

**APPROVED**

Pursuant to the applicable provisions of the Department Constitution, the Attached Constitution and By-Laws of American Legion Charles F. Thomas IV Post 117, The American Legion, Department of Florida have been reviewed and approved this 15th day of February, 2019.

*//Signed – R. Curtis McNeil//*

R. CURTIS McNEIL

Judge Advocate

The American Legion, Department of Florida

Approval Confirmed:

*Dianne M. Boland*

DIANNE M. BOLAND

Department Commander



# The American Legion

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*Department of Florida*

15 February 2019

MEMORANDUM FOR COMMANDER

FROM: JUDGE ADVOCATE

SUBJECT: Constitution and By-Laws of American Legion Charles F. Thomas IV Post 117, The American Legion, Department of Florida

1. I have reviewed the subject Constitution and By-Laws. They are approved as written.
2. I have prepared and attached the appropriate Approval Form and have electronically signed same.
3. If you have any questions, please call me at (850) 596-9353 or e-mail me at JudgeAdvocate@Legionmail.org.

Sincerely,

*//Signed – R. Curtis McNeil//*

R. CURTIS McNEIL

Judge Advocate

The American Legion, Department of Florida



The American Legion  
Charles F. Thomas IV Post 117  
189 Veterans Drive  
Palm Bay, Florida 32909

November 27, 2018

Department of Florida  
1912A Lee Road  
Orlando, Florida 32810

At the regularly scheduled meeting of American Legion Post 117 on 21 November 2018, the General Membership approved the updated and revised Constitution and By-Laws for the Post. We are forwarding them for your review and approval.

Gene Baker, Commander  
Charles F Thomas IV Post 117

Bruce Thurber, Vice Commander/Adjutant  
Charles F. Thomas Post 117

CHARLES F. THOMAS IV  
POST 117, INC.  
THE AMERICAN LEGION  
DEPARTMENT OF FLORIDA



CONSTITUTION  
AND  
BY-LAWS

**CHARLES F. THOMAS IV POST 117, INC.  
THE AMERICAN LEGION  
DEPARTMENT OF FLORIDA**

**CONSTITUTION AND BY-LAWS**

**PREAMBLE**

For God and Country, we associate ourselves together for the following purpose: 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 the Great Wars; to Inculcate a sense of Individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and goodwill on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate our comradeship by our devotion to mutual helpfulness.

These Constitution and By-Laws supersede any and all previously known or unknown, written and/or amended Constitution and By-Laws, reported or not reported, for governing the actions of Charles F. Thomas IV, Post 117, Inc.

The Constitution and By-Laws were approved by a regular membership meeting following due notice of such meeting on 21 November 2018.

Submitted: \_\_\_\_\_

*Stephen Hamrick*

Stephan Hamrick  
Judge Advocate

Approved: \_\_\_\_\_

*Gene Baker*

Gene Baker  
Commander

Attested: \_\_\_\_\_

*Bruce Thurber*

Bruce Thurber  
First Vice Commander/Adjutant

# **CONSTITUTION**

## **ARTICLE I - NAME**

SECTION 1. The name of this organization shall be the Charles F. Thomas IV Post 117, Inc; The American Legion of Florida.

## **ARTICLE II - OBJECTIVES**

SECTION 1. The objectives and purpose 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.

## **ARTICLE III - NATURE**

SECTION 1. The 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 non-political and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

SECTION 3. Rank does not exist in the American Legion; no member shall be addressed by his military title in any meeting of the Post.

## **ARTICLE IV - MEMBERSHIP**

SECTION 1. Eligibility to membership in this Post shall be as prescribed by the National Constitution of The American Legion.

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.

SECTION 3. All applications for membership shall be acted upon at the next regular Post meeting following the making of such application, and shall at said meeting be accepted, rejected or referred for further investigation and consideration. If the majority of members present cast their vote against the acceptance of said application, then such application shall be recorded as rejected.

SECTION 4. Any member of this Post may be suspended or expelled for cause. Suspension or expulsion must comply with Article X, Section 14 of the Department Constitution.

SECTION 5. Any Officer or member who has been expelled or suspended from this Post By the Executive Committee, for neglect of duty, dishonesty, disloyalty to the National Government and The American Legion and conduct unbecoming an officer or member of The American Legion. Suspension or expulsion must comply with Article X, Section 14 of the Department Constitution.

SECTION 6. Any officer or member who has been suspended or expelled shall have the right to appeal to the Department Convention. The decision of the Department shall be final. The provisions of Sections 4, 5, and 6 do not apply to disciplinary procedures carried out in compliance with any state or local law, not affecting the right of the member to attend Legion meetings.

SECTION 7. No person who has been expelled by another Post shall be admitted to membership in this Post without the consent of the expelling Post; except when consent has been denied by the expelling post and an appeal to the Department Executive Committee has granted permission for membership.

SECTION 8. There shall be no class of membership except active membership whose annual dues are paid.

## **ARTICLE V - OFFICERS**

SECTION 1. The administrative affairs of this Post of the American Legion, shall, except as may otherwise be provided in the By-Laws, be under the supervision of an Executive Committee made up of the officers of this Post and two (2) members at large. The term of office of members of the Executive Committee shall be one (1) year. This Post, by its By-Laws, may provide for such standing committees as the business of the organization may require

SECTION 2. The officers of this Post shall be a Commander, 1st Vice Commander, 2nd Vice Commander, 3<sup>rd</sup> Vice Commander, Adjutant, Finance Officer, Historian, Chaplain, One Service Officer, Sergeant -At-Arms, Asst. Sergeant At-Arms, Immediate Past Commander in the year following his last year in office, Judge Advocate and two (2) Executive Committee persons at large in the absence of an immediate Past Commander a 3<sup>rd</sup> Executive Committeeman. Officers of the post may hold one elected position and appointed positions as necessary to operate the post.

SECTION 3. The Commander, Vice Commanders, Finance officer, Chaplain, Historian, Sergeant-at-Arms, Asst. Sergeant-at-Arms and Executive Committee persons shall be elected annually and shall hold office until their successors are duly installed or as otherwise provided in the By-Laws. The Adjutant, Service Officer and Judge Advocate shall be appointed by the Commander-elect and submitted to the membership for approval. Any officer, elected or appointed, may be removed from office for cause in accordance with Article X, Section 14 of the Department Constitution.

SECTION 4. Every member of this Post in good standing shall be eligible to hold office in the Post. A member in good standing is one whose current dues are paid

SECTION 5. The duties of officers are those usually pertaining to such offices and as further provided in the By-Laws.

## **ARTICLE VI - FINANCE**

SECTION 1. The revenue of this Post shall be derived from membership dues and such other sources as may be approved by the Post Executive Committee.

SECTION 2. The amount of annual dues shall be fixed and determined by the Post after a minimum ten (10) day notification of change is made

SECTION 3. The Post shall pay to the Department the National and Departmental annual membership dues for every member of this post except the paid up for life members.

SECTION 4. All expenses of the post shall be paid from the post general checking account. All checks shall be signed by the Finance Officer and the Commander or an authorized substitute designated by the commander.

SECTION 5. The Post may maintain additional checking, savings and investment accounts, i.e. Certificates of deposit as may be deemed necessary or desirable by the executive committee.

## **ARTICLE VII – CHARTER MEMBERSHIP**

SECTION 1. Members who joined the post prior to the issuance of the permanent charter shall be known as Charter Members.

## **ARTICLE VIII - SUBSIDIARY ORGANIZATIONS & PROGRAMS**

SECTION 1. This Post recognizes a subsidiary organization to be known as the American Legion Auxiliary Unit 117. Membership in the American Legion Auxiliary shall be as prescribed in the American Legion Department of Florida, Article VII, Section 2.

SECTION 2. This Post recognizes a subsidiary organization under its jurisdiction to be known as The Sons of The American Legion Squadron 117. Membership in The Sons of The American Legion shall be as prescribed by the National Organization of the American Legion.

SECTION 3. This Post recognizes a program to be known as The American Legion Riders Chapter 117. Membership shall be as prescribed in the National Constitution of the American Legion and The American Legion Department of Florida, American Legion Riders S.O.P.

## **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 Florida. Any amendments to the said National or Departmental Constitution which would cause conflict with any provision 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 or revised at any regular Post meeting by a vote of two-thirds (2/3) of the members attending said meeting. A notice shall be posted or announced at least one (1) meeting prior to the meeting where voting will take place. This may be accomplished by placing a notice in Post Newsletter, on Post web site, and on Post entry doors. In addition, copies of the original document, amended or revised document, and summary of changes will be made available in the Post and be placed on the Post website for review at least one meeting prior to voting.

## **BY-LAWS**

## **ARTICLE I - NAME**

SECTION 1. The Post existing under these By-Laws is the Charles F. Thomas IV Post 117, Inc the American Legion, Department of Florida

## **ARTICLE II - EXECUTIVE COMMITTEE**

SECTION 1. The government of this Post is entrusted to a committee composed of the officers of the Post to be known as the Executive Committee.

SECTION 2. All vacancies existing in the Executive Committee or any other office of the Post from any cause other than expiration of the term shall be filled by the recommendation of the Post Commander with the approval of the Executive Committee. The person recommended shall be voted upon at the next regular membership meeting. In the performance of the duties, officers are expected to attend all Executive and Regular meetings of the Post. The Executive Committee interpret unexcused absences as "neglect of duty" as contemplated in Article X, Section 18 of the Department Constitution. Should such action be taken the Executive Committee may declare that a vacancy does exist and proceed to fill that position so that proper conduct of business may continue.

## **ARTICLE III - GOVERNING BODY**

SECTION 1. The Post Executive Committee and Executive Committee elect shall meet for planning organization and transition and such other business as may come before it at the call of the Post Commander within ten (10) days after the election of the new officers. Any action taken by this body shall not affect Post operation until such time as they have been installed into office.

SECTION 2. The Post Executive Committee shall meet at the call of the Commander at least once (1) a month and as often as the Commander deems necessary.

SECTION 3. The Commander shall call a meeting of the Executive Committee upon written request of three (3) or more members of said Executive Committee.

SECTION 4. Five (5) members of the Executive Committee shall constitute a quorum for the conduct of Post business.

SECTION 5. The Post Executive Committee shall authorize and approve all expenditures; shall require adequate bonds from all persons having custody of or access to Post funds; and shall hear the reports of Post committee chairmen.

SECTION 6. The Post Executive Committee shall have charge of and be responsible for the affairs of this post.

SECTION 7. Executive Committee meetings shall be open only to Post members in good standing and invited guest with the consent of the Executive Committee.

SECTION 8. Meetings may be held in executive session for the purpose of disciplinary matters. Such meetings may be attended only by the Executive Committee members and those other pertinent to the matter at hand.

SECTION 9. Separate rules and operating procedures as approved by the Executive Committee may supplement but not violate these By Laws.

SECTION 10. The Post Executive Committee is charged with the operation of the Post Home and any related-functions thereof, including the employment of all needed employees, selection of volunteer bartenders and contracted personnel such as canteen manager, kitchen manager, and housekeeping personnel. They shall review and make changes when needed to the House Rules and Regulations.

#### **ARTICLE IV - NOMINATION & ELECTION OF OFFICERS**

SECTION 1. The following officers shall be elected annually by the Post: The Commander, 1st Vice Commander, 2nd Vice Commander, Finance Officer, Sergeant-at-Arms, Asst. Sergeant at Arms, Historian, Chaplain and two (2) Executive Committee persons at large.

SECTION 2. All elected officers of this Post shall be elected and certified to the Department Adjutant not more than fifty (50) days, or less than ten (10) days prior to the Annual Department Convention. Certification to be made on forms furnished or prescribed by the Department Adjutant.

SECTION 3. Time and place of election shall be set by the Executive Committee but not later than the May General Membership Meeting. A thirty (30) day notice of the election will be given to the membership.

SECTION 4. All elected officers will be nominated from the floor.

SECTION 5. There will be two (2) meetings set for nominations. The first being the March General Membership meeting and the second being the April General membership meeting.

SECTION 6. Only members of this Post, in good standing, will make nominations.

SECTION 7. All nominees will attest that they are available for office, qualified to serve, and will devote the time and energy required to faithfully fulfill the duties of said office.

SECTION 8. The commander shall have the Judge Advocate or representative designated by the Commander announce the duties of each office prior to the commencement of nominations for each office. Nominations will then be open and announced three (3) consecutive times and if no response, the nominations for that office will be closed.

SECTION 9. A member may be nominated for more than one (1) office. If elected to more than one (1) office, the member must choose immediately in which office he or she will serve. The other offices shall be filled by the members on the ballot, for that office, receiving the next highest vote.

SECTION 10. The Commander shall appoint three (3) tellers for the purpose of counting ballots and fulfilling other duties as required in the By-Laws. Those nominated for Commander may appoint one (1) teller each.

SECTION 11. The Sergeant-at-Arms will be responsible to see that no one other than the tellers and Judge Advocate or representative designated by the Commander is present in the area where the ballots are being counted.

SECTION 12. The tellers have no authority to make changes in the election ballot or mark it in any manner.

SECTION 13. The tellers shall verify each ballot after being called by the Judge Advocate or representative designated by the Commander.

SECTION 14. Every member of the Post, in good standing at the close of business as of the day prior to election, will be entitled to vote.

SECTION 15. Plurality vote is necessary to be elected to office unless otherwise stated.

SECTION 16. Elections will be by secret ballot unless otherwise stated

SECTION 17. Instructions will be given by the Judge Advocate or representative designated by the Commander, concerning the marking of the ballot. An unmarked ballot or incorrectly marked ballot is just a scrap of paper and is not counted in the election. The Judge Advocate or representative designated by the Commander will have the only key to the ballot box. The ballot box will be, opened at the conclusion of the election, in the presence of the tellers.

SECTION 18. Ballots shall be given to voting members only. The names of those persons nominated for each office shall appear on each ballot the identity of the voter must not be indicated in any manner or marking of any sort as the ballot is a SECRET vote.

SECTION 19. The Judge Advocate and/or designated representatives will check member's current card against the official membership roster before issuing a ballot

SECTION 20. The Sergeant-at-Arms or assistants will be responsible to see that no one loiters in the voting area.

SECTION 21. If a tie exists, and there are more than two (2) candidates, the person/s receiving the lowest number of votes will be dropped for the runoff election.

SECTION 22. The vote cast for each office shall be preserved in such a manner that if the election is questioned, the vote may be verified by recount. The tellers shall place the marked ballots in a sealed packet, together with their report (signed by the tellers). The Judge Advocate or representative designated by the Commander will then deliver the sealed packet to the Adjutant. The sealed packet shall not be opened except by order of the membership, the Executive Committee or representative of the American Legion District Commander for the purpose of verifying the vote by virtue of a worthwhile challenge.

SECTION 23. The tellers shall use one (1) official tally sheet, marking the total vote for each candidate. The official tally sheet shall be placed in the sealed packet with the marked ballots. All other working copies of the tellers tally sheet will be destroyed immediately. When the official tally sheet is complete (all ballots counted), the names only (no tally) on a separate sheet, for the nominee for each office being elected by plurality votes, shall be handed to the Commander who shall announce those elected to the respective offices. The sealed packet shall not be destroyed until certified by the membership at the next regularly scheduled meeting. The Commander shall order this sealed packet destroyed by burning, the destruction shall be in the presence of at least three (3) current officers and reported to the members at the next regular meeting.

SECTION 24. All irregular or peculiar questions shall be presented to the Judge Advocate or representative designated by the Commander, for a ruling which will be binding as to a final decision.

SECTION 25. The ballot is a secret vote. Each voter must cast their own vote or ballot. There shall be no proxy vote.

SECTION 26. Newly elected and appointed officers will take their respective seats at the time and place of mutual agreement by the immediate Commander, the newly elected Commander, and the Twelfth (12) District Commander, but not later than sixty (60) days after the adjournment of the Annual Department Convention.

SECTION 27. Any member nominated for office will not serve on the tally committee.

## **ARTICLE V - DUTIES OF OFFICERS**

SECTION 1. The duties of the officers of this post shall be as defined in the current edition of the Officer's Guide and Manual of Ceremonies unless specifically defined or modified by sections of this article.

## **ARTICLE VI - DELEGATES**

SECTION 1. Delegates will be elected to attend the Constitutional Conference and the Department Convention respectively. Commander and Past Commander are automatically delegates. The Commander or his designated replacement will chair the delegation.

SECTION 2. Delegates to the Annual Department of Florida Convention will have their registration fee paid by the Post, as determined by the Executive Committee, with the approval of the Finance Officer and membership. Delegates must attend two (2) meetings, one (1) of which must be the election.

## **ARTICLE VII - APPOINTMENTS**

SECTION 1. The Commander will establish committees and assign chairman as needed to support the following National Programs: Americanism, Children and Youth, National Security and Foreign Relations, Veterans Affairs and Rehabilitation, and Community Service. The Commander can also establish the following committees for support of the Post: Canteen Committee, Grounds Committee, House Committee, Auditing Committee, Ways and Means Committee, and other committees as may be deemed necessary. Committee Chair Person shall be a Legionnaire.

SECTION 2. The Commander will appoint the chairperson of each of these committees. Each chairperson shall appoint the members of the committee.

SECTION 3. The duties of the committees are as defined in the current edition of the Officer's Guide and Manual of Ceremonies unless specifically defined or modified by sections of these bylaws.

SECTION 4. The Grounds Committee shall be responsible for the maintenance of the Post grounds and for improvement there to. Any recommendations requiring expenditures of Post funds, other than bona fide emergencies and routine operational purchases, i.e.; fuel and minor repairs, hand tools, etc.; shall be referred to the Executive Committee for final approval.

SECTION 5. The House Committee is charged with the maintenance and upkeep requirements of the Post Home facility and property. House committee members will accomplish routine walk around inspections of the Post Home and its property and document items that need repair or replacement or suggest changes or improvements to the Post Home that would improve or enhance its appearance or operations. Members of the House Committee may be tasked with obtaining estimates and providing oversight to ensure work is accomplished properly and to the Post expected standards. The House Committee will take-on the Grounds Committee responsibilities if that committee is not appointed. Expenditure of funds, other than routine purchases necessary for maintaining the facility and property and those for bona-fide emergencies, shall be referred to the Executive Committee for approval prior to action. The House Committee Chairman will provide a listing with details, recommended priority, expected cost, and source of repair to the Executive Committee so it can be reviewed at the Executive Committee Meetings.

SECTION 6. The Ways & Means Committee is charged with the planning of events to enhance the enjoyment and entertainment of the membership, and to provide for means to improve the income for the Post. All activity shall be coordinated with the Executive Committee or the Commander.

SECTION 7. The Auditing Committee shall audit the Post financial and property accounts annually just before the election of officers or more frequently at their discretion.

SECTION 8. The Canteen Committee will be responsible to the Executive Committee for the proper Operation of the Canteen and Supervision of the Canteen Manager. The Canteen Committee shall be tasked with reviewing incident reports and administering disciplinary actions within the canteen areas. The Chairman shall forward a report of actions to the Commander for review by the Executive Committee.

### **ARTICLE VIII - 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 embody the opinion of this Post on the subject and copy of same shall be forwarded to the Department Headquarters for its approval before any publicity is given for action, other than mere passage by the Post, is taken.

### **ARTICLE IX - POST MEETINGS**

SECTION 1. The regular meeting of the Post shall be held at the Post home as scheduled by the Executive Committee.

SECTION 2. A quorum shall consist of twelve (12) or more members of which five (5) or more must be officers.

SECTION 3. The annual corporate meeting shall be the July Post meeting.

SECTION 4. 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 5. Upon written request of twelve (12) members of the Post, the Commander shall call a special meeting of the Post.

SECTION 6. The reason for the special meeting must be stated and a written notice provided to all members no less than five (5) days prior to the meeting date. This may be accomplished by posting in multiple locations within the post home and/or electronic messaging.

SECTION 7. A written record of the meetings (minutes of the meetings) will be recorded for all meetings, Post Executive, House and all Committees designated by the Commander,

SECTION 8. Approval of the reading of the minutes of the meetings does not constitute approval of the contents of the minutes when there are items that require approval by the general membership. These items will be voted on in seriatim.

SECTION 9. Minutes - After the minutes have been read by the Adjutant, the Commander asks, "Are there any questions?" If none, the minutes will stand approved as read. No vote is required.

SECTION 10. Finance - The Commander then calls for the finance report. After it has been read the Commander says, "If there are no questions or corrections the report will be filed for auditing". Only if corrections are made is a vote necessary.

## **ARTICLE X - MEMBERSHIP & AWARDS**

SECTION 1. Recommendation for Honorary Life Membership may be made by any member in good standing provided the nominee meets the following criteria:

- a. Outstanding achievements for Post 117 and the American Legion
- b. Outstanding achievements for the good of the Community, State or Nation.

SECTION 2. The recommendation must be presented to the Executive Board at a regular meeting, in writing covering the above points. If the Executive Board approves, the Board must present it to the membership for approval at the next regular Post meeting. If the Executive Board disapproves the request is denied.

SECTION 3. Any Legionnaire who reaches fifty (50) or more years of service in the American Legion with a minimum often (10) years of services in this Post shall be awarded a Honorary Life Membership, provided he/she remains a member in good standing in the Post.

## **ARTICLE XI - NOTICES**

SECTION 1. Every member shall furnish the Post Adjutant or Membership Chairman with his/her address or any changes thereof for mailing purposes. Electronic addresses should be submitted if available and is the preferred method to expedite notification.

SECTION 2. The Post Adjutant shall cause a notice of the annual nominations and elections of Post Officers to be given at least two (2) weeks prior thereto.

SECTION 3. If dues are not paid by January 1 of each calendar year, the member becomes delinquent. If dues have not been paid by February 1, the member is suspended, but nevertheless a member with no privileges except that of reinstatement by vote of the Post and payment of dues; and dues not being paid, such member is dropped from the roll by constitutional mandate and the membership forfeited.

## **ARTICLE XII - RULES OF ORDER**

SECTION 1. This Post shall use and follow The American Legion Post Officers Guide in conducting its meeting, initiation of members and other ceremonies prescribed therein. (Reference Department Constitution, Article X, Section 18)



## **ARTICLE XII - LIMITATIONS OF LIABILITIES**

SECTION 1. This Post shall neither incur, nor cause to be incurred, any liability or obligation whatever which shall subject to liability any other Post, subdivision, group of men, members of the American Legion, or other individuals' corporations, or organizations.

## **ARTICLE XIV - AMENDMENTS**

SECTION 1. These By-Laws may be amended or revised at any regular Post meeting by a vote of two-thirds (2/3) of the members attending said meeting. A notice shall be posted or announced at least one (1) meeting prior to the meeting where voting will take place. This may be accomplished by placing a notice in Post Newsletter, on Post web site, and on Post entry doors. In addition, copies of the original document, amended or revised document, and summary of changes will be made available in the Post and be placed on the Post website for review at least one meeting prior to voting.