adjutant shall have oversight of the Department Webmaster, internet technologies and all Department communications.

Department Service Officer: The Department Service Officer shall perform all duties devolving upon him/her in matters pertaining to or having to do the business

of the United States Department of Veteran Affairs and such other duties as the Department Commander or Department Executive Committee may designate.

- The Department Adjutant, Service Officer and other employees shall receive for their service a salary fixed by the Department Finance Commission and approved by the Department Executive Committee.

Department Treasurer: The Department Treasurer shall be the custodian of the funds of the Department. The Treasurer shall sign all checks disbursing the funds of the Department, provided however, that no checks shall be issued until the expenditures have been approved by at least three (3) members of the Department Finance Commission. The Treasurer shall make reports upon the condition of the Department treasury monthly or when called for by the Finance Commission, and shall make an annual report at the Department Convention. The Department Treasurer shall furnish a surety bond in the sum of \$10,000.00 payable to the American Legion, Department of Utah, for the faithful performance of the duties as treasurer, the premium of such bond to be paid by the Department. The Treasurer shall perform such other duties as are usually incident to the office. The salary of the Department Treasurer shall be fixed by the Department Finance Commission and approved by the Department Executive Committee.

- The Department Treasurer will cause to be provided to each voting member of the Department Finance Commission, the Department Commander and Department Adjutant copies of each monthly Department financial statements at least quarterly via U. S. Mail.

Department Judge Advocate: The Department Judge Advocate and assistant Judge Advocate shall advise the Department officers and the Department Executive Committee on all legal matters, including the construction and interpretation of the Department Constitution, and shall perform such other duties as are usually incident to the office. The Department Judge Advocate shall ensure that a copy of this Constitution and the Constitution of The American Legion are available during all Department meetings.

Department Chaplain: The Department Chaplain shall perform such divine and nonsectarian services as may be necessary, adhering to such ceremonial rituals as may be recommended by National headquarters from time to time.

Department Historian: The Department Historian shall collect from year to year all records and dates of value and interest of the Department headquarters of the American Legion, and shall complete during his/her term of office a complete history of the years' activities. He/she shall assist the Post Historians so as to coordinate and unify the work of those officials.

Department Sergeant-at-Arms: The duties of the Department Sergeant-at-Arms shall be to maintain order in all Department Executive Committee meetings and the Department Convention and such other duties as are usually and customarily prescribed for such officers.

Article VII

Department Executive Committee

- a. Between Department Conventions, **Executive Power** shall be vested in the **Department Executive Committee**, which shall be composed of twenty (20) members including the Department Commander, Department Vice-Commander, National Executive Committeeman (NEC), Alternate NEC (ANEC), four (4) Area Commanders, nine (9) District Commanders and the three Immediate Past Department Commanders, who shall serve a three (3) year successive term on the Department Executive Committee with both voice and vote in all matters brought before the DEC. **The Department Executive Committee** shall pass upon all matters pertaining to the administration of the Department, and to review, pass on, accept or reject all application for local Posts within the Department.
- b. **The Department Executive Committee** shall meet for business session in the months of June (Department Convention), September, December, and March each year. Special meetings may be held upon ten (10) days notice at the call of the Department Commander. 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 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, time and manner of holding the Convention during such emergency shall be as named and prescribed by the Department Commander under the authority of the Department Executive Committee.
- c. **The Department Commander** shall call a meeting upon a written request of three (3) or more voting members of said Department Executive Committee.
- d. **Per Capita Dues:** Any local Post not paying its per capita dues shall be notified of the fact by the Department Adjutant, and if at the end of three (3) months a settlement has not been made, the delinquent Post shall be suspended from membership and can only be reinstated upon approval of majority vote of the Department Executive Committee and payment of all delinquent per capita-dues.
- e. **The Department Executive Committee** shall pass upon and approve the Constitution and By-Laws of any local Posts before being finally accepted or adopted by the local Posts. Any Post, within sixty (60) days of receiving its charter, shall adopt a Constitution and By-Laws and submit the same to the Department Judge Advocate for review and recommendation for acceptance or rejection prior to

being submitted to the Department Executive Committee for approval. Any such Constitution and By-Laws shall not be binding or in effect as the basic laws of a Post until approved. All amendments to Post Constitutions and By-Laws shall also be submitted to the Department Judge Advocate for review and recommendation for acceptance or rejection prior to being submitted to the Department Executive Committee before being finally adopted and accepted by the Post.

f. **The Department Executive Committee** shall have authority in all matters affecting the maintenance of good discipline and good conduct throughout the Department. It shall receive and act upon all complaints presented by the Department Commander, or any Area, District or Post of this Department. The Department Executive Committee may, upon hearing, pursuant to such rules and regulations as herein prescribed, suspend or expel any member or members of any Post for violation of the principles of The American Legion, as declared in the National and Department Constitution(s) of the American Legion. A Post member or members so expelled or suspended may; upon written request of at least twenty-five (25) American Legion members in good standing appeal from the decision of the Department Executive Committee or the Department Convention. Subject to the approval of the National Executive Committee, as required by the provisions of the National Constitution, the Department Executive Committee shall have the authority, as per the guidelines of the National Constitution and By-Laws, to revoke or suspend the charter of any Post within this Department, and shall further have authority to impose upon the Post, or upon the individual member thereof, such lesser penalties, not including fines, as it shall be deemed appropriate, provided written notice has been given the Posts or individual member thereof, at least fifteen (15) days prior to such action being taken, and the Post or individual shall be entitled to be represented at such meeting, or to otherwise make explanation.

g. Any Post whose charter has been revoked may appeal to the Department Convention for the purpose of obtaining reconsideration of the revocation of its charter

h. Nothing in this Constitution shall be construed to interfere with any Post in the discipline of its members.

i. The appeals herein referred must be filed with the Department Executive Committee within thirty (30) days after notice of the action of the Department Executive Committee and, pending such appeal, the action of the Department shall be stayed.

j. The Department shall have the following standing **Commissions and Committees**:

- 1) **Americanism Commission** (including all Children and Youth programs)
- 2) **Veterans Adjustment and Rehabilitation (VA&R) Commission**
- 3) **National and Homeland Security Commission**
- 4) **Legislative Commission**
- 5) **Foreign Relations Commission**
- 6) **Finance and Economics Commission**

- 7) **Public Relations Commission**
- 8) **Internal Affairs Commission**
- 9) **Membership Commission**
- 10) Convention Committee
- 11) Religious Emphasis Committee
- 12) Department Club Committee

k. The Department Commander shall be an ex-officio member of each and all of the aforementioned nine (9) standing commissions.

l. Each commission shall meet individually at least four (4) times per year

1. Within ten (10) days prior to the September Department Executive Committee meeting

2. Within ten (10) days prior to the December Department Executive Committee meeting

3. Within ten (10) days prior to the March Department Executive Committee meeting, and

4. Within ten (10) days prior to the Department Convention

m. Commissions are permanent in nature and supervised by the Department Commander under direction of the Department Executive Committee. Commission Chairs appointed by the Department Commander shall be ratified by the Department Executive Committee prior to accepting chairmanship. Committees are temporary in nature and shall be subservient to either a Commission or at the call of the Department Commander.

n. The Department Commander shall name such committees as he shall deem advisable, subject to ratification by the Department Executive Committee at its next meeting succeeding his/her appointment.

o. The Department Commander shall appoint one new member to a Finance Commission consisting of five (5) voting members, who shall each serve a five year term of office. Members appointed to the Department Finance Commission shall elect one of their members to serve as Chairman of the Commission for the succeeding year. The Department Commander, Department Adjutant and Department Finance Officer are ex-officio members of the Department Finance Commission with voice, but no vote.

p. The standing commissions shall consist of such member(s) of the American Legion, Department of Utah as the Department Executive Committee may from time to time determine. Appointments shall be made by the incoming Department Commander and ratified prior to adjournment of the Department Convention. The Department Executive Committee is empowered to assign duties and responsibilities to all standing commissions and committees for the purpose of efficient supervision and coordination of activities.

q. Each Commission shall be, and is hereby empowered to create such standing committees as said commission shall deem necessary and proper for the efficient operation of said commission, and to assign each committee such duties and responsibilities as it may deem necessary, with power to alter, modify or change,

transfer and reallocate duties and responsibilities of said standing committee. Each commission shall have the authority to designate the size of each committee created and appointed by it, provided however that each committee appointment shall be approved by the Department Commander. The membership of each committee so created by the commission may be composed of any members in good standing of the American Legion, Department of Utah, who are not officers, either elected or appointment of the Department, provided however, commission members shall be ex-officio members of each committee created by said commission.

r. In the event any member of such commission shall fail to function or perform their duties, they shall be replaced at the discretion of the Department Commander, and such replacement appointment shall be confirmed at the next regular meeting of the Department Executive Committee.

s. The Department Commander shall appoint such commissions and committees each year as he/she shall deem necessary and proper. The Department Commander shall have the authority to appoint such special committees to serve for a period not to exceed his/her respective term of office, and as may be authorized by the Department Convention or the Department Executive Committee. A Commander may further appoint such other necessary convention committees not otherwise provided for.

t. Reports of all standing commission meetings shall be filed with the Department Adjutant

u. The Department Commander shall appoint and the Department Executive Committee shall ratify the Chairman of each commission and committee. The incumbents of all commissions and committees shall hold office until a successor is duly appointed. Should any member of a commission be temporarily unable to perform his/her duties or attend meetings of his/her commission, the Department Commander, with the written advice and consent of the Department Executive Committee, may appoint a temporary commission member to serve in the place of the original appointee, but said replacement shall in no event serve longer than the date of the next meeting of the Department Executive Committee meeting.

v. Elective Department officers shall serve until their successors are elected. Appointive officers, unless removed by the appointing power, shall serve until their respective appointed successors are ratified by the Department Executive Committee.

w. A duly elected Department Commander and a duly elected Department Vice-Commander shall be limited to a single (lifetime) term in office as Department Commander or Department Vice-Commander.

2. The term of office for Department Executive Committeemen (except the NEC and ANEC) shall be one year, commencing at the adjournment of the Department Convention in which elected and until the conclusion of the next succeeding Department Convention.

3. Members of the Department Executive Committee shall be delegates to the Department Convention with vote, which vote shall be exercised with their

respective Posts except that the vote of the Department Commander shall be exercised only in his capacity as chair of the Department Convention or Department Executive Committee meetings.

4. In case of the death, resignation or removal by his/her respective Post of any Department Executive Committeeman, the successor shall be selected as the Department Executive Committee shall determine and shall serve for the remainder of such unexpired term.

5. The Department Executive Committee shall meet in the months of June (Department Convention), September, December and March of each year, provided however the Department Commander shall have authority to extend such period for sufficient reason to him appearing, upon approval of the Department Executive Committee. Special meetings may be held of the Department Executive Committee upon written request of from at least three (3) or more members of the Department Executive Committee.

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

7. All questions affecting the election, eligibility or conduct of department officers shall be referred to and determined by the Department Executive Committee. All questions affecting the election, eligibility and conduct of Department Executive Committee members from any Post, District, Area or Department officers, or members of Department Executive Committees, shall be referred to and determined by the Department Executive Committee, which shall be the final authority thereon.

8. The Department Executive Committee shall provide for the appointment and employment of such subordinate officers and employees as may be needed for the administration of the affairs of the American Legion, Department of Utah.

Article VIII

Department Organization

1. The Department shall be chartered by the National Executive Committee and is composed of all Posts within the physical boundaries of the State of Utah. The Department Charter and any subsequent Post Charter will be submitted to the American Legion headquarters for discussion and vote before the National Executive Committee of the American Legion, and each subsequent charter shall be signed by the National Commander and National Adjutant of the American Legion and is entrusted to the respective Department or Post.

2. The American Legion, Department of Utah shall have a Department Commander, Department Vice-Commander(s), a Department Adjutant and a Department Executive Committee and such other officers as the Department shall determine.

3. The Department shall have the authority to create intermediate bodies between the Post and Department to act as liaison between such organizations and for the purpose of promoting the programs of the American Legion.
4. The American Legion, Department of Utah shall be organized in Areas, Districts and Posts within the boundary lines of the State of Utah.
5. The Department shall be divided into four (4) Areas with representative Districts falling under the leadership of that Department Area Commander as follows:
 - North Area (1) shall consist of Districts 1, 2 and 3
 - Central Area (2) shall consist of Districts 4 and 8
 - East Area (3) shall consist of Districts 5 and 9
 - South Area (4) shall consist of Districts 6 and 7
6. The Department shall be further dived into eight (8) Districts with each Post within that District falling under the leadership of that District Executive Committee as follows:
 - District 1 shall include Cache, Box Elder and Rich Counties
 - District 2 shall include Weber, Morgan, and Davis Counties
 - District 3 shall include Summit and Wasatch Counties plus Post 2 (SLC)
 - District 4 shall include Utah and Juab Counties
 - District 5 shall include Carbon, Emery, Grand and San Juan Counties
 - District 6 shall include Sanpete, Sevier, Piute, Millard and Wayne Counties
 - District 7 shall include Iron, Beaver, Washington, Kane and Garfield Counties
 - District 8 shall include Salt Lake (including Salt Lake City) and Tooele Counties
 - District 9 shall include Duchesne, Uintah, and Daggett Counties
7. The Department Executive Committee shall define the powers of such intermediate groups, but in no event shall such powers invade the prerogatives now vested either in the Post, District, Area, Department or National Organization.
8. The above intermediate bodies of the American Legion, Department of Utah are recognized and heretofore authorized by the Department are hereby officially recognized to the extent of the powers herein granted.

Article IX

Post Organization

1. The local unit shall be called the **Post**. The minimum membership of a Post shall be determined by the Executive Committee of the District in which the Post lies (but shall be no less than five (5) members). No Post shall be received into this organization until it has received a charter. A Post desiring a charter shall apply to the Department Commander in accordance with the American Legion, Post Officers

Guide (latest version). Newly chartered Posts must have at least ten (10) members prior to the charter being submitted via the Department to the National Executive Committee for charter. The application must be approved by the Department Executive Committee before such charter shall be forwarded to the National Executive Committee for approval or rejection. No Post shall be named after any living person. Posts shall be formed as provided under the National Constitution and shall be governed in all matters of National and Department finance as set forth in the National and Department Constitutions.

2. The officers of the local Post shall include the following: Post Commander and Post Adjutant at a minimum. All other officers will be elected or appointed during the next general membership meeting of the post.

a. Post officers shall be elected each year by the general membership of the post to include: Commander, Vice-Commander(s), three (3) Post Executive Committeemen (Trustees), unless otherwise stated in the Post Constitution and By-Laws.

b. No Post Commander or Adjutant may serve more than ten (10) years, so long as there is a willing and competent replacement for that office.

c. Appointed officers of the Post shall consist of the Adjutant, Service Officer, Treasurer, Judge Advocate, Chaplain, Historian, Sergeant-at-Arms, and such assistants thereto as shall, from time to time be appointed. The Post may combine the positions of Post Adjutant and Treasurer, no other positions may be combined.

3. Each Post shall pay annually to the Department organization such dues as may be levied by each Department Convention, plus what ever national per capita dues the National organization may levy. All per capita dues must be paid by each Post within thirty (30) days after receipt of member's dues. No Post shall have the right by resolution or other act to withhold or divert annual National or Departmental dues collected or monies collected from approved sources of the National or Departmental organizations. All monies collected for the Departmental or National headquarters shall be immediately forwarded to the Department Adjutant, to be by him accounted for and transmitted to the Department Treasurer.

4. Any member of a Post desiring to transfer to another Post shall be entitled to a transfer card to said other post provided all dues and assessments have been paid to date. The approval of his/her application by the receiving Post places the member on their roster, but until this application for transfer is acted upon favorably by the receiving Post and until such member shall have paid all dues, assessment or other monies owed to the issuing Post, the membership remains with the Post issuing the transfer card. An official transfer form in good order must be submitted to the Department Adjutant, otherwise such transfer shall be deemed invalid.

5. No person, who is not an active member of the American Legion in good standing, shall hold any office either elected or appointed or serve on any committee in the Department of Utah in any Area or District or Post of this Department.

6. The Department Convention may approve a Constitution and By-Laws for any Post within the Department. Each Post may add to the Uniform Constitution and By-Laws in any manner not inconsistent therewith. Any Constitution or By-Laws or changes therein approved by the Department Convention shall become effective sixty (60) days thereafter and shall automatically supersede the existing Constitution or By-Laws of such Post.
7. Each Post of the American Legion, Department of Utah shall be the judge of its own membership, subject to the provisions of the National and Department Constitution and By-Laws.
8. Members may be suspended or expelled from the Post only upon proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and other conduct unbecoming of a member of the American Legion. All charges must be made under oath in writing by the accuser(s) and no member in good standing shall lose their membership until given a fair trial in such manner and form as herein prescribed.
9. The Post Executive Committee shall have the power to suspend or expel any member provided that such member shall be given at least fifteen (15) days written notice of the charge(s) against them and shall be entitled to a hearing upon such charge before being subject to any disciplinary action.
10. Any member who has been suspended or expelled from his/her Post has the right of appeal to the Department Executive Committee or to the Department Convention, according to the provision in the Constitution of the Department. The decision of the Department Executive Committee shall be final.
11. All persons applying for membership or reinstatement who have not been regularly initiated into the American Legion shall be initiated into the Post to which application is made by formal initiation.
12. A position form of fidelity bond shall be provided by the Department Adjutant to cover all officers of the American Legion responsible for Post funds, the premium cost of such bond to be prorated among the Posts of the Department according to the number bonded in each Post. The Post Adjutant shall submit to the Department Adjutant the names of the Post officers to be bonded and the bond premium shall be paid. **Failure to pay the bond premium will automatically forfeit the Post's right to be seated at the Department Convention.**
13. Each Post should hold regular meetings once a month during the year except that in the months of July and August they may, at the discretion of the Post be discontinued, unless otherwise stated in the Post Constitution and By-Laws.
14. Post Executive Committees and officers of the Post should hold regular meeting at least once a month during the entire year. Any Post failing to comply with either of the above requirements for a period of three (3) consecutive months, may be liable to have its charter revoked by the Department Executive Committee upon recommendation of the District and/or Area Commander.
15. All Posts shall hold election of officers not less than thirty (30) days prior to the Department Convention. The officers so elected shall be installed by a present

or Past Post, District, Area or Department Commander and shall assume office at the close of the Department Convention and shall hold offices for one year or until their successors are elected and qualified. The Post Adjutant shall report the names of all officers elected within ten (10) days after the elections to the Department Adjutant via the District Commander.

16. Two or more Posts may merge into one Post upon written request and compliance with and approval of the merger by the Department Executive Committee. Requests for merger of two Posts must be submitted to the Department Commander in writing by both posts not later than sixty (60) days prior to the next regular meeting of the Department Executive Committee.

17. The Department Executive Committee shall have the duty to approve or disapprove all money raising projects of the American Legion Posts within such municipality or suburbs before any of said projects are started or undertaken, except poppy sales.

18. Posts may not solicit donations or money of any kind outside the jurisdiction of that Post, nor shall any Post be permitted to solicit money or donations by employing in part or fully, fund-raising organizations or individuals or other entities, unless that Post has first obtained the consent of the District Executive Committee or District Commander or District Convention, if district-wide, or the Department Executive Committee or Department Commander if outside the boundaries of said Post or District. Such consent, referred to immediately above, shall not be given unless the Post is to receive fifty percent (50%) or more of the gross monies solicited. Jurisdiction shall be defined as the area in which the majority of the Post's members reside.

19. The name of the Post, name of an immediate body, or the name of the Department, or the phrase, "The American Legion" shall not be used in connection with any club, entity or business venture, or in furtherance of any venture of a commercial nature, unless said project is owned in its entirety and controlled solely by said Post or intermediate body, and then only after the approval of the Department Executive Committee has first been obtained, or between Department Executive Committee meetings, approved by the Department Commander.

20. No Post shall dispose of any real property, in the name of the American Legion, without prior legal review by the Department Judge Advocate and approved by the Department Executive Committee.

21. All Posts shall receive instruction from the District Commander (or designated District officer) in how to fill out, and shall each year submit to Department Headquarters a Post Consolidated Report.

Article X

Finance

1. The revenue of The Department shall be derived from annual membership dues and from such other sources as may be recommended by the Department Finance Commission and approved by the Department Executive Committee. The fiscal year of the American Legion, Department of Utah shall be July 1st through June 30th of the ensuing calendar year.
2. The amount of such annual dues collected by each Post and transmitted to the Department shall include the per capita dues to be forwarded to the National Organization, plus the per capita dues to be forwarded to the Department Organization.
3. The annual dues shall be collected by each Post and transmitted promptly through the Department to the National Treasurer. The Department is a designated agent for collection for The American Legion with respect to such annual dues and upon receipt thereof shall remit them promptly to the American Legion. In no event shall the period transpiring the receipt of such dues by the Department and the remittance thereof to the American Legion exceed thirty (30) days.
4. Annual dues shall be payable not later than December 31st of each year for the succeeding calendar year in order to maintain continuous years of service.
5. All Department and Post officials handling American Legion monies shall be properly bonded with a good and solvent bonding and surety company as surety to coverable double average amounts of monies handled in a single year. In case of delinquencies in the payment of amounts due the Department or National Headquarters, action shall be taken by the proper officials to bring about a speedy and complete settlement. The bonds provided by Department shall be approved by the Department Judge Advocate and the Department Executive Committee, and those provided by the Post officials shall be approved by the Post Judge Advocate and the Post Executive Committee, or such other official or officials as the Department may designate.
6. Department Headquarters shall, should it be deemed advisable, detail special auditors to investigate the membership roll and financial statement of any Post, and should the Department so desire, assist in a similar audit of Posts within the Department.
7. All financial expenditures at any level (Post, District or Department) must have two signatures prior to expenditure of any funds.

Article XI

Discipline

1. The Department Executive Committee, after notice and a hearing before a subcommittee as hereinafter provided; may cancel, suspend or revoke the charter of a Post within the Department for any good and sufficient cause before it appearing.
2. The Department Executive Committee may designate, appoint and authorize a subcommittee to hear, try and make written findings of fact and recommendations with reference to the matter of the cancellation, suspension or revocation of the charter of any Post of the American Legion, Department of Utah after said Post shall have received due and proper notice of said hearing and trial. Said subcommittee shall make its written findings and recommendations to the Department Executive Committee for its approval or rejection, and the action of said Department Executive Committee upon such findings and recommendations shall be final and conclusive.
3. The hearing and trial of any cause involving the cancellation, suspension or revocation of the charter of any Post in the American Legion, Department of Utah shall be had and held under rules of procedure to be adopted by the Department Executive Committee.
4. Upon suspension of the charter of any Post of the American Legion, Department of Utah, the Department Executive Committee is authorized, empowered and directed, by and through its duly authorized agents, to take possession, custody and control of all of the records, property and assets of and belonging to such Post, and to provide for the government and administration of such Post during said suspension.
5. Upon cancellation or revocation of the charter of any Post of the American Legion, Department of Utah, the Department Executive Committee is authorized, empowered and directed, by and through its duly authorized agents, to take possession, custody and control of all of the records, property and assets of such Post, and to take all necessary and proper steps and proceedings to conclude and close the affairs of such Post, and said Department Executive Committee may provide for such continued recognition and activities of the Posts in said Department as it may deem proper.
6. Each Post of the American Legion, Department of Utah shall be the judge of its own membership, subject to the restrictions of the Constitution and By-Laws of that Post, except that no person who is a member of an organization which has for its aim the overthrow of the United States Government by force or violence, or who subscribes to the principles of any group opposed to our form of government, shall be eligible to become or remain a member of The American Legion.
7. Members may be suspended or expelled from the American Legion only upon a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and/or conduct unbecoming a member of The American Legion. All charges must be made under oath, in writing by the accuser(s), and no member in good standing shall lose his/her membership until given a fair trial by the Post, District or Department in such manner and form as outlined in this Department

Constitution, the American Legion Post Officers Guide and the Department Executive Committee.

8. Any member who has been suspended or expelled has the right to appeal to the Department Executive Committee, or to the Department Convention, according to the provisions in the Department Constitution. The decision of the Department Executive Committee or Department Convention shall be final.

9. A member whose dues for the current year have not been paid by January 1st shall be classed as delinquent. If his/her dues are paid on or before February 1st, he/she shall be automatically reinstated. If he/she is still delinquent after February 1st, he/she shall be suspended from all privileges. If he/she is still under such suspension on June 30th of such year, his/her membership in the American Legion shall be forfeit. A member so suspended or whose membership has been so forfeit may be reinstated to active membership in good standing by vote of the Post and upon full payment of current dues for the year in which the reinstatement occurs. Provided however that the Post, Department or National Organization may waive the provisions hereof, upon payment of dues for the year in which reinstatement occurs, which reference to former members who have been prevented from the payment of dues for reason of active military service.

Article XII

Resolutions

1. This Constitution may be amended by submitting a written resolution at any regular Department Convention and by securing a two-thirds **affirmative** vote of the full delegate strength of the Posts represented in the convention as set forth in this article. Resolutions are used to transmit germane ideas that will improve the American Legion at any level. Resolutions shall be closely related to the purpose for which the American Legion exists with relevance to the aims, purposes and programs of the American Legion. Resolutions are a formal and official expression of the person or level at which initiated and should be processed accordingly.

2. This Constitution shall be automatically amended to conform to any amendment(s) adopted within the National Constitution of the American Legion, and affecting this Constitution.

3. All proposed resolutions shall be submitted to the Department Adjutant in writing at least sixty (60) days prior to the first day of the next assembled Department Convention. Said Adjutant will cause a copy of each proposed resolution be submitted to each voting member of the Department Executive Committee and each Post Commander via mail no less than forty five (45) days prior to said first day of the next assembled Department Convention.

4. Resolutions submitted for consideration before the Department Convention shall first be initiated at the Post level where it shall be placed before the general

membership for a positive vote of at least two-thirds of Post members present, provided a quorum of Post members has been achieved in accordance with the Post Constitution and By-Laws. Resolutions that pass a two-thirds vote at the Post level will be certified in writing as having passed by the Post Commander and attested to by the Post Adjutant and submitted to the District Commander in resolution form, double spaced and in triplicate no later than forty five (45) days prior to the next regular District meeting. The District Commander shall provide a copy of said resolution to each Post Commander within said District at least thirty (30) days prior to the next regular District meeting for their consideration.

5. Resolutions submitted as certified by the Post Commander and attested to by the Post Adjutant to the appropriate District Commander for consideration at the next regular District meeting, where a positive vote of at least two-thirds of the members present at the District meeting with a quorum present shall pass the Resolution. Resolutions passing at the District level shall be certified by the District Commander and attested in writing by the District Adjutant. Motions that pass at both the Post and District levels shall be forwarded to the Department Adjutant at least sixty (60) days prior to the next regular Department Convention.

6. Resolutions may also be initiated at the District level using the same guidance provided in Article XII, paragraph 4 and 5 above.

7. Resolutions submitted for consideration shall be constructed, written and formatted in accordance with the American Legion Post Officers Guide (latest addition) and/or as outlined in this Department Constitution, or any other publication or handbook periodically published by the National Headquarters of the American Legion as to the format and writing of resolutions. Posts and/or Districts are encouraged to have a member in attendance at the Department Executive Committee meeting or Department Convention when said resolution is considered in order to offer explanation of the intent of the resolution. Resolutions generated at the Post or District shall be submitted through their representative District and/or Area for approval prior to submission to the Department Convention for consideration.

8. Resolutions submitted from the Post and/or District levels must be submitted in type written form, double spaced and in triplicate at least sixty (60) days prior to the opening day of the Department Convention. All resolutions submitted for consideration before the Department Convention shall be submitted in accordance with the American Legion Post Officers Guide (latest edition) and this Department Constitution.

9. Motions submitted from the floor of the Department Convention must follow procedures in accordance with the American Legion Post Officers Guide and/or as outlined in this Department Constitution.

Article XIII

Auxiliaries

1. The American Legion, Department of Utah recognizes an auxiliary organization known as The American Legion Auxiliary, Department of Utah.
2. Membership in the American Legion Auxiliary shall be limited to the Mothers, wives, daughters, grand-daughters, great grand-daughters and sisters of members of **The American Legion**, and to the mothers, wives daughters, grand-daughters, great grand-daughters and sisters of all men and women who were in the military or Naval services of the United States between April 6, 1917 and November 11, 1918; between December 7, 1941 and December 31, 1946; June 25, 1950 to January 31, 1955; December 22, 1961 to may 7, 1975; August 24, 1982 to July 31, 1984; December 20, 1989 to January 31, 1990; August 2, 1990 until cessation of hostilities as determined by the Congress of the United States of America, all dates are inclusive; and died in the line of duty or after honorable discharge, and when those women who of their own right are eligible for membership in The American Legion.
3. The auxiliary shall be governed in this Department of the American Legion by such rules and regulations as may be prescribed by the National Executive Committee of the American Legion.
4. The Department of Utah also recognizes the organization known as the Sons of the American Legion. Membership in the Sons of the American Legion shall be prescribed by the National Constitution of the Sons of the American Legion.

Article XIV

Recall

1. Recall used in this article refers to the process of recalling or removing an officer, elected or appointed, or an employee from his or her position within the Department. Matters submitted to recall shall be decided by a majority vote of the posts. Reasons for recall shall be based upon disloyalty, neglect of duty, dishonesty or conduct unbecoming a member of the American Legion.
2. When a majority of the Posts have voted in favor of the recall of any Department officer or member of the Department Executive Committee, the Department Adjutant shall certify this action to the Department Executive Committee and upon the verification of their vote, the Department Executive Committee shall take the necessary steps to send each Post a recall ballot. Upon this ballot shall first appear the question of whether the Post favors the recall of the officer in question and shall next contain any nominations for the office which has been sent to the Department Executive Committee in writing.
3. When a majority of the Posts within a District have voted in favor of the recall of any District officer or member of the District Executive Committee, a copy

of the minutes of each such Post, certified by the Post Commander to be a true copy of the minutes of such Posts upon the action taken, the District Adjutant shall prepare and transmit to each Post of the District a ballot upon which shall first appear the names of any nominees for the office which have been sent to the District Executive Committee in writing, and shall then contain the certificate of the Post Commander whose signature shall be attested to by the Post Adjutant to the effect that no reconsideration has been had of the question of recall since the Post certified the copy of its minutes as above provided. A majority of votes favoring recall shall be sufficient to vacate the office, and the person receiving the highest number of votes shall thereby succeed to the office thus vacated.

4. Any Post officer or member of a Post Executive Committee may be recalled by a majority vote of the membership of that Post, in the manner provided herein. Any member of a Post may, at any regular meeting of the Post, present a motion for the recall of such officer. If the motion receives a second, such motion shall be verified as to its wording and entered upon the minutes of the meeting, to be brought up at the next succeeding regular general membership meeting of said Post. It shall then be the duty of the Post Adjutant forthwith to notify by mail all members of the Post then in good standing of the pendency of the motion, and that the same will be presented for action to the next succeeding regular general membership meeting of the Post. At such succeeding regular general membership meeting of the Post, the motion shall be read, and may be debated by the Post before a vote is called thereon. A two-thirds majority vote of all present at the meeting at which said vote is taken, provided a quorum is verified and properly recorded in the minutes of such meeting shall be necessary to recall such officer of the Post Executive Committee.

XV

Amendments

1. Amendments as used in this Article refer to the process of changing, modifying and/or updating this Constitution in accordance with Article XII of this Constitution and shall either change the text of this document or be added as an amendment to this Constitution.

2. This Constitution may be amended at any Department Convention **“only”** upon receipt of a duly certified and attested Resolution from a Post and/or District and by achieving a two-thirds (2/3) positive vote of the total authorized representation thereat, provided that the proposed amendment(s) shall have been submitted through the Department Adjutant to all voting members of the Department Executive Committee and all Post Commanders within the American Legion Department of Utah by mailing same at least forty-five (45) days prior to the convening of the next Department Convention. Any such proposed amendment may be amended without further notice by a two-thirds (2/3) vote of the total authorized

delegate strength of said Department Convention, provided it does not increase the modification proposed by the amendment and it has received the approval of the Convention Committee on Constitutional Amendments: and provided further, it may be amended by unanimous vote at any Department Convention.

3. No proposed amendment shall be submitted through the Department Adjutant to all members of the Department Executive Committee and Posts as provided in Article XVI Paragraph 1 above, unless said proposed amendment shall have first been submitted by a District Convention or the Department Executive Committee.

Article XVI

Approval

This Constitution was approved in Department Convention assembled by the Department of Utah, June 19, 20, 21, 2009 and is effective July 1, 2009.

Attested: Greg Rowley
Department Adjutant

Approved: Lee Engelbrecht
Department Commander