# *BY-LAWS*

# *OF*

# *THE NORTH DAKOTA AMERICAN LEGION FOUNDATION*

Amended June 23, 2023

**Index to the Bylaws of the**

**North Dakota American Legion Foundation**


ARTICLE I – FOUNDATION OFFICE
ARTICLE II – PURPOSE
ARTICLE III – MEMBERS AND MEETINGS
1. MEMBERS
2. ANNUAL MEETING
3. SPECIAL MEETINGS
4. NOTICE OF MEETING
ARTICLE IV – BOARD OF DIRECTORS
1. GENERAL POWERS
2. NUMBER, TENURE, QUALIFICATIONS AND RESPONSIBILITIES
3. REGULAR MEETINGS
4. QUORUM
5. NEWLY CREATED DIRECTORSHIPS AND VACANCIES
6. REMOVAL OF DIRECTORS
7. RESIGNATIONS
8. COMPENSATION
9. PRESUMPTION OF ASSENT
10. EXECUTIVE AND OTHER COMMITTEES
11. REPORTS
ARTICLE V – OFFICERS
    1. NUMBER
    2. DUTIES
A. CHAIR
B. VICE-CHAIR
C. SECRETARY
D. TREASURER
ARTICLE VI – FINANCIAL POLICIES
    1. CONTRACTS
    2. LOANS
    3. CHECKS, DRAFTS, ETC.
    4. DEPOSITS
    5. FISCAL YEAR
    6. ACCOUNTABILITY
    7. CONTRIBUTIONS FROM OTHERS
ARTICLE VII – DISSOLUTION
ARTICLE VIII - AMENDMENTS

**ARTICLE I - FOUNDATION OFFICE**

The Office of the North Dakota American Legion Foundation shall be at 405 West Main Ave., Suite 4-A, West Fargo, North Dakota 58078 or at the location selected by the Foundation's Board of Directors.

**ARTICLE II - PURPOSE**

This foundation's purpose is to solicit and accumulate investments of cash, securities or other assets deemed appropriate, to be endowed in various Foundation funds. Those funds will be prudently invested to provide an income stream, a portion of which is to be distributed annually to support American Legion Programs, other patriotic efforts, and educational or other charitable uses appropriate for this Foundation.

Uses shall not include any activities consisting of attempts to engage in partisan political activities or participation in any political campaign on behalf of any elected official or person who is or has been a candidate for public office. Notwithstanding any other provision hereof, this foundation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt under Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization contributions to which are deductible under Section 170(c)(2) of such Code and Regulations as they now exist or as they may hereafter be amended. The foundation shall also comply with all requirements under North Dakota income tax law (N.D.C.C. § 57-38-01.21) as further described in N.D.C.C. Ch. 59-21, referred to as the Uniform Prudent Management of Institutional Funds Act (UPMIFA) to ensure eligible donation qualify for the qualified endowment tax credit.

**ARTICLE III - MEMBERS & MEETINGS**

**1. MEMBERS**

There shall be no individual members of the North Dakota American Legion Foundation until and unless the Articles of Incorporation are amended to provide for members.

**2. ANNUAL MEETING**

The Annual Meeting of the Foundation shall be held in conjunction with the Department Winter conference, beginning with the year 2009, or at such other time and place as designated by the Board of Directors with due notice as is hereinafter provided.

**3. SPECIAL MEETINGS**

The Chair or any two Directors may call special meetings; however, the Secretary must give notice in writing personally, by mail, or by electronic means, as provided below in Section 4.

**4. NOTICE OF MEETING**

Written or printed notice stating the physical location or the electronic meeting invitation, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than three days before the date of the meeting, either personally, by mail, or by electronic means, by or at the direction of the Chair, the Secretary, or the Directors requesting such meeting, to each Director of record entitled to vote. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the Directors at their addresses as they appear on the records of the Foundation, with postage thereon prepaid.

## ARTICLE IV - BOARD OF DIRECTORS

### 1. GENERAL POWERS

The business and affairs of the Foundation shall be managed by the Board of Directors. The Directors shall in all cases act as a Board, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Foundation, as they may deem proper, not inconsistent with these By-Laws and the laws of the State of North Dakota.

Notwithstanding any other provision hereof, no power or authority shall be exercised by the Board of Directors in any manner or for any purpose whatsoever which may jeopardize the status of the foundation as an exempt organization under Section 501(c)(3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended; nor shall the Board of Directors engage in any act of self-dealing as defined in Section 4941(d) of the Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws; nor retain any excess business holdings as defined in Section 4943(c) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws; nor make any investments in such manner as to incur tax liability under section 4944 of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax laws; nor make any taxable expenditures as defined in Section 4945(d) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent federal tax law.

### 2. NUMBER, TENURE, QUALIFICATIONS AND RESPOSIBILITIES

The number of Directors of the Foundation shall be not less than seven, and shall consist of:

a. A Chair of the Board nominated by the Department Commander and confirmed by the Department Executive Committee, who shall serve without term limitations.

b. One Director shall be appointed from each of the Departments' three regions. Terms of office shall commence when appointed at the Department Convention and terminate at the end of the Annual Meeting at which their term(s) expire or upon resignation or removal as provided for in Article IV, Section 8. Upon the expiration of the term of one of the three Regional Board Members, The Department Commander, with the concurrence of the Department Executive Committee, will nominate a successor for a three-year term. These Directors shall be limited to serving three consecutive terms.

c. One Director shall be the Detachment Commander of The Sons of the American Legion or its designated representative.

d. One Director shall be The Department Finance Officer.

e. One Director shall be The Department Adjutant who shall also serve as Secretary of the Foundation.

Ex-officio non-voting members of the Board of Directors shall include The Department Judge Advocate and, **with the intent that at least one of the following would be able to attend**: From the North Dakota Department of The American Legion – Department Commander, Department Commander-Elect or the Immediate Past Department Commander; from The Sons of the American Legion - Detachment Commander - Elect or the Immediate Past Commander.

Additional Board members may be approved by the Executive Committee, Department of North Dakota, as required at the request of the NDAL Foundation Board of Directors. A Director shall be a member in good standing of The American Legion or a member in good standing of one of The American Legion's affiliated organizations. Each Director shall hold office until his successor shall have been elected and qualified as

provided in the Articles of Incorporation. Directors shall be responsible for identifying potential donors and aiding in the solicitation of donations to this Foundation.

**3. REGULAR MEETINGS**

An Annual Meeting of the Directors shall be held without other notice than this By-Law at the time and place as provided in Article IV, Section 5. The Directors shall meet regularly and may provide, by resolution, the time and place for holding meetings without other notice. Meetings may be held via conference call or other electronic means.

**4. QUORUM**

At any meeting of the Directors, as then constituted**,** a majority thereof shall constitute a quorum for the transaction of business. The act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Directors and this Foundation.

**5. NEWLY CREATED DIRECTORSHIPS AND VACANCIES**

Newly created directorships resulting from an increase in the number of Directors and/or vacancies occurring in the Board for any reason shall be filled by a vote of a majority of the Board if Directors with confirmation by the Executive Committee, The American Legion, Department of North Dakota.

A vacancy causing an unexpired term shall be filled by the remaining Directors at the next meeting. A Director elected to fill a vacancy caused by resignation, death, inactivity, or removal, shall be elected to hold office for the unexpired term of his predecessor.

**6. REMOVAL OF DIRECTORS**

Any or all of the Directors may be removed for cause by action of the Board. Directors may be removed without cause such as, but not limited to, resignation, death, lack of participation, or whatever cause deemed important in the direction of the majority of the Board of Directors as then constituted.

**7. RESIGNATION**

A Director may resign at any time by giving written notice to the Board, the Chair, or the Secretary of the Foundation. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Board or such officer and made a part of the Foundation record. The acceptance of the resignation shall not be necessary to make it effective.

**8. COMPENSATION**

No compensation shall be paid to Directors, as such, for their services. However, by resolution of the Board a fixed sum or the actual or partial expenses incurred for attendance at each regular or special meeting of the Board may be authorized.

**9. PRESUMPTION OF ASSENT**

A Director of the Foundation who is present at a meeting of the Directors at which action on any Foundation matter is taken shall be presumed to have assented to the action taken unless his/her dissent shall be entered in the minutes of the meeting or unless he/she shall file his/hers written dissent to such action with the person acting as the Secretary of the meeting before the adjournment. Such right to dissent shall not apply to a Director who voted in favor of such action.

**10. EXECUTIVE AND OTHER COMMITTEES**

The Board, by Resolution, may designate an Executive Committee and other committees, each consisting of one or more Directors; each such committee shall serve at the pleasure of the Board.

The Board, from applications for said position, may select a Liaison Committee, consisting of a representative from the North Dakota Department of The American Legion, Auxiliary and/or Sons of The American Legion in each District to serve as ambassadors for the Foundation in their respective districts. Any member of the Department of North Dakota in good standing at the time of appointment is eligible to serve on ad hoc committees.

**11. REPORTS**

The Foundation Board of Directors shall render an annual report of their activities, including a financial summary, to the Department Executive Committee with copies available to any member of the Legion family who make a request.

**ARTICLE V - OFFICERS**

**1. NUMBER**

Directors shall serve as the officers of the Foundation as provided in Article IV, Section 2, a, d, and e. Any other officers deemed necessary may be elected or appointed by the Directors.

**2. DUTIES**

**A. CHAIR**

The Chair shall be the principal executive officer of the Foundation and, subject to the decisions of the Board of Directors, shall in general supervise and control all the business and affairs of the Foundation. He shall preside over meetings. He may sign, with the Secretary or any other proper officer of the Foundation thereunto authorized by the Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Directors or by these By-Laws to some other officer or agent of the Foundation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of Chair and such other duties as may be prescribed by the Directors from time to time.

**B. VICE- CHAIR**

In the absence of the Chair or in event of his death, inability, or refusal to act, a Vice-Chair may be elected from the remaining Directors who shall perform the duties of the Chair, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chair.

**C. SECRETARY**

The Secretary shall keep the minutes of the Directors' meetings, see that all notices are duly given in accordance with the provisions of these By-Laws or as required, be custodian of the Foundation records; keep a register of the post office address of each Director; and in general perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to the Secretary by the Chair or by the Directors.

**D. TREASURER**

If required by the Directors, the Treasurer shall give a bond for the faithful discharge of his/her duties in such sum and with such surety or sureties, as the Directors shall determine. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the Foundation; receive and give receipts for monies due and payable to the Foundation from any source whatsoever, and deposit all such monies in the name of the Foundation in such banks, trust companies or other depositories as shall be selected in accordance with these By-Laws and in general perform all of the duties incident to the office of the Treasurer and such other duties as from time to time may be assigned to the Treasurer by the Chair or by the Directors.

## ARTICLE VI - FINANCIAL POLICIES

**1. CONTRACTS**

The Directors may authorize any officer or officers, agent, or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Foundation, and such authority may be general or confined to specific instances.

**2. LOANS**

No loans shall be contracted on behalf of the Foundation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Directors. Such authority may be general or confined to specific instances.

**3. CHECKS, DRAFTS, ETC.**

All checks, drafts, or other orders for the payment of money, notes, or other evidence of indebtedness issued in the name of the Foundation, shall be signed by such officer or officers of the Board in such manner as shall be determined by resolution of the Directors.

**4. DEPOSITS**

All funds of the Foundation not otherwise committed or invested shall be deposited monthly to the credit of the Foundation in such banks, trust companies or other depositories pursuant to the Revenue - Receipt and Processing of Donations policy.

**5. FISCAL YEAR**

The fiscal year of the Foundation shall begin on the First day of January in each year.

**6. ACCOUNTABILITY**

The Board shall make an administrative report annually to the Department Executive Committee. This report shall also be made available to any person requesting it. A reasonable charge may be required for copies of this report.

**7. CONTRIBUTIONS FROM OTHERS**

If any person or persons at any time is or are disposed to make gifts or bequests to the Foundation, power and authority is hereby conferred upon the Board to receive such gifts and bequests and to apply the principal to the endowment and to use the income there from for the purposes of this Foundation, under the powers, authorities, and discretions contained in this agreement; provided, that such gifts or bequests are not made upon any terms or conditions that would conflict with the uses, purposes, and provisions of this agreement and

the administration thereof by the Board, except that restrictions in such gifts and bequests may be agreed to by the Board and accepted subject thereto.

**ARTICLE VII – DISSOLUTION**

Upon dissolution of the organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future tax code, or shall be distributed to the federal government for a public purpose. Restricted use endowments shall be distributed to the North Dakota Community Foundation located in Bismarck, ND where the management of such endowments shall be in accordance to the terms established by the original contributor and donor. Any assets not disposed of shall be disposed of by the North Dakota District Court in of the county in which the principal office of the organization is then located, exclusively for such purposes of such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

**ARTICLE VIII - AMENDMENTS**

These By-Laws may be altered, amended, or repealed and new By-Laws adopted by a majority of the Directors at any regular Directors' meeting or at any special Directors' meeting when the proposed amendment has been set out in the notice of such meeting. The Department Executive Committee shall be apprised of all such actions.

Adopted - June 18, 1993

Amended - August 15, 1993

Amended - August 19, 1995

Amended - August 5, 2001

Amended - June 27, 2009

Amended - January 31, 2014

Amended - June 23, 2023