

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

PREAMBLE

For God and Country, we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred per cent Americanism; to preserve the memories and incidents of our associations in 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.

ARTICLE I.

NAME

Section 1. The name of this organization shall be THE AMERICAN LEGION, DEPARTMENT OF VIRGINIA, INCORPORATED.

Section 2. The Department Headquarters of The American Legion, Department of Virginia, Incorporated, shall be located at the Headquarters Building, 1708 Commonwealth Avenue, in the City of Richmond, Virginia.

ARTICLE II.

NATURE

NO MILITARY RANK IN AMERICAN LEGION

Section 1. The American Legion, Department of Virginia, is a civilian organization; membership therein does not affect nor increase liability for military or police

service. Rank shall 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 thereof, unless he be at the time on duty with some branch of the military service. This restriction (on use of military title) does not apply to courtesies extended outside the said Legion meetings, including correspondence or introductions.

AMERICAN LEGION IS NON-POLITICAL

Section 2. The American Legion shall be absolutely non-political and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

ARTICLE III. **ELIGIBILITY**

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

NO "ASSOCIATE" MEMBERS

Section 2. There shall be no form or class of membership except an active membership and dues shall be paid annually or for life. There shall be no 'associate' or 'honorary' memberships nor any memberships by any other designation for anyone who does not meet the eligibility requirements of The American Legion.

DUAL MEMBERSHIP FORBIDDEN

Section 3. No person may be a member at any time of more than one Post. Should it become apparent that such "dual membership" exists, the offending Legionnaire shall be notified

immediately and required to select the Post in which he wishes
to
remain.

POST IS JUDGE OF QUALIFICATIONS

Section 4. Each Post shall be the judge of the qualification of its members, provided such members are eligible for membership in The American Legion, and each Post may set such other reasonable and lawful standards of qualification for membership as it may determine.

Section 5. 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, he may then appeal to the Department Executive Committee to be admitted to membership in another Post, and shall be ineligible for membership until such permission is granted.

TRANSFERS

Section 6. Transfers of membership from one Post to another in this Department shall be upon application of the members to, and acceptance by the other Post of said member. No dues shall be transferred and a member transferring shall be entitled to
voting
membership including the holding of office in the Post to which he transfers. For purposes of calculating membership standings, a transferee shall be credited to the Post to which
he
has paid dues only.

ARTICLE IV. **DEPARTMENT CONVENTIONS**

TIME

Section 1. The legislative body of the Department shall be the Department Convention to be held annually not less than two weeks before the National Convention. The time and place of the annual convention shall be determined by the Department Executive Committee, which shall have the authority to change such time and place for sufficient reasons to it appearing.

VOTES

Section 2. In the Department Convention, each Post shall be entitled to two votes and to an additional vote for each fifty members whose annual dues have been received by the Department Headquarters fifteen days prior to the opening of said convention; but no Post shall be entitled to representation in the convention which shall not have so paid Department and National dues for at least fifteen members nor shall any Post be entitled to representation therein which shall not have paid to Department Headquarters prior to the convention all Department and National dues collected by it during the current or preceding year, or any other sums due by it to the Department.

DELEGATES

Section 3. Each Post may elect one Delegate for each vote that it is entitled to cast in the manner agreed upon. The Post shall elect as many Alternates as Delegates, and in the event of the failure of a Delegate to attend the convention or during the absence of a Delegate from any roll call of the convention, one of the Alternates present, who shall be selected by the majority of the Delegates present from his Post, shall act as a Delegate. The vote of any Delegate absent from the Convention and not represented by an Alternate shall be cast by the majority of Delegates present from his Post provided that no one shall act as Delegate or Alternate of any Post unless he is a member in good standing of such Post. Alternates shall at all times have the

privileges of the Delegates, except they shall not vote unless acting as Delegates as herein prescribed. Upon a vote by roll call, the voting shall be by Posts.

EX-OFFICIO DELEGATES

Section 4. Each voting member of the Department Executive Committee, as set forth in ARTICLE V, Section 1 hereof, each Past Department Commander and each Past National Executive Committeeman of this Department shall be an ex-officio Delegate

with vote to the annual Department Convention, provided that he is a member in good standing of a Post in this Department, and is present at the Department Convention, and provided further that the vote of such ex-officio Delegate shall be added to and cast with the vote of his respective Post and; provided further that no person shall cast more than one ex-officio vote and that the vote of an ex-officio Delegate shall not be bound nor controlled by the vote of his respective Post. Said Executive Committeeman, Past Department Commander and Past National Executive Committeeman need not be present on the floor of the convention at the time his vote is cast so long as he is officially registered at said convention. For purposes of voting at a Department Convention ex-officio members of the Department Executive Committee are not ex-officio delegates.

CODE OF PROCEDURE

Section 5. The Department Executive Committee shall provide a uniform code of procedure for the orderly organization and operation of Department Conventions with the continuing power of revision, and said code shall be applicable to all Department Conventions, unless it is amended, suspended, or replaced by a two-thirds vote of the total authorized representation at a Department Convention.

QUORUM

Section 6. A quorum shall exist at a Department Convention when 40 percent of the Posts of the Department are represented as provided above.

PROCEDURAL RULES

Section 7. The rules of procedure of the Department Convention shall be those set forth in Robert's Rules of Order and the Uniform Code of Procedure for the Department Convention with such modification as may be adopted by the convention.

RESOLUTIONS

Section 8. Before any resolution shall be permitted on the floor of the Department Convention for action it shall first be considered by the appropriate convention committee and shall bear the recommendation of such convention committee for or against adoption, or for other action which the committee may deem appropriate. Each convention committee shall consider all resolutions referred to it for action and shall make a report of its actions on the floor of the convention. Upon completion of the work of the Resolutions Assignment Committee, a list of assignments shall be posted at a prominent place in the department Convention Headquarters for the information of Delegates who may wish to follow such resolutions.

ARTICLE V. **DEPARTMENT EXECUTIVE COMMITTEE**

MEMBERSHIP

Section 1. The administrative and executive power shall be vested in the Department Executive Committee which shall consist of the following voting members: the Department Commander, the District Commanders, the Department Vice Commanders, the retiring Department Commander, the Department Chaplain, the Department Sergeant-at-Arms, and the National Executive Committeeman.

Section 2. The Department Adjutant, Department Treasurer, Department Service Officer, Department Historian, Department and Judge Advocate shall be ex-officio members of the Department Executive Committee without vote. Ex-officio membership on the Department Executive Committee does not constitute ex-officio status at the Department Convention.

LIFE MEMBERS

Section 3. All Past Department Commanders and such honorary officers as may from time to time be so designated by a Department Convention, while in good standing as a member of a Post in this Department, shall be members for life of the Department Executive Committee without vote.

EMERGENCY CONVENTION

Section 4. The Department Executive Committee shall have power and authority in the case of an emergency to call a Department Convention at a time and place designated by the said Executive Committee, provided that notice of at least thirty (30) days prior thereto shall have been given to all Posts in the Department and the reasons stated for the calling of such a

convention.

NUMBER OF MEETINGS

Section 5. The Department Executive Committee shall meet within twenty-four (24) hours after the final adjournment of the Department Convention and thereafter, at the call of the Department Commander or upon the written request of four (4) members of the Department Executive Committee. Provided, however that regular meetings of the Department Executive Committee, other than those required at the adjournment of each Department Convention, shall be held at least three times each calendar year, exclusive of the Post-Convention meeting.

TELEPHONIC VOTE

Section 6. When in the judgment of the Department Commander failure to act on a matter requiring immediate Executive Committee action would be detrimental to the best interests of the Department, the Department Commander may, with the concurrence of the Department Judge Advocate, order a telephonic or written survey of all Executive Committee members who can be reached after a diligent effort. The result of such survey shall have the full force and effect of a vote of the sitting Committee, provided that at least two-thirds of the Department Executive Committee shall have voted.

ARTICLE VI. **DEPARTMENT OFFICERS**

VICE COMMANDERS

Section 1. The Department Convention shall elect a Department Commander and three (3) Department Vice-Commanders. All Department Vice-Commanders shall have equal rank. Each Department Vice Commander shall represent the Department

Commander and shall be elected at-large at the Department Convention in the same manner prescribed for the election of other officers. Each Department Vice Commander shall be elected "at-large" at the Department Convention provided, however, that one Department Vice Commander shall be a member in good standing of a Post in District 1, 2, 3, 4, 11 or 12; one from a Post in District 5, 6, 7, 8, 9 or 10 and one from a Post in District 13, 14, 15, 16 or 17. In the event more than one candidate is nominated from any of the said groups or Districts, the candidate from that group receiving the largest number of votes of the Convention shall be elected. No person shall be eligible to succeed himself as Department Commander or as Department Vice Commander. The Department Convention shall also elect a Department Sergeant-at-Arms and a Department Chaplain, and every alternate year, beginning with the Department Convention in 1947, shall elect a National Executive Committeeman and an Alternate National Executive Committeeman. For any meeting of the National Executive Committee which the Executive Committeeman or the Alternate National Executive Committeeman may be unable to attend, the Department Commander is authorized, empowered, and directed to appoint himself or another as the Alternate Committeeman for such meeting.

DISTRICT CONVENTIONS

Section 2. At least thirty (30) calendar days, but no more than sixty (60) calendar days, prior to the Department Convention, there shall be held in each of the said Districts, a District Convention, the time and place to be designated by the District Commander. Each District Convention shall elect a District Commander and two District Vice Commanders and may elect a District Commander and two District Vice Commanders and may elect not more than two additional Vice Commanders and such other officers as to the District shall appear necessary, for a term of one year, beginning immediately upon final adjournment of the ensuing Department Convention. Posts in each District shall be

entitled to representation and vote, as provided in ARTICLE IV, Section 2, of the Constitution, and the representation and vote shall be based upon the paid-up membership of each Post, which shall have been received at the Department Headquarters ten (10) days prior to the date of the District Convention. The Department Adjutant shall certify to the District Commander, the District Vice Commanders, Post Commanders and Post Adjutants, at least five (5) days before said convention, the membership in respective Districts and Posts.

TERMS OF OFFICE

Section 3. The term of office of such officers, except the National Executive Committeeman and the Alternate National Executive Committeeman, shall commence immediately upon the final adjournment of the Department Convention by which they are elected and shall terminate upon the final adjournment of the next succeeding Department Convention. The term of office of the National Executive Committeeman and the Alternate National Executive Committeeman shall commence upon the final adjournment of the National Convention next ensuing after his election and shall terminate upon the adjournment of the second next succeeding National Convention. Vacancies shall be filled by the Department Executive Committee.

Section 4. The Department Adjutant, Treasurer, Service Officer, Historian, and Judge Advocate shall be elected by the Department Executive Committee upon nomination by the Department Commander, and shall be removed from office only upon a two-thirds vote of the members of the Executive Committee present.

VACANCIES

Section 5. Any vacancies occurring for any reason among the appointed Department officers shall be filled by the Department Commander until a successor has been elected or appointed at a regular or special meeting of the Department Executive

Committee.

ARTICLE VII.
BONDS

Section 1. All officers of the Department, District, Post and/or other American Legion entities thereof, entrusted with actual funds or control of funds through the power of office held or contracted services or any other means of legion funds distribution, shall be required to give bond with surety in accordance with the National Bylaws. The post commander shall appoint a 3 person audit team comprised of general members of the post to conduct an annual post finance audit to be completed before June 30th of each year and before new officers take office.

Section 2. The Department shall, should it be deemed advisable, detail special auditors under the supervision of the Judge Advocate or representative to conduct a Post audit. Usually prompted by written complaints of the officers and/or members of the post to the Department Adjutant. The complaint will be forwarded to the Judge Advocate for investigation. Failure of a Post to cooperate with the investigation or audit will cause for immediate DEC approved charter suspension.

ARTICLE VIII.
ORGANIZATION

MAKE UP OF 17 DISTRICTS
CITY & COUNTRY

Section 1. The Department shall be divided into the following Districts, and shall remain so constituted unless changed by the

action of a Department Convention, after forty-five (45) days notice to all Posts prior to the opening of a Department Convention of any proposed changes in the composition of said District:

The counties of Accomack and Northampton shall constitute the First District.

The cities of Chesapeake, Norfolk, Portsmouth and Virginia Beach shall constitute the Second District.

The cities of Hampton, Newport News, Poquoson and Williamsburg and the counties of Charles City, Gloucester, James City, King and Queen, Mathews, King William, New Kent and York shall constitute the Third District.

The cities of Emporia, Franklin, Hopewell, Petersburg, and Suffolk and the counties of Dinwiddie, Greensville, Isle of Wight, Prince George, Southampton, Surry and Sussex shall constitute the Fourth District.

The city of South Boston and the counties of Brunswick, Charlotte, Halifax, Lunenburg, Mecklenburg, Nottoway, and Prince Edward shall constitute the Fifth District.

The cities of Danville and Martinsville and the counties of Floyd, Franklin, Henry, Patrick, and Pittsylvania shall constitute the Sixth District.

The city of Galax and the counties of Bland, Carroll, Giles, Grayson, Pulaski, Smyth, and Wythe shall constitute the Seventh District.

The cities of Bristol and Norton and the counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, Washington and Wise shall constitute the Eighth District.

The cities of Clifton Forge, Covington, Radford, Roanoke, and Salem and the counties of Allegheny, Botetourt, Craig,

Montgomery, and Roanoke shall constitute the Ninth District.

The cities of Bedford and Lynchburg and the counties of Amherst, Appomattox, Buckingham, Campbell, Cumberland, Nelson and Bedford shall constitute the Tenth District.

The cities of Colonial Heights and Richmond, and the counties of Amelia, Chesterfield, Henrico, and Powhatan shall constitute the Eleventh District.

The city of Fredericksburg and the counties of Caroline, Essex, King George, Lancaster, Middlesex, Northumberland, Richmond, Spotsylvania, and Westmoreland shall constitute the Twelfth District.

The city of Charlottesville and the counties of Albemarle, Fluvanna, Goochland, Greene, Hanover, Louisa, Madison and Orange shall constitute the Thirteenth District.

The cities of Buena Vista Harrisonburg, Lexington, Staunton and Waynesboro and the counties of Augusta, Bath, Highland, Rockingham and Rockbridge shall constitute the Fourteenth District.

The city of Winchester, and the counties of Clarke, Frederick, Page, Shenandoah and Warren shall constitute the Fifteenth District.

The cities of Manassas and Manassas Park and the counties of Culpeper, Fauquier, Loudoun, Prince William, Rappahannock and Stafford shall constitute the Sixteenth District.

The cities of Alexandria, Fairfax and Falls Church and the counties of Arlington and Fairfax shall constitute the Seventeenth District.

ARTICLE IX.
POSTS

CHARTER

Section 1. The smallest administrative unit of The American Legion of the Department shall be termed the "Post" which shall have a minimum of fifteen (15) paid-up members. No Post shall be received into this organization until it shall have received a charter. Those desiring a charter shall file application on forms furnished by Department Headquarters, which application shall be forwarded to the Department Adjutant, and if approved by the Department Executive Committee or the Department Commander, shall be forwarded to National Headquarters. All Post charters shall be countersigned by the Department Commander and the Department Adjutant. In order for the post to be presented their permanent charters, the post **MUST BE** incorporated and have a post constitution and by-laws in place. In the event any Post in this Department has less than fifteen (15) paid-up members at Department Headquarters by May 1st of any year, the charter of such delinquent Post shall be automatically suspended. Existing members of other American Legion posts, upon transfer, may be counted as charter members of a newly established post.

Section 2. All Department of Virginia Posts, except 141, shall be incorporated under the Virginia State Corporation Commission and maintain that incorporation as long as the post charter is retained. Failure to do so will result in immediate and automatic suspension of the Post charter until incorporation is complete. The incorporation of the post shall include Articles of Incorporation and Incorporation Bylaws. These documents will reflect the major decisions affecting the post property and/or assets must be made by a 2/3 majority vote of the incorporation membership present at the meeting plus proxy votes comprised of the American Legion members of the post. The vote affecting post assets/property **MUST** be advertised by direct mail to **ALL**

members in good standing at least 60 days in advance of the vote. The votes received will be made at the meeting or a written proxy vote granted to a person in attendance, signed and dated a maximum of 5 days prior to the meeting. Copies of the incorporation documents and the Post EIN must be provided to the Department. Changes to these documents must also be sent immediately to the Department.

OFFICERS

Section 3. The officers of the Post, except for the Post-at-Large, shall be a Commander, one or more Vice Commanders, Adjutant, Finance Officer, Chaplain, Historian, Sergeant-at-Arms, Service Officer, and such other officers as may from time to time be authorized.

Section 4. All officers of the Post and Delegates and Alternates to the Department Convention shall be certified to the Department Adjutant prior to the Department Convention; certification to be made on forms furnished or prescribed by the Department.

ELECTION & INSTALLATION

Section 5. Post elections and installations will be scheduled far enough in advance to enable the new officers adequate time to organize prior to assuming their responsibilities immediately upon their installation, provided that no installation shall be held before May 15 nor after July 15.

POST-AT-LARGE

Section 6. There shall be maintained in the Department of Virginia one Post-at-Large, which shall be known as Raymond

E. Maxie Post No. 141, and notwithstanding any other provisions of this Constitution said Post shall not be required to have any specified number of members in order to retain its charter, nor shall it be entitled to vote in a District or Department Convention. Any eligible veteran may become a member of the Post-at-Large upon written application and the payment of Department and National per capita dues plus an amount fixed by the Department Internal Affairs Committee. Officers of the Post shall be an Adjutant; who shall be the Department Adjutant, and a Finance Officer, who shall be the Department Office Accountant. After payment of per capita membership dues to Department and National Headquarters, all funds of the said Post shall be transferred annually by the Post Finance Officer to the Department of Virginia. Current members of Raymond E. Maxie Post No. 141, Post-at-Large, may be considered as new members for the purpose of fulfilling the requirement of fifteen members necessary to charter a new American Legion Post in the Department of Virginia.

Section 7. No Post shall be named after any living person.

ARTICLE X.
DISCIPLINE OF POST

PENALTY GROUNDS

Section 1. The Department Executive Committee, pursuant to ARTICLE III of the National Bylaws, may suspend, cancel or revoke a Post charter. The action taken by the Department Executive Committee shall be final and conclusive unless an appeal is taken to the National Executive Committee within thirty (30) days from the date of said suspension, cancellation or revocation. The Department Executive Committee shall have full power and authority to provide for the government and administration of the Post during the period of any suspension under this section.

Section 2. Any suspension, cancellation or revocation of a Post charter pursuant to this ARTICLE will make a reasonable

effort to follow all steps in accordance with the provisions of the "Uniform Code of Procedure" (as printed after the changes to the Constitution and Bylaws of the National Constitution and Bylaws) for the Revocation, Cancellation or Suspension of Post Charters promulgated by the National organization of the American Legion. However, if the lengthy uniform code proves to be detrimental to the department, district or post, the Department reserves the right to deviate accordingly.

Section 3. When a failure to act immediately versus following the lengthy suggested Uniform Code of Procedure for Revocation, Cancellation, or Suspension of a Post Charter listed in the National Constitution and Bylaws, would be detrimental to the best interests of the Department or the Post, and with concurrence of the Department Judge Advocate, the Department Commander may direct the Department Adjutant to conduct a telephonic or written (email) survey of the Department Executive Committee to suspend the violating post charter while all actions under the National Uniform Code of procedure are accomplished.

ARTICLE XI.
DISCIPLINE OF MEMBERS

GROUNDS

Section 1. Any member who violates the National or Department Constitution, or who, in the opinion of the Post of which he is a member, has been guilty of conduct unbecoming a member of The American Legion shall be expelled or otherwise suitably punished after notice and upon hearing by any such Post in accordance with the provisions of ARTICLE IV of the Bylaws.

ARTICLE XII.
DUES

DEPARTMENT REVENUE

Section 1. The revenue of this Department shall be derived from annual dues of members, and by such other measures as may be determined by the Department Executive Committee. Each annual Department Convention shall determine the amount of Department dues for each succeeding fiscal year, provided, however, that the annual National dues as determined by the

National Convention each year shall be collected by the Posts and paid through Department Headquarters to the National Treasurer, whenever the same becomes due and payable.

Section 2. No person shall be considered as a member of The American Legion or have authority to wear the emblem of The American Legion in this Department unless his annual Post, Department and National dues have been paid.

Section 3. Annual membership dues shall be payable by October 20 of each year for the succeeding year. Any member whose dues for the current year have not been paid by January 1 shall be classed as delinquent. If the dues are paid by February 1, the member shall be automatically reinstated. If the member is still delinquent after February 1, all privileges shall be suspended.

Section 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 revocation of the charter of such Post.

ARTICLE XIII.

DELEGATES AND ALTERNATES TO NATIONAL CONVENTION

NUMBER

Section 1. The Delegates and Alternates to represent this Department at the National Convention shall be elected by the Department Convention.

Section 2. Each District will be allowed one (1) Delegate and one (1) Alternate for each one thousand (1000) members exclusive of fractional parts, upon nomination submitted to the Department Convention by each respective District. However, a District with less than 1000 members is authorized one Delegate and one Alternate. Those nominated shall have indicated affirmatively they will attend the National Convention. The District Commander shall notify the Department Adjutant in the event a District has no Delegate or Alternate who will attend the National Convention prior to the Department Convention.

Section 3. The remaining number of Delegates and Alternates shall be elected at large by the Department Convention in the same manner and at the same time as the Department officers are elected.

CHAIRMAN OF DELEGATION RETIRING COMMANDERS

Section 4. The retiring Department Commander shall be Chairman of the Department Delegation at the National Convention, and vacancies in the Department Delegation shall be filled by appointment by the Chairman of the Delegation to the National Convention. In the absence of the retiring Department Commander, the Delegates to the said Convention shall select their own Chairman.

ARTICLE XIV. **FISCAL YEAR**

Section 1. The fiscal year of the Department shall be July 1 through June 30, of the following year.

ARTICLE XV. **AMERICAN LEGION AUXILIARY**

Section 1. The American Legion, Department of Virginia, recognizes an Auxiliary Organization to be known as,

"American Legion Auxiliary, Department of Virginia, Incorporated."

ELIGIBILITY

Section 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 those who would have been eligible for membership in The American Legion, but who have died, and to those women who are of their own right eligible for membership in The American Legion.

Section 3. The Auxiliary shall be absolutely non-political and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

WIDOW UNITS

Section 4. Each Auxiliary shall be an independent Unit, but shall be attached to a regularly chartered and active Post of THE AMERICAN LEGION; provided, however, that if such Post shall lose its charter or otherwise cease to function as an active Post, its Auxiliary Unit shall not thereby automatically surrender its charter, but may continue to function as a "Widow Unit". Widow Units The Department of Virginia American Legion Auxiliary shall be governed by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by the Department of Virginia.

ARTICLE XVI. **AMENDMENTS**

NOTICE

Section 1. This Constitution may be amended at any

Department Convention by a vote of two-thirds of the total representatives thereat, provided that notice of the proposed amendment shall have been sent out to all Post Commanders at least thirty (30) days prior to the convening of the Department Convention; or have been published in the VIRGINIA LEGIONNAIRE at least ten (10) days prior thereto.

EFFECTIVE DATE

Section 2. Any amendment to this Constitution shall become effective immediately upon the final adjournment of the annual Department Convention at which adopted, unless otherwise provided.