

Revisions Page

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05-10-2023 - Version 2 - Ratified by Post in the general meeting

CONSTITUTION OF AMERICAN LEGION POST NO. 111, 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 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

Section 1. The name of this organization shall be Eagle Mountain Post 111, The American Legion, Department of Utah.

ARTICLE II OBJECTS

Section 1. The objectives and purposes of this Post shall be to promote the principles and policies as set forth in the foregoing preamble, and the National and Departmental Constitutions 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.

Section 2. This organization shall be absolutely nonpolitical and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

Section 3. Rank does not exist in The American Legion; no member shall be addressed by his military or naval title in any meeting of this Post. The use of the expected authority, responsibilities and discretion related

to specific ranks or military branch protocol also does not exist in the Post. A hierarchy of power does not exist; it is shared equally. ¹

ARTICLE IV MEMBERSHIP

Section 1. Eligibility to membership in this Post shall be as prescribed by the National Constitution of The American Legion, as prescribed in The American Legion, Department of Utah Constitution By-Laws and Standing Rules [See Article IV Eligibility - Department of Utah Constitution], and in this Post's By-Laws.

Section. 2. Application for membership shall under such regulations as may from time to time be prescribed by the Post Executive Committee in the Post's By-Laws.

ARTICLE V OFFICERS

Section 1. The administrative affairs of this Post of The American Legion shall, except as may be otherwise provided by the By-Laws, be under the supervision of an Executive Committee. This committee's members, terms of office, and responsibilities are described in the By-Laws. This Post, by its By-Laws, may provide for such other standing committees as the business of the organization may require.

Section 2. The minimum officers of this Post shall be a commander, two vice-commanders, an adjutant, a finance officer, a Post historian, a Post chaplain, Post service officer and a sergeant-at-arms, and such other officers as may be deemed necessary by this organization. The nomination criteria is described in the By-Laws.

Section 3. Officer's Guide, page seven. "The post constitution and by-laws determine the dates for nomination and election of officers. These should agree with the department constitution and by-laws.

Section 4. For best communications between the post and department, it is desirable for posts to conduct elections near the same date each year, with the results promptly reported to the department.

Section 5. All Officers shall be certified to the Department Adjutant as outlined in the current Department's constitution, bylaws and standing rules.

¹ Protocol is the strict form of etiquette and diplomatic courtesy, customs of service (system of accepted social patterns and traditions accepted by the military) and common courtesies (the traits of kindness, friendliness, thoughtfulness and consideration of others) to create order.

Section 6. Such Officers shall be responsible for upholding the principles of the American Legion and effecting the Post alignment to decisions and regulations set down by duly constituted bodies of the American Legion.

Section 7. The duties of post officers and the executive committee shall be those usually appertaining to such officers or committee and as further provided in the By-Laws.

Section 8. Checks and Balances between the Post Officers and the Post Members are established in the Post Constitution and By-Laws. The Post Officers only have the powers given to them in the Constitution and ByLaws by the vote of the members. The Constitution and By-Laws also provide a method to remove ineffective or authoritarian officers. The Post members can vote to reverse any decision made by the officers or executive committee if the officers or executive committee have not been granted that specific power by the Constitution and By-Laws.

ARTICLE VI FINANCE

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 Executive Committee.

Section 2. The amount of such membership or initiation fees and the amount of such annual Post dues shall be fixed and determined by this Post and as further provided in the By-Laws

Section 3. The Post shall pay to Departmental headquarters the National and Departmental annual membership dues for every member of the Post.

ARTICLE VII AMERICAN LEGION AUXILIARY

Section 1. This Post recognizes an auxiliary organization when it is established.

Section 2. Membership in the Auxiliary shall be as prescribed by the National Constitution of the American Legion Auxiliary and Department of Utah Constitution, By-Laws and Standing Rules.

ARTICLE VIII THE AMERICAN LEGION RIDERS

Section 1. The Post recognizes The American Legion Riders to be known as The American Legion Riders Chapter 111 of Eagle Mountain.

Section 2, Membership in this organization shall be prescribed by the National Constitution of the American Legion and the National SOP of the American Legion Riders.

Section 3. By-laws may be established that are specific to the American Legion Riders. These by-laws can be maintained separately or as combined with the Post's By-laws as separate Articles in those By-laws.

ARTICLE IX AMENDMENTS

Section 1. This Constitution is adopted subject to the provisions of the National Constitution of The American Legion and of the Constitution of the Department of Utah, The American Legion. Any amendment to said National Constitution or Department Constitution which is in conflict with any provisions hereof shall be regarded as automatically repealing or modifying the provisions of this Post's Constitution to the extent of such conflict.

Section 2. This Constitution may be amended as prescribed in the Post By-Laws.

Section 3: The post's constitution and by-laws shall be modified to meet changes to the Department of Utah Constitution, By-Laws and Standing Rules, as outlined in Article V, Department Convention, Section 12. These changes shall be discussed and voted on by the Post's Executive Committee.²

ARTICLE X OMISSIONS

Section 1. Any question of procedure not otherwise provided for in this Constitution or the Post By-Laws, will first be governed by the National or Department of Utah Constitution, By-laws and Standing Rules.

Section 2: If no governance is found in those sources in Section 1, then Article IX Amendment of the Post Constitution and/or Article XI Amendment of the Post By-Laws applies.

Section 3. If governance is required by the Department of Utah, then the Post will use the Department of Utah's Resolution process to affect that change.

² **Section 12 [As of 2-13-23] included here for clarity.** "Amendments to the Department Constitution and By-Laws shall become operative immediately upon adoption. Immediately upon adjournment of the Department Convention, all Posts in the Department shall be notified by the Department Adjutant in appropriate manner of all changes in; and to the Department Constitution and By-Laws, and it shall be mandatory that all Posts change their respective Constitutions and By-Laws to conform thereto. The Department Constitution may "only" be changed during Department Conventions and upon receipt of a duly processed resolution, the Department Bylaws and Standing Rules may be changed through resolution form by the Department Executive Committee upon receipt of a duly processed resolution."

Section 4. If questions arise on American Legion policies or procedures, the Commander or assigned member of the Executive Committee will contact the district or department officers for clarification [Page 5, Officer's Guide].

(This area is left blank to allow notation of future amendments.)

BYLAWS OF THE EAGLE MOUNTAIN POST 111, THE AMERICAN LEGION, DEPARTMENT OF UTAH

By-Laws ARTICLE I POST NAME

Section 1. The Post existing under these By-Laws is to be known as Eagle Mountain, Post 111, The American Legion, Department of Utah.

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

By-Laws ARTICLE II MANAGEMENT and ELECTIONS

Section 1. The government and management of the post is entrusted to a committee to be known as the Post Executive Committee.

Section 2. The Executive Committee shall consist of the following members.

Commander
1st Vice-Commander
2nd Vice-Commander
Finance Officer
Adjutant
Chaplain
Historian
Judge Advocate
Sergeant-at-Arms
Service Officer
Three Executive Committee Members-at-Large.

Section 3. The officers of the Post and together with the other officers of this Post shall be elected near the same date annually and take office at the meeting next following that of the election. All elections of officers and executive committee members should follow the Officer's Guide, IV. Nominations and Elections procedures in all Post elections.

Section 4. All vacancies existing in the Executive Committee, or in any office of the Post from any cause other than the expiration of the term, shall be filled by a majority vote of the remaining members of the

committee, and a person so appointed shall hold office for the unexpired term of the member of the committee or officer who succeeded.

A vacancy shall exist when a Member of the Executive Committee is absent without just cause for a continuous period of two (2) consecutive General or Executive Committee meetings. Reasons constituting a just cause shall be determined by the remaining Members of the Executive Committee.

Section 5. All Officers of this Post will be elected by the Post as prescribed herein, with the following exceptions: Post Adjutant, Judge Advocate, and Post Service Officer who will be appointed by the Post Commander-elect and their names submitted to the Executive Committee for approval following their appointment and prior to installation into office. An elected Officer may also hold an appointive office, but may not concurrently hold more than one elected office.

Majority vote is necessary if there is no by-law to the contrary. Plurality vote never elects except by special by-laws. A person ineligible to hold office at the time of election cannot be elected even by unanimous vote.

The usual methods of election are by voice, or by ballot (a secret vote). The by-laws may provide that election shall be by ballot except when there is but one candidate for office, the election may be by voice.

The ballot vote is the fairest vote when there is more than one choice for an office. When the by-laws require the vote to be taken by ballot, it is out of order to move that the adjutant or any other person shall cast the ballot of the assembly, as ballot vote is a secret vote and each voter must cast their own ballot.

Election by Voice

The election to office may be by voice, and vote taken on each candidate separately, or the assembly may, by a majority vote, order the vote taken on the ticket as a whole when there is but one candidate for each office.

By-Laws ARTICLE III POST EXECUTIVE COMMITTEE

Section 1. The Post Executive Committee shall meet regularly as an organization. They shall address any business as may come before it at the call of the Post commander as soon as reasonably possible after the installation of the new officers. Thereafter the Post Executive Committee shall meet at the call of the commander at least every two months 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.

Two thirds of members of the committee present at any meeting, shall constitute a quorum thereof.

Section 2. Executive Committee Duties. The Executive Committee will exercise general supervision over the management and affairs of the Post. Their duties shall consist of, but not be limited to, the following:

- Present to the Post a projected annual budget at the beginning of each fiscal year.
- Should require that all persons having custody of Post funds secure an adequate bond when deemed necessary.
- The Post will pay the premium for such bonds.
- Approve each place of deposit of Post funds
- Examine the reports of Post Officers and Committees and recommend any appropriate actions.
- Ensure that at the beginning of each new term of Post officers, a complete independent audit and report on all Post finances/assets are performed.
- Keep full minutes of all meetings and report the same at the next regular Post meeting.
- Investigate and make recommendations to the Commander on all matters he or she requests.
- Submit Written charges against any Post Officer under the Rules Governing Trials of The American Legion Department of Florida. Officers are elected by the membership and can only be removed by a trial in front of the membership.]

Section 3. Officers limited scope of responsibility. Officer position discretion is limited, in that the use of discretion is limited to those specific actions and responsibilities outlined in the Post constitution or bylaws or standing rules. It is not absolute or expansive beyond those specific actions.

Any changes in responsibility must be agreed to by a simple majority of the post executive committee, and when appropriate added to the Post's constitution or bylaws or standing rules. This limitation applies to all Post Officers.

By-Laws ARTICLE IV DUTIES OF OFFICERS

Section 1. 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 disbursement of funds and shall make an annual report covering the business of the Post for the year, and recommendations for the ensuing year, which shall be read at the annual meeting and a copy

thereof immediately forwarded to the Department adjutant. The commander shall perform such other duties as directed by the Post.

Section 2. First Vice-Commander. The First Vice-Commander shall assume and discharge the duties of the office of commander in the absence or disability of, or when called upon by the Post commander. In addition, enhancing membership is the primary assignment of a first vice commander.

Section 3. Second Vice Commander. The Second Vice Commander shall, in the absence of the Commander and First Vice Commander, discharge the duties of the office of commander. In addition, the Second Vice Commander shall focus on making contact with other veterans and civic groups to verify each patriotic holiday and observance receives the respect it deserves.

Section 3. Post Adjutant. The adjutant shall have charge of and keep a full and correct record of all proceedings of all meetings, keep such records as 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. Finance Officer/Treasurer. The finance officer/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 may deem expedient or necessary for raising funds with which to carry on the activities of the Post. The finance officer/treasurer shall provide one of two required signatures on all checks disbursing the monies of the Post, and shall furnish such surety bonds in such sum as shall be fixed by the Post Executive Committee.

Section 5. 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. Post Chaplain. The Post chaplain shall be charged with the spiritual welfare of the Post members and will offer divine but nonsectarian 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. Sergeant-at-Arms. The sergeant-at-arms shall preserve order at meetings and shall perform such other duties as may be from time to time assigned by the Post Executive Committee.

Section 9. Post Service Officer. The Post Service Officer (PSO) is charged with the responsibility of being the initial point of contact regarding Veteran benefits and issues by providing basic information and assistance. It is critically important for the PSO to work with a professional Department Service Officer (DSO)..

The PSO shall ensure any paperwork submitted by the Veteran is forwarded to the DSO in a timely manner, to ensure proper benefit service. While familiarity with VA laws and regulations pertaining to filing claims, as well as the policies and guidelines established by the National VA&R Commission are helpful, what is most important of a PSO is to coordinate efforts and assist the Veteran or dependent to work with an accredited American Legion DSO.

Section 11. Judge Advocate. The Judge Advocate should interpret the Constitution and Bylaws of the Post, Department and National organizations and Post Standing Rules if the post has such a document as well as Robert's Rules of Order (Current Edition) when not covered by the Constitution and Bylaws.

By-Laws ARTICLE V DELEGATES

Section 1. Delegates and alternates to a Department convention shall be elected at a regular meeting of the Post to be held at least 20 days prior to the date of such convention, or as stated in the Department of Utah By-Laws, Article V Delegates.

By-Laws ARTICLE VI APPOINTMENTS

Section 1. Annual Standing Committee Review. The Post commander, immediately upon taking office each year, shall review the standing committees associated with the post. The commander shall seek the advice of the Post Executive committee on the current standing committees. Based on this advice, the commander should 1) determine which standing committees should continue from the prior year, be created, or need a change in the chair. 2) The commander shall appoint members to standing committees. However, the commander can delegate making these appointments to members of the Post Executive Committee.

These are the possible standing committees: Americanism, Ceremonials, Children and Youth, Economic, Finance, Foreign Relations, Graves Registration and Memorial, House and Entertainment, Legislative,

Membership, Public Relations, Veterans Affairs and Rehabilitation, National Security, Sons of The American Legion and Visiting or VAVS. These standing committees shall consist of such members, and the chair thereof, as shall be designated by the Post commander.

Section 2. Regular Review. These standing committees should be reviewed on a regular basis throughout the year. Potential changes to these standing committees, including appointments shall be presented by the commander or delegated officer to the post executive committee.

Section 3. Changes. These changes to the standing committees and appointments should be ratified by a simple majority of the Post Executive Committee, either prior to extending the appointment or by the next Post Executive Committee meeting. These changes should be presented at the next regularly scheduled meeting by way of announcement to members of the post. These changes do not need to be ratified, unless it is decided to do so by the commander and post executive committee..

Section 4. Delegation. The commander retains the overall responsibility for the success of the standing committees. However, the commander can delegate or assign oversight, actions and certain responsibilities of specific standing committees to members of the post executive committee. For example, oversight of youth programs can demand substantial focus and time at various times of the year.

Section 5. Stewardship Updates. The assigned post executive committee member shall provide regular updates on their stewardship to the commander and post executive committee. The committee chairs shall provide regular updates of their committee.

By-Laws ARTICLE VII RESOLUTIONS

Section 1. All resolutions of state or national scope presented to this Post by a member or reported to this Post by a committee shall merely embody the opinion of this Post on the subject and copy of same shall be forwarded to the Department headquarters for approval before any publicity is given or action other than mere passage by the Post is taken.

By-Laws ARTICLE VIII MEETINGS

Section 1. The regular meeting of the post shall be held at a location known by and conveyed to the membership at least once a month, at which may be transacted such business as may properly be brought up for action. Such meetings may be converted into social meetings, as may be deemed advisable by the officers of the post.

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 subject to the conditions outlined in By-Laws, Article III, Post Executive Committee.

Section 3. Upon the written request of 5% of the post members, the committee shall call a special meeting of the Post. This is not the same meeting called by the post executive committee in By-Laws Article III, Post Executive Committee, Section 1.

Section 4. Attendance at Post Sponsored Activities and Events. It is important for Post members to show their support of Post sponsored activities and events by attending as many of them as possible.. The community does notice Post members at activities and events. Their presence gives a strong impression of the Post's involvement in, and commitment to the community.

Officers shall attend 40-50 percent of Post affiliated with or sponsored events and activities. Officers shall discuss scheduling conflicts with the Post Commander. Attendance at these events and activities are in addition to formal Executive Committee and General Meetings.

Non-officer Post members are also strongly encouraged to attend these activities and events.

By-Laws ARTICLE IX NOTICES

Section 1. Every member shall furnish the Post adjutant with an address for mailing. A good email address is strongly encouraged.

Section 2. The Post adjutant shall cause notice of the annual election to be given at least two weeks prior thereto.

By-Laws ARTICLE X

RULES OF ORDER

Section 1. All proceedings of this Post shall be conducted under and pursuant to Roberts' Rules of Order, except as herein otherwise provided or stated by the chair of that meeting.

Section 2. Every effort should be made to follow these rules in all official post meetings. However, any error or omission in the execution of any rule, shall not invalidate any actions, decisions, or discussion made during or after the improper execution of those rule(s).

- **Section 3.** This situation is a time for training in the proper execution of the rules. The commander and post executive committee can appoint a post member to be a parliamentarian. This person's responsibility is found in the footnote below.³ The JAG officer can take over the responsibilities in lieu of a specific assigned post member.

By-Laws ARTICLE XI

MEMBERSHIP

Section 1. Eligibility to membership in this Post shall be as prescribed by the National Constitution of The American Legion, as prescribed in The American Legion, Department of Utah Constitution By-Laws and Standing Rules [See Article IV Eligibility - Department of Utah Constitution], and in this Post's By-Laws.

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.

³ Parliamentarian: Post member serves as the expert on parliamentary procedure.

Duties of the parliamentarian before a meeting:

- Review the agenda with the president
- to be familiar with the business and possible procedural problems that may arise.
- Review and know the bylaws and standing rules of the organization.
- Work with any committee members who request assistance in preparing reports for the meeting.

Duties of the parliamentarian during a meeting:

- Arrive early to counsel as needed and remain after the meeting for further counsel.
- Have a copy of the governing documents at the meeting.
- Keep track of the motions to assist the presiding officer.
- Be as inconspicuous as possible.
- Provide advice when requested, and communicate with the president tactfully and discreetly.
- Remain impartial, and be prepared to cite references if needed.

Section 3. All applications for membership shall be acted upon at the next Post meeting following the making of such application, and shall at such meeting, be accepted, rejected or referred for further investigation and consideration.

If two thirds of the membership of the Post PRESENT at a post meeting cast their vote against the acceptance of said application, then such application shall be recorded as rejected. A rejected application shall not again be considered until after the expiration of six months from the date of such rejection.

Section 4. Members may be suspended or expelled from membership in The American Legion upon proper showing of cause by a two thirds vote of the membership of the Post present and voting at the next general meeting. Charges shall be based upon disloyalty, neglect of duty, dishonesty, or conduct unbecoming a member of The American Legion.

All charges must be made under oath, in writing, by the accusers, and no member in good standing shall be suspended or expelled from membership until given a fair trial by the Post. Any member who has been suspended or expelled pursuant to this section and the procedure provided by the local Post, shall have the right to appeal such suspension or expulsion to the Department Executive Committee. The decision of the Department Executive Committee shall be final.

Section 5. A member who has been expelled or suspended from this Post for any cause may be reinstated to membership by a two-thirds vote of the membership present at the next Post meeting,

If the reinstatement occurs in the same membership year as the suspension or expulsion, then any forfeited dues shall be reinstated.

Section 6. No person who has been expelled by a Post 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 denied by such Post, may then appeal to the state Executive Committee of the Department of the expelling Post for permission to apply for membership in this Post, and shall be ineligible for membership until such permission is granted.

Section 7. Membership Dues. American Legion membership is annual, the Legion year being from January 1 to December 31. If one is not using online membership renewal, dues are payable to the Post Adjutant by October 20 in advance. If dues are not paid by January 1 of each calendar year, the member becomes delinquent. If dues have not been paid by March 1, the member is suspended, but nevertheless a member with no privilege except that of reinstatement by post vote and payment of dues. If dues not

being paid, such membership continues for five months, to June 30, at which time the member is dropped from the roll by constitutional mandate and membership forfeited.

Section 8. Override. The constitution and/or By-Laws of the Department of Utah addressing membership will override any Post requirement in this specific article.

By-Laws ARTICLE XII AMENDMENTS

Section 1. The Post Constitution and By-Laws may be amended at any regular Post meeting by a vote of two-thirds of the members of said Post attending such regular meeting; provided that the proposed amendment shall have been submitted in writing and read at the next regular meeting of said Post.

Provided, further, that written notice shall have been given to all members at least 30 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 2. These changes shall become effective immediately after receiving approval by the Department Judge Advocate.

By-Laws Article XIII District By-Laws

Section 1. Certain Department By-Laws refer to actions or activities that must be taken by each post. Those specific things also apply to the Post By-Laws. The Post will refer to those things in the Department By-Laws, rather than repeating those things here.