

*This updated form approved by American Legion Department of New York, Executive Committee on January 23, 2021.*

Constitution And By-Laws Of

\_\_\_\_\_ Post No. \_\_\_\_\_

The American Legion, Department Of New York

\_\_\_\_\_  
CONSTITUTION

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 all wars: to inculcate a sense of individual obligation to the Community, State, and Nation: to combat the autocracy of both the classes and the masses: to make right the master of might: to promote peace and good will on earth: to safeguard and transmit to posterity the principles of justice, freedom, and democracy: to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

ARTICLE I – NAME AND HEADQUARTERS

Section 1. The name of this organization shall be \_\_\_\_\_  
\_\_\_\_\_ Post No. \_\_\_\_\_. The American Legion \_\_\_\_\_  
County, Department of New York.

Section 2. The Post Headquarters shall be located at \_\_\_\_\_  
\_\_\_\_\_ ; all notices and documents addressed  
to the Post shall be sent to these Headquarters.

ARTICLE II – OBJECTS

Section 1. The objects and purposes of this Post shall be to promote the principles and policies set forth in the foregoing preamble, and the National, Department Of New York, and \_\_\_\_\_  
\_\_\_\_\_ County Committee Constitution and By-laws of The American Legion.

ARTICLE III – NATURE

Section 1. This Post is a civilian organization and membership therein does not affect or increase liability for military or police service. Rank does not exist in The American Legion; no member shall be addressed by their military or naval title in any meeting of the Post.

Section 2. This organization shall be absolutely non-political and non-sectarian and shall not be used for the dissemination of partisan principles or for the promotion of the candidacy of any person seeking public office or preferment.

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

#### ARTICLE IV – MEMBERSHIP

Section 1. An Individual is eligible for membership in The American Legion only if the individual – (1) had served in the Armed Forces of (A) The United States at any time during – (i) the period of April 6, 1917, through November 11, 1918; or (ii) anytime after December 7, 1941’ or (B) a government associated with the United States Government during a period or time referred to in subsection (A) of this section and was a citizen of The United States when the individual entered that service; and (2) was honorably discharge or separated from that service or continues to serve honorably during or after that period of time; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably during or after any of said periods, provided, further, that no person shall be entitled to membership who, being in such service during any of said periods, refused on conscientious, political or other grounds to subject themselves to military discipline or unqualified service.

Section 2. Application for membership shall be made in writing under such regulations as may, from time to time, be prescribed by the Post Executive Committee and approved by the County Committee wherein this Post is located. All applications for membership accompanied by service discharge papers shall be referred to the Membership Committee, who shall report their finding to the Executive Committee. Upon approval of eligibility, the application accompanied by the dues shall be presented to the Post at a regular meeting and shall be acted upon at such meeting. A majority vote of the Post shall be necessary for acceptance.

Section 3. There shall be no form or class of membership except an active membership. Dues shall be paid annually or for life.

Section 4. No person who is a member of another Post may be a member of this Post.

Section 5. Members may be suspended or expelled from this Post of The American Legion only after providing the member due process and a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty, or other conduct unbecoming a member of The American Legion. All charges must be made under oath in writing by the accusers. No member in good standing shall lose their membership until given a fair trial in such manner and form as The Department of New York By-Laws and Department Executive Committee shall prescribe. This action shall govern procedure whenever charges are brought against any person at any time appearing upon the rolls of this Post as a member, upon the grounds of their ineligibility to membership either in the Post, or in The American Legion.

Section 6. Any member who has been suspended or expelled has the right of appeal to the Department Executive Committee in the manner prescribed by said Committee. The decision of the Department shall be final.

Section 7. No person, who has been expelled from The American Legion by a Post, and such expulsion reported by the Department to The National Headquarters within (30) days, shall be admitted to membership in this Post without the consent of the expelling Post, except that where such consent has been asked for and has been denied by such Post, they may then appeal to the Department Executive Committee for permission to be admitted to membership in the Post and they shall be ineligible for membership until such permission is granted.

Section 8. A member who has been expelled or suspended from this Post for any cause other than non-payment of dues may be reinstated to the membership by a two-thirds vote of the Executive Committee and a majority vote of the Post; provided, however, that they shall make payment of any arrears in their dues from the time of the expulsion or suspension, and also other regular dues which have been payable in the interval between their expulsion or suspension and their reinstatement.

Section 9. Any member in good standing desiring to transfer from this Post to another Post is entitled to a verification from this Post stating their membership therein and duration thereof, and the date to which their dues are paid.

#### ARTICLE V – OFFICERS

Section 1. The Administration of the Post's affairs, between meetings of the Post, and except as may be otherwise provided in the By-Laws of the Post, shall be under the supervision of an Executive Committee which shall consist of \_\_\_\_\_ members, to be known as Executive Committee Members, in addition to the elective Officers of the Post.

Section 2. The elective Officers of this Post shall be a Commander, three Vice-Commanders, an Adjutant, Treasurer, Post Historian, Post Chaplain, and Sergeant-at-Arms.

Section 3. All elective Officers and Executive Committee Members shall be elected and installed in the month of June annually and they shall hold office until their successors are duly installed or as otherwise provided.

Section 4. Every member of this Post, in good standing, shall be eligible to hold office in this Post except as otherwise provided herein.

Section 5. The duties of Officers and Executive Committee Members shall be those usually appertaining to such Officers or Committee Members and as further provided in the By-Laws.

#### ARTICLE VI – FINANCES AND DUES

Section 1. The revenue of this Post shall be derived from membership or initiation fees from annual membership dues and from such other sources as may be approved by the Post.

Section 2. The minimum annual dues of individual members of the Post shall be FIFTEEN DOLLARS (\$15.00) and, in addition thereto, any amount charged as dues by any intermediate body between the Post and Department of New York per member; the amount of the Annual Post dues shall be as set forth in the Post By-Laws.

Section 3. The Post shall expeditiously collect the annual dues for its members and shall pay to The American Legion, Department of New York such amount due to the National, Department, District, and County Organizations.

Section 4. All moneys received in any manner for welfare purposes of any nature by the Post shall be deposited in a duly authorized banking institution and none of such moneys shall be withdrawn except for welfare purposes and, upon draft signed by the Treasurer of the Post and at least one other member thereof duly elected for that purpose.

Section 5. This Post shall not solicit another Post or County Organization for purposes of financial aid or relief.

ARTICLE VII – AUXILIARY

Section 1. The Post recognizes an auxiliary organization known as The American Legion Auxiliary Unit of \_\_\_\_\_ Post No. \_\_\_\_\_ The American Legion.

Section 2. Membership in the said Auxiliary Organization shall be governed by such rules and regulations as may be prescribed by the National Executive Committee of The American Legion and thereafter approved by this Department of The American Legion.

ARTICLE VIII – SONS OF THE AMERICAN LEGION

Section 1. This Post recognizes a Sons of The American Legion Organization known as the Sons Of The American Legion Squadron Of \_\_\_\_\_ Post No. \_\_\_\_\_ The American Legion, Department Of New York.

Section 2. Membership in the Sons of The American Legion shall be governed by such rules and regulations as may be prescribed by the National Executive Committee of The American Legion and thereafter approved by The Department of New York Executive Committee.

ARTICLE IX – AMENDMENTS

Section 1. This Constitution is adopted subject to the provisions of the National, Department, and \_\_\_\_\_ County Constitution and By-Laws of The American Legion. Any amendments to said National, Department, or County Constitution and By-Laws which conflict with any provisions hereof shall be regarded as automatically repealing or modifying the provisions of this Constitution to the extent of such conflict.

Section 2. This Constitution may be amended at any regular Post meeting by a vote of two-thirds of the members attending such regular meeting, provided that the proposed amendment shall have been submitted in writing and read at a preceding regular meeting of the Post, and provided further that written notice, including a copy of the proposed amendment shall have been sent to all members at least ten days in advance of the date when such amendment is to be voted upon.

Section 3. Any amendments or changes to this Constitution shall not take affect until first having been approved by the \_\_\_\_\_ County Committee and the Department Executive Committee.

## BY-LAWS

### ARTICLE I – NAME AND OBJECTS

Section 1. The Post existing under these By-Laws is to be known as \_\_\_\_\_, Post No. \_\_\_\_\_, The American Legion, Department of New York, \_\_\_\_\_ County.

Section 2. The objects of this Post are as set forth in the Constitution.

### ARTICLE II – ADMINISTRATION

Section 1. The administration of the Post's affairs, between meetings of the Post, and except as may be otherwise provided in these By-Laws, shall be under the supervision of the Executive Committee.

Section 2. The elective Members of the Executive Committee together with the elective Officers of this Post shall be elected and installed in the month of June, annually. All elections of Officers and Executive Committee Members shall be by ballot and the candidate or candidates receiving the highest number of votes shall be elected to the respective office or offices for which they are candidates, and they shall hold Office until their successors are duly installed or as otherwise provided. Any elective Officer or Executive Committee Member may be removed for inefficiency by the Executive Committee after due notice and hearing as provided by the Department Executive Committee, a two-thirds vote of said Committee being necessary to affect such removal.

Section 3. All vacancies existing in the Executive Committee, or in any Office of the Post from any cause other than the expiration of term of Office shall be filled by a majority vote of the remaining members of the Committee, and a person so chosen shall hold office for the unexpired term of the member of the Committee or Officer who they succeed. A vacancy shall exist when a Member or Officer is absent from their Post for three consecutive meetings if considered by the Executive Committee to be detrimental to the best interests of the Post.

### ARTICLE III – POST EXECUTIVE COMMITTEE

Section 1. The Post Executive Committee shall meet for organization and such other business as may come before it at the call of the Post Commander within ten days after the installation of the new officers. Thereafter the Post Executive Committee shall meet at the call of the Commander at least once a month and as often as said Commander may deem necessary. The Commander shall call a meeting of the Post Executive Committee upon the joint written request of three or more members of said Post Executive Committee; five members of the committee shall constitute a quorum thereof.

Section 2. The Post Executive Committee, subject to the approval of the Post, shall hire such employees as may be necessary; shall authorize and approve all expenditures; shall hear the reports of Post Committee Chairs, and generally, shall have charge of, and be responsible for, the management of the affairs of this Post between meetings of the Post and subject to the approval of the Post; shall require that all Post Officers and members handling American Legion money be properly bonded with a good and solvent bonding and surety company, as surety to cover double the average amount of money handled in a single year; bonds to be approved by the Executive Committee.

## ARTICLE IV – DUTIES OF OFFICERS

Section 1. Duties of Post Commander: It shall be the duty of the Post Commander to preside at all meetings of the Post and to have general supervision over the business and affairs of the Post, and such officer shall be the Chief Executive Officer of the Post. The Commander shall approve all orders directing the disbursements of funds and shall make an annual report covering the business of the Post for the year, and recommendations for the coming year, which shall be read at the annual meeting and a copy thereof immediately forwarded to the County Adjutant. The Commander shall perform such other duties as directed by the Post.

Section 2. Duties of Vice Commanders: The Vice Commanders shall, in the order of their seniority, assume and discharge the duties of the office of Commander in the absence or disability of, or when called upon by the Post Commander.

Section 3. Duties of Post Adjutant: The Adjutant shall have charge of, and keep a full and correct record of, all proceedings of all meetings, keep such records that the Department and National Organizations may require, render reports of membership annually or when called upon at a meeting, and, under direction of the Commander, handle all correspondence of the Post.

Section 4. Duties of the Treasurer: The Treasurer of the Post shall have charge of all finances and see that they are safely deposited in a local bank or banks and shall report, once a month, to the Executive Committee the condition of the finances of the Post, with such recommendations as the Treasurer may deem expedient or necessary for raising funds with which to carry on the activities of the Post. The Treasurer shall sign all checks disbursing the monies of the Post and shall furnish such surety bond in such sum as shall be fixed by the Post Executive Committee.

Section 5. Duties of Post Historian: The Post Historian shall be charged with the individual records and incidents of the Post and Post members and shall perform such other duties as may properly pertain to the office as may be determined by the Post or the Executive Committee.

Section 6. Duties of Post Chaplain: The Post Chaplain shall be charged with the spiritual welfare of the Post comrades and will offer divine, but non-sectarian service in the event of dedications, funerals, public functions, etc., adhere to such ceremonial rituals as are recommended by the National or Department Headquarters from time to time.

Section 7. Duties of Sergeant-at-Arms: The Sergeant-at-Arms shall preserve order at all meetings and shall perform such other duties as may be, from time to time, assigned by the Post Executive Committee.

## ARTICLE V – FINANCES AND DUES

Section 1. The amount of annual Post dues shall be \_\_\_\_\_ dollars, or as otherwise determined from time to time by the Post membership, payable in advance on the 20<sup>th</sup> day of August of each year.

Section 2. A member whose dues for the current year have not been paid by January first shall be classed as delinquent. If their dues are paid on or before February first, the member

shall be automatically reinstated. If the member is still delinquent after February first, the member shall be suspended from all privileges. If the member is still under such suspension on June first of such year, their membership in The American Legion shall be forfeited. A member so suspended or whose membership has been so forfeited may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs, however, that the Post, Department and National Organization may waive the provisions hereof, upon payment of dues for the year in which reinstatement occurs, with reference to former members who have been prevented from the payment of dues by reason of active military service.

Section 3. All Post monies shall be deposited in a duly authorized banking institution as designed by the Post Executive Committee, and none of such monies shall be withdrawn except upon draft or check signed by the Post Treasurer or one other person designated in these By-laws.

Section 4. The general expenses of the Post shall be paid by checks drawn against the general fund signed by the Post Treasurer and countersigned by the Post Commander or, in the absence or inability of the Commander, one of the Post Vice Commanders.

#### ARTICLE VI – DELEGATES

Section 1. The Post shall elect annually such delegates and alternates to represent the Post at all County meetings or County Annual conventions as may be required, pursuant to such proportional representation covering such delegates or alternates as may be provided for by the Constitution and By-Laws of the Department and \_\_\_\_\_ County Organization.

#### ARTICLE VII – APPOINTMENTS

Section 1. The Post Commander, immediately upon taking office each year, shall appoint A Judge Advocate and the following Standing Committees: Membership, House, Finance, Legal, Publicity, Sons of The American Legion, Service, Visiting, Americanism, and Athletic. Such standing committees shall consist of such members, and the Chairs thereof, as shall be designated by the Post Commander.

Section 2. Membership Committee shall have charge of all matters pertaining to the membership of the Post, including procuring of new members, reinstatement, and eligibility of members.

Section 3. House Committee – The House Committee shall have charge of all matters pertaining to the care of the Post quarters, promotion of Club advantages and arrangements for social activities.

Section 4. Finance Committee – The Finance Committee shall be charged with the administration of the financial policy, preparation of budget recommendations, and supervision of receiving, disbursing, and accounting of all Post funds.

Section 5. Legal Committee – The Legal Committee shall be charged with the legal supervision of Post affairs.

Section 6. Publicity Committee – The Publicity Committee shall be charged with the promotion of public support of the Legion's programs by the establishment of proper contact

with The American Legion Magazine, Department, and National Legion news services, and by local publicity of Post programs and activities.

Section 7. Service Committee – The Service Committee shall supervise all matters pertaining to service to comrades in the prosecution of all claims against the United States or State Governments, employment, relief, etc., and community welfare matters.

Section 8. Visiting Committee – The Visiting Committee is charged with the visiting and comforting of members and their families when sick or bereaved and with visiting ex-servicemen in nearby hospitals.

Section 9. Americanism Committee – The Americanism Committee shall be charged with the inspiration of patriotism and good citizenship by arrangements for proper observance of patriotic occasions; encouragement of patriotic and civic phases of instruction in schools; Americanization of aliens; combating anti-American propaganda by education of the general public in American ideals through public forums, etc., and activities for community and civic betterment.

Section 10. Athletic Committee – The Athletic Committee shall be charged with the promotion of physical development and clean sports by the organization of Post athletic teams, recreation, etc., and by cooperation and support in the general recreational and athletic program of the community.

Section 11. Judge Advocate – The Post Judge Advocate shall advise the Post Officers and Post Executive Committee on all legal matters including the construction and interpretation of the Post Constitution and By-Laws and shall perform such duties as are usually incident to the Office, including acting as Chair of the Legal Committee.

#### ARTICLE VIII – RESOLUTIONS

Section 1. All matters of State, National, or International scope that appeal to Legionnaires and the Post may be treated, discussed, and acted upon provided, however, that such action shall be submitted for approval through the prescribed American Legion channels to the body having jurisdiction thereof.

#### ARTICLE IX – MEETINGS

Section 1. The regular meetings of the Post shall be held at the Post Headquarters or a place to be decided upon by the Post, on the \_\_\_\_\_ of each month at which may be transacted such business as may properly be brought up for action; such meetings may be converted into entertainment meetings, as may be deemed advisable by the Post Commander.

Section 2. The Post Commander or a majority of the Executive Committee shall have power to call a special meeting of the Post at any time.

Section 3. Upon the written request of \_\_\_\_\_ Post Members, the Commander or the Executive Committee shall call a special meeting of the Post.

Section 4. \_\_\_\_\_ Members shall constitute a quorum.

Section 5. An annual meeting of the Post shall be held at which the annual reports of the Officers shall be submitted, and such other business transacted as shall be found desirable. The date of such meeting shall be determined by the Post or the Executive Committee.

#### ARTICLE X – NOTICES

Section 1. Each member shall furnish the Post Adjutant with an address for mailing purposes and inform the Adjutant of any change in such address.

Section 2. The Adjutant shall cause to be mailed to each member, at the address furnished by such member, notice of meetings and each special meeting of the Post at least three days prior to such meeting, except as otherwise provided in the Constitution and By-Laws, and all notices as required by the Constitution and By-Laws.

Section 3. Notices of meetings at which nominations or elections of officers are to be held shall specify that such nominations or elections are to be held at such meeting and shall be mailed at least two weeks prior to each such meeting.

#### ARTICLE XI – RULES

Section 1. The order of procedure at meetings of this Post shall be governed by Robert's Rules of Order Newly Revised, except as otherwise provided herein.

#### ARTICLE XII – LIMITATION OF LIABILITY

Section 1. This Post shall not incur, nor cause to be incurred, any liability or obligation whatever which will subject to liability any other Post, subdivision, branch, committee, group, members of The American Legion or other individuals, corporations, or organizations.

#### ARTICLE XIII – AMENDMENTS

Section 1. These By-Laws are adopted subject to the provisions of the National, Department, and \_\_\_\_\_ County Committee Constitution and By-Laws. Any amendments to said National, Department or County Committee Constitution and By-Laws, which are in conflict with the provisions hereof shall be regarded as automatically repealing or modifying the provisions of these By-Laws to the extent of such conflict.

Section 2. These By-Laws may be amended at any regular Post meeting by a vote of two-thirds of the members attending such regular meeting, provided that the proposed amendment shall have been submitted in writing, and read at a preceding regular meeting of said Post, and provided further, that written notice shall have been given to all members at least ten days in advance of the date when such amendment is to be voted upon, notifying said members that at such meeting a proposal to amend the By-Laws is to be voted upon.

Section 3. Any amendments or changes to these By-Laws shall not take effect until first having been approved by the \_\_\_\_\_ County Committee and the Department Executive Committee.

## ARTICLE XIV – TRUSTEES

Section 1. The Post may elect five Trustees from the members of the Executive Committee to serve in accordance with the provisions of the Benevolent Orders Law of New York State and who shall have the care, management, and control under the Benevolent Orders Law of all the temporalities and property belonging thereto, whether real or personal; after the Trustees are first elected they shall, by lot, be assigned a term of one, two, or three years and thereafter all Trustees shall be elected for terms of three years.

Section 2. The Trustees shall not sell, convey, mortgage or dispose of any of the temporalities and property of the Post except by and under its direction duly had or given at a regular meeting thereof, according to its Constitution and By-Laws, and the said Trustees shall at all times obey and abide by the directions, orders, and resolutions of the Post.

Section 3. That in the event the Charter of the Post is suspended, cancelled or revoked by The Executive Committee of the Department of New York, the Trustees then in office shall transfer all of the temporalities and property of the Post to The Department of New York, in accordance with Article III, Section 3 of the National By-Laws of The American Legion.

Section 4. That the Trustees elected may file, in the Office of the Secretary of State, a Certificate of such election, signed and acknowledged by the Commander, 1<sup>st</sup> Vice Commander, and 2<sup>nd</sup> Vice Commander of the Post, stating the time and place of such election and that the same was regular, the names of such Trustees and the term of which they are elected to serve and the name of the Post.

CERTIFICATION OF ELECTION OF TRUSTEES OF

\_\_\_\_\_ Post No. \_\_\_\_\_ The American  
Legion, Department Of New York.

We, the undersigned, do hereby make, sign, acknowledge, and file this Certificate Pursuant to Article 2 of the Benevolent Orders Law of the State of New York as follows:

1. The American Legion \_\_\_\_\_ Post No. \_\_\_\_\_ is duly chartered and instituted in accordance with the Constitution and By-Laws of The American Legion and the people who signed and acknowledged this Certificate are respectively the Commander, First Vice Commander, and Second Vice Commander, the first three elective officers of said American Legion \_\_\_\_\_ Post No. \_\_\_\_\_.

2. The Trustees hereinafter named are members of such Post in full membership and in good and regular standing therein and were elected Trustees of said Post on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, at the Post rooms of said Post at \_\_\_\_\_ Street/Avenue in the \_\_\_\_\_ of \_\_\_\_\_ County of \_\_\_\_\_, New York, that said election was regularly held in accordance with the Constitution and the general rules and regulations of said American Legion and in conformity with its own By-Laws.

3. The names and addresses of said Trustees and the terms for which they were allotted to serve are as follows:

<u>NAME</u>	<u>ADDRESS</u>	<u>TERMS OF SERVICE</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, we have made, signed, acknowledged, and filed this Certificate in duplicate. DATED at \_\_\_\_\_ New York, this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

\_\_\_\_\_  
Commander

\_\_\_\_\_  
First Vice Commander

\_\_\_\_\_  
Second Vice Commander

These Constitution and By-Laws of American Legion Post No. \_\_\_\_\_ were approved/revised at a meeting of the Post membership held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Post Commander

\_\_\_\_\_  
Post Adjutant

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

The above referenced Constitution and By-Laws or revisions thereto for American Legion Post No. \_\_\_\_\_ are approved.

\_\_\_\_\_  
County Judge Advocate

Dated: \_\_\_\_\_