CONSTITUTION AND BY-LAWS OF

THE AMERICAN LEGION

FERGUS POST NO. 16

CONSTITUTION OF

THE AMERICAN LEGION

FERGUS POST NO. 16

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 principals 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 association or organization shall be: "Fergus Post No. 16, American Legion, Department of Montana."

ARTICLE II

NATURE & PURPOSE

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 and Departmental Constitutions of the American Legion.

Section 2. The American Legion is a civilian organization; membership therein does not affect or increase liability for military or police service. Rank does not exist in the Legion; no member shall be addressed by his military or naval title in any convention or meeting of The American Legion.

Section 3. While requiring all members of the organization to perform their full duty as a citizen according to their own conscience and understanding, this organization shall be non-partisan in politics 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.

ARTICLE III

MEMBERSHIP & ELIGIBILITY

Section 1. Eligibility for membership in this Post shall be governed by the provisions of the National Constitution of the American Legion. An individual is eligible for membership in The American Legion only if the individual -

1. Has 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. Any time 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 discharged or separated from that service or continues to serve honorably during or after that period or 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. There shall be no form or class of membership except an active membership, and dues shall be paid annually, or in multiple-year increments or for life.

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

Section 4. No person who has been expelled by a Post shall be admitted for membership in any other Post without the consent of the expelling Post. If consent has been asked for and denied by the outgoing Post, he or she may then appeal to the Department Executive Committee for permission to apply for membership to another Post and shall be ineligible for membership until such permission is granted.

Section 5. This Post shall examine the qualifications of all those who seek membership, to include the review of appropriate documentation that reflects proof of honorable military service needed to determine eligibility. This Post shall pay its dues to the District and Department on the basis of its enrolled membership, and its voting rights shall be based upon said enrolled membership.

Section 6. No person shall be a member of an organization, which has its aim the overthrow of the United States government by force or violence or who subscribes to the principles of any group opposed to our government, shall be eligible to become or remain a member of The American Legion.

Section 7. Any person has the right to support or oppose a policy or legislative matter as an individual, however, no person may act, represent, or speak on behalf of the National American Legion, the Department, or Post that would imply support for or against any current or potential policy or legislative matter that would directly oppose the position that the American Legion, Department, or Post has chosen to support. This includes both direct and indirect representation in the wearing or displaying of an American Legion hat, shirt, jacket, vest, or any other clothing displaying the American Legion emblem.

Section 8. This Post shall not engage in any public dispute, debate, or action concerning the policies of The American Legion or other significant matters without the approval of the Post and Department Executive Committee.

Section 9. This Post shall have the power to suspend or expel any of its members for violation of its rules or conduct detrimental to the American Legion, upon fair and impartial trial, after due notice thereof has been given together with a copy of the charges made against him/her or by whom preferred.

ARTICLE IV

AMERICAN LEGION POST AND CLUB

Section 1. Fergus Post No. 16, American Legion, Department of Montana will consist of the American Legion Post and the American Legion Club. The administrative affairs of the Post shall be conducted by the Post, while the business/building administration of the Club will be conducted by a Board of Trustees. Members of the Post can be members of the Board of Trustees, and members of the Board of Trustees can be Officers of the Post, however duplicative positions can not be held between them. Finances of the Post and Club shall be separate, distinct entities, with individual reporting. The Post can exist without the Club but the Club can not exist without the Post.

ARTICLE V

OFFICERS

Section 1. Annually this Post shall elect the following named Post Officers, who shall hold office until their successors have been elected and qualified.

1. Commander
2. Vice Commander
3. Finance Officer
4. Sergeant at Arms
5. one Trustee

Section 2. Annually this Post shall also elect, or the Post Commander may appoint with the approval of the Post Executive Committee, a Post Adjutant, Post Chaplain, Post Historian, Post Service Officer, and any other Post Officers the Post deems necessary to conduct the business of the Post. These elected, or appointed, officers do not carry a vote on the Post Executive Committee. These elected, or appointed, officers may be filled from the above elected officers of the Post, but no officer shall hold more than one elected and one appointed position within the Post.

Section 3. The term of office for all elected and appointed officers will be for one (1) year, except for the Trustees who shall hold office for five (5) years and will be on staggered terms.

Section 4. Every member of this Post in good standing at the time of election shall be eligible to hold offices within this Post and the Post Board of Trustees. Members of the Auxiliary Unit of American Legion Fergus Post 16, and the Sons of the American Legion Fergus Post 16 shall be eligible for the Board of Trustees, but cannot serve as the voting Trustee on the Executive Committee.

Section 5. The term of all Post officers shall begin on or before July 1st. All officers of the Post, except the Post Adjutant, Post Service Officer, and Post Judge Advocate, shall be elected/appointed and certified to the Department Adjutant, no later than May 15th. Certification of all officers shall be made on forms furnished or prescribed by the Department Adjutant. In the event of a vacancy caused by the death, resignation or removal from office, the name and address of the successor shall be reported to the Department Adjutant within one (1) week after such vacancy has been filled. No Post officer shall assume office prior to providing the Post Adjutant with proof of eligibility for membership in The American Legion.

Section 6. The administrative power of this Post of the American Legion shall be vested in the Post Executive Committee. The Post Executive Committee shall consist of the following *ex officio* members:

1. Commander
2. Vice Commander
3. Finance Officer
4. Sergeant at Arms
5. One Trustee that is a member of Post 16
    a. To be appointed by the Trustee Members.

Section 7. Any elected officer of the executive committee may be removed for inefficiency or cause upon recommendation of the Executive Committee and subsequent vote by the body of the Post. Appointed (non-elected) officer or trustee positions within the Post may be removed for inefficiency or cause upon a two thirds (2/3) vote of the Executive Committee.

Section 8. The Chairpersons of the Standing Commissions and Committees of the Post shall be *ex officio* non-voting members of the Post Executive Committee, with the privilege of speaking on matters pertaining to their respective committees. They shall not be counted in constituting a quorum.

Section 9. The Commander and Vice-commander shall be *ex officio* members of the Board of Trustees.

Section 10. The Head Trustee/Location Manager shall be an *ex officio* non-voting member of the Executive Committee in such a situation if that the Head Trustee/Location Manager is not a member of Post 16 and is only a member of the Post 16 Auxiliary or Post 16 Sons of the American Legion.

ARTICLE VI

ELECTIONS

Section 1. Elections shall be by secret ballot unless only one (1) nomination is made, and a motion carried that a unanimous ballot of election be cast for the candidate.

Section 2. If, after a third (3rd) ballot for a particular office, no candidate has received a simple majority of the votes, the candidate receiving the least number of votes will be eliminated from candidacy; that method continuing until one (1) candidate receives a simple majority vote.

ARTICLE VII

FINANCE

Section 1. This Post shall annually assess each of its members as dues sufficient amount to cover National per capita dues, Department per capita dues, District per capita dues, and such additional amount as fixed by the Post for its local dues. The amount thereof shall be established by the Post at annual meeting and remain in effect until changed by action of the Post at the next annual meeting.

Section 2. This Post shall, upon collection of such amounts, remit to the Department the National and Department per capita dues together with the names of the members from whom such funds have been collected. Remittance of such funds shall be made not less than monthly.

Section 3. The fiscal year of this Post shall be from January 1st to December 31st of the following year.

Section 4. This Post may derive additional revenue from additional sources as shall be determined by the Post Executive Committee.

Section 5. A written financial report will be provided by the Finance Officer at all regular meetings of the Post and a copy of the report will be included in the official minutes of the meeting.

Section 6. A financial audit will be conducted annually and provided to the membership at the Annual Meeting. The audit will also include all property owned or managed by the post. Copies of all financial audit reports will be made available to any Post member in good standing upon written request.

ARTICLE VII

RULES

Section 1. The rules of parliamentary law and procedure at all meetings of the Post shall be set forth in Robert's Rules of Order Newly Revised.

Section 2. This post shall use and follow the current edition of the American Legion Post Officer's Guide and Manual of Ceremonies in conducting it's meetings, initiation of members, and other ceremonies prescribed therin.

ARTICLE IX

AMENDMENTS

Section 1. This Constitution may be amended at any regular Post meeting by a vote of two thirds (2/3) of the total authorized Post membership in attendance provided that the proposed amendment, in resolution form, shall have been submitted in writing by delivery, mailing, or electronically, at least twenty one (21) days prior to the convening of the next regular meeting. The proposed amendment will be communicated to the Post membership electronically, posted on the American Legion Fergus Post 16 website, posted at the American Legion Club, and can be provided in hard copy form through bulk mailings. Any such proposed amendment may be amended without further notice by a two thirds (2/3) vote of the total authorized representation therat.

BYLAWS

OF

THE AMERICAN LEGION

FERGUS POST NO. 16

ARTICLE I

MEETINGS

Section 1. Regular Meeting. The regular meeting of this Post shall be held on the second (2nd) Thursday of each month at the American Legion Club at 402 West Main Street, Lewistown, Montana, at 7:00 PM.

Section 2. Annual Meeting. The Annual Meeting and election shall be held on the second (2nd) Thursday in March of each year at the American Legion Club at 402 West Main Street, Lewistown, Montana, at 7:00 PM. The adjutant shall give notice of the date of the Annual Meeting at least two (2) weeks prior thereto. The Board of Trustees, Finance Officer, and all standing committees, shall give a detailed reporting of the business done during the previous year including an inventory of all assets of the Post, and all other matters of interest to the post.

Section 3. Special Meetings. Special Meetings may be called by the Commander, or in their absence the Vice Commander, upon notification of ten (10) business days is given to all members in good standing. Notification will be given following the procedures outlined in Article VII, Membership, Section 6, Notifications, of the Post Bylaws.

Section 4. Who Presides. The Commander, or in his absence the Vice Commander, shall preside at all meetings.

Section 5. In the event that the American Legion Club is not available for meetings, a notice of location change will be provided to Post membership at least five (5) business days prior to the scheduled meeting.

Section 6. Copies of the meeting minutes will be made available to any Post member in good standing upon written request.

ARTICLE II

ELECTIONS

Section 1. Nominations. Nominations shall be open at the Regular Meeting held in February of each year. Nominations shall be made from the floor for all elective officers of the Post without any limitations as to the number for each office and the names of those nominated shall be entertained in the minutes. Nominations for each office will remain open upon the conclusion of the February meeting. Those nominated for office shall be communicated to the Post membership following the standard notification process of the Annual Meeting. Nomination for any elective office may be made from the floor at the Annual Meeting held in March of each year without any limitation as to number, and such nominations will be closed at this Annual Meeting. Immediately after closing of nominations at this Annual Meeting in March, the Post will proceed to election of officers for the coming year.

Section 2. Elections. The election of officers shall be held at the Annual Meeting of the Post on the second (2^{nd}) Thursday in March of each year. Voting for officers shall follow the procedures in Article VI, Elections, of the Post Constitution. Upon completion of the elections the Post shall follow the procedures in Article V, Officers, of the Post Constitution.

ARTICLE III

DUTIES OF OFFICERS

Section 1. Post Commander. The Post Commander shall be the principal representative of the Post. It shall be the duty of the Post Commander to preside at all meetings of the Post and the Executive Committee to have general supervision over the business and affairs 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 forwarded to the Department adjutant. The Commander shall perform such other duties as directed by the Post.

Section 2. Vice Commander. The Vice Commander shall assume and discharge the duties of the Post Commander in the absence or disability of, or when called upon by the Post Commander. The Vice Commander shall also serve on the Membership Committee.

Section 3. Finance Officer. The Finance Officer shall have charge of all Post finances and see that they are safely deposited in some 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 shall sign all checks disbursing the monies of the Post.

Section 4. 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 Commander or Post Executive Committee.

Section 5. 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 6. 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. 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 Post executive Committee.

Section 8. Service Officer. The Post Service Officer shall assist Veterans and their dependents in the preparation and filing of claims for such relief as such Veterans and their dependents may be entitled to such as pensions, hospitalizations, disability, burial expenses, and any other program known to be available.

Section 9. Trustees. There are five (5) members of the Board of Trustees. Of these five (5) members there will be a Head Trustee/Location Manager in charge of the general bar business, employees, and bar finances; one (1) trustee in charge of the general building maintenance and service; and three (3) trustees serving on the board in support of the business/building administration of the Club.

ARTICLE IV

EXECUTIVE COMMITTEE

Section 1. The government and management of the Post is entrusted to an Executive Committee of five (5) members, to be know as the "Executive Committee."

Section 2. The Executive Committee shall consist of the five (5) members stated in Article V, Officers, Section 6, of the Post Constitution.

Section 3. The Post Executive Committee shall have the power to fill vacancies in any Post office or in the Post Executive Committee until the next Post election, except as is herein otherwise provided; provided that any such vacancy occurring between meetings of the Post Executive Committee may be filled by appointment by the Post Commander subject to ratification by the Post Executive Committee to occur within thirty (30) days of said appointment. A vacancy shall exist when a member or officer is absent from the Post for a period of three (3) consecutive meetings or considered detrimental to the interest of the Post by the Executive Committee.

Section 4. The Post Executive Committee shall meet at the call of the Post Commander, and at any other time necessary, to complete the business of the American Legion provided that reasonable and proper notification is given to its members prior to being held.

ARTICLE V

POST COMMITTEES

Section 1. The Post Commander shall annually appoint the following Standing Committees and Subcommittees of the Post: Americanism, American Legion Riders, American Legion Auxiliary, Baseball, Honor Guard Memorial, Membership, Public Relations, Sons of the American Legion, Veterans Affairs and Rehabilitation, and Visiting or VAVS. Such standing committees shall consist of such members, and the chair thereof, as shall be designated by the Post Commander.

Section 2. The Post Commander may, upon his or her own motion, the recommendation of the Post Executive Committee, or an approved motion from the Post body, appoint Ad Hoc committees. Any appointed Ad Hoc committee shall consist of such members, and the chair thereof, as designated by the Post Commander, to include a timeframe for completion of duties.

Section 3. Each standing or Ad Hoc committee shall act under the administrative direction of its Chairperson and shall meet and organize on call of the Post Commander. Each committee's term shall be for a period of up to one (1) year.

Section 4. During each committee's term the chairperson of the committee and the committee members shall be allowed access to the club, the club basement, upstairs storage, files, armory, kitchen, and any other items as needed to conduct the business of the committee.

ARTICLE VI

RECOGNIZED AMERICAN LEGION FAMILY ORGANIZATIONS

AMERICAN LEGION AUXILIARY

Section 1. This Post recognizes an auxiliary organization to be known as the American Legion Auxiliary Fergus Post 16.

Section 2. Eligibility for membership in the American Legion Auxiliary shall be defined by the Congressional Charter and Article XIII of the National Constitution of the American Legion.

Section 3. The Auxiliary shall be governed in the Post by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by the Post. This auxiliary organization shall report its activities and finances at each regularly scheduled Post meeting.

SONS OF THE AMERICAN LEGION

Section 1. This Post recognizes a subsidiary organization under its jurisdiction, to be known as The Sons of the American Legion Fergus Post 16.

Section 2. Qualification for membership in The Sons of the American Legion Fergus Post 16 shall be as prescribed by the National Organization of the American Legion.

Section 3. The Sons of the American Legion shall be non-partisan in politics and shall not be used for the dissemination of partisan principles.

Section 4. Revenue for this detachment shall be derived from annual dues of members, and by such other means as may be determined by the Detachment. This Detachment shall annually determine the amount of dues for the succeeding fiscal year. This Detachment shall keep its own finances and checking account separate from the Post. This Detachment shall report its activities and finances at each regularly scheduled Post meeting.

AMERICAN LEGION RIDERS

Section 1. This Post recognizes a program to be known as The American Legion Riders Fergus Post 16, of Montana.

Section 2. Qualification for membership in The American Legion Riders (ALR) Fergus Post 16 shall be prescribed by the National Organization of The American Legion.

Section 3. The American Legion Riders Fergus Post 16 shall be non-partisan in politics and shall not be used for the dissemination of partisan principles.

Section 4. Revenue for this ALR program shall be derived from annual dues of members, and by such other means as may be determined by the ALR Fergus Post 16. This ALR program shall annually determine the amount of dues for the succeeding fiscal year. This ALR program shall keep its own finances and checking account separate from the Post. This ALR program shall report its activities and finances at each regularly scheduled Post meeting.

ARTICLE VII

MEMBERSHIP

Section 1. Delinquency. American Legion membership is annual, the Legion year being from January 1st to December 31st. The American Legion membership recruitment year for the next membership year begins July 1st of the current year and runs through June 30th of the following year. Dues for the upcoming membership year can be accepted and processed beginning on July 1st. For membership dues that are not paid by January 1st of each calendar year, the member becomes delinquent. If dues have not been paid by January 1st the member is delinquent, but nevertheless a member with no privilege except that of reinstatement by payment of dues. All Post officers dues must be paid by January 1st to maintain eligibility for holding an officer position within the post.

Section 2. Resignation. A member may resign from the Post at any time while dues are paid and can thereafter join another post as a new member, in which event the continuity of membership is broken, upon resignation the Post is not required to rebate any portion of the member's dues.

Section 3. Transfer. A member in good standing may not move membership to another Post and retain continuous membership without the formality of a transfer. Being a member of more than one Post at a time is a violation of the constitution. The right to transfer does not carry the right to be accepted by any Post. On transfer there shall be no transfer of funds derived from dues, etc. The accepting Post shall recognize that dues have been paid to the Post from which the transfer is effected and shall make no charge therefore, excepting only if the dues of the Post accepting the member are in excess of those from which the transfer is sought; then the accepting Post may collect from the transferring member the excess dues pro-rated from the date of acceptance to the end of the calendar year. In all instances where a member during a current year transfers from one Post to another after payment of the current year's dues, the transferring Post shall retain said dues and shall have credit for such membership during the remainder of such year for which said

dues were collected, but said transferred member shall be entitled to all benefits and assume all of the responsibilities of membership in the Post to which transfer is made, after such transfer is affected.

Section 4. Dues. The current amount of the annual membership dues for this Post shall be $50.00 payable annually in advance. This amount will be evaluated annually and remain in effect until changed by amendment of the Bylaws of the Post at the next annual meeting.

Section 5. Address. Every member shall furnish the Post Adjutant with a physical and/or electronic (email) address for mailing and notifications.

Section 6. Notifications. Notifications of the Annual Meeting, Elections, Nominations, Special Meetings, and Events will be communicated to the Post membership electronically, posted on the American Legion Fergus Post 16 website, posted at the American Legion Club, and can be provided in hard copy form through bulk mailings.

ARTICLE VIII

DELEGATES

Section 1. Delegates and alternates to a Department Convention shall be elected by ballot by the Post at a regular meeting of the Post to be held at least twenty (20) days prior to the date of such convention. The number of delegates elected shall be in accordance with the Department Constitution.

Section 2. All delegates elected shall be paid such expenses for attending convention, hotel lodging at convention, and a mileage rate established by the state to and from the city of Lewistown to the convention location. No expenses shall be paid to delegates from this Post when such convention is held in the city of Lewistown.

ARTICLE IX

DISCIPLINE OF POST MEMBERS

Section 1. This Post shall be the judge of its own membership, subject to the restrictions of the National and Department Constitutions and Bylaws.

Section 2. A member of this Post may be disciplined by the Post if the charge is brought by a member of the Post or the Post Executive Committee. The entity hearing the charge will be three (3) members of the Post Executive Committee, should there not be three (3) members of the Post Executive Committee able to hear the charges, additional members will be called from the remaining Post Officers. The accuser(s) on the Executive Committee who conduct the hearing will not be involved in any appeal to the Executive Committee.

Section 3. All charges must be made under oath in writing by the accuser(s) and no member shall be censured, suspended, or expelled from the American Legion until given a fair hearing in accordance with the Universal Code of Procedure as adopted by the American Legion National Executive Committee.

Section 4. Censure may include all or some of the following:

1. Description of the wrongdoing
2. A caution to the member not to repeat the wrongdoing, or any similar act
3. Removal from office
4. Precluding holding office for a period not to exceed 5 years
5. Removal from committees
6. Prohibition from being a member of a committee for a period not to exceed five (5) years
7. Extenuating circumstances concerning the wrongdoing

Section 5. Any member who has been censured, suspended, or expelled from the American Legion has the right to appeal to the Department Executive Committee according to a procedure prescribed by the Department Judge Advocate.

ARTICLE X

AMENDMENTS

Section 1. These Bylaws may be amended at any regular Post meeting by a vote of two thirds (2/3) of the total authorized Post membership in attendance provided that the proposed amendment, in resolution form, shall have been submitted in writing by delivery, mailing, or electronically, at least twenty one (21) days prior to the convening of the next regular meeting. The proposed amendment will be communicated to the Post membership electronically, posted on the American Legion Fergus Post 16 website, posted at the American Legion Club, and can be provided in hard copy form through bulk mailings. Any such proposed amendment may be amended without further notice by a two thirds (2/3) vote of the total authorized representation therat.