



***AMERICAN LEGION Of  
OF SOUTHWEST FLORIDA POST 90, INC.***

---

*1401 Southeast 47 Street, Cape Coral, Florida 33904  
239-540-8128*

**CONSTITUTION AND BY LAWS**

**OF**

**THE AMERICAN LEGION OF SOUTHWEST FLORIDA, POST 90, INC.**

**AS AMENDED JUNE ~~26~~<sup>24</sup>, 20~~17~~<sup>24</sup>**

***For God and Country***

**TABLE OF CONTENTS**  
**Constitution and By-Laws of American Legion Post 90**

CONSTITUTION	1
PREAMBLE:	1
ARTICLE I - NAME	1
Section 1 Name:	1
Section 2 Location:	1
Section 3 Date:	1
ARTICLE II – NATURE AND OBJECTIVE	1
Section 1 Purpose:	1
Section 2 Rank:	1
Section 3 Non-Political:	1
ARTICLE III –ELIGIBILITY	2
Section 1 Eligibility:	2
Section 2 Active Membership:	2
Section 3 Life Membership:	2
Section 4 One Post:	2
Section 5 Discipline:	2
Section 6 Expulsion:	2
ARTICLE IV - OFFICERS	2
Section 1 Officers:	2
Section 2 Election:	<del>3</del>
Section 3 Term:	3
Section 4 Vacancies:	3
Section 5 Territorial Vacancy:	3
Section 6 Legislative Power:	3
Section 7 Bonding:	3
ARTICLE V - AMENDMENTS	3
Section 1 Amendment:	3
Section 2 Amending:	<del>4</del>
Section 3: Quorum	4
ARTICLE VI - AMERICAN LEGION AUXILIARY UNIT	4
Section 1 Recognition:	4
ARTICLE VII – SONS OF THE AMERICAN LEGION AND AMERICAN LEGION RIDERS	4
Section 1 SAL Recognition:	4
Section 2 American Legion Riders Recognition:	<del>5</del>
ARTICLE VIII – EXECUTIVE COMMITTEE – ADMINSTRATIVE POWER	<del>5</del>
Section 1 Administrative Power:	<del>5</del>
Section 2 Number:	<del>5</del>
Section 3 Term:	5
ARTICLE IX – RULES OF ORDER	5
Section 1 Governance:	5
Section 2 Rules:	5

BY-LAWS	<u>77</u>
ARTICLE I - ELECTION OF OFFICERS, EXECUTIVE COMMITTEEMEN, DELEGATES AND ALTERNATES	<u>77</u>
Section 1 Officers:	<u>77</u>
Section 2 Rights:	<u>77</u>
Section 3 Eligibility:	<u>88</u>
ARTICLE II - DUTIES OF OFFICERS	<u>88</u>
Section 1: Commander	<u>88</u>
Section 2: First Vice Commander:	<u>88</u>
Section 3: Second Vice Commander:	<u>88</u>
Section 4: Adjutant:	<u>88</u>
Section 5: Finance Officer:	<u>88</u>
Section 6: Service Officer:	<u>99</u>
Section 7: Judge Advocate:	<u>99</u>
Section 8: Chaplain:	<u>99</u>
Section 9: Historian:	<u>99</u>
Section 10: Sergeant at Arms:	<u>99</u>
ARTICLE III - COMMITTEES	<u>109</u>
Section 1 Commander Authority:	<u>109</u>
Section 2 SAL:	<u>1040</u>
Section 3 Riders:	<u>1040</u>
Section 4 Committee Chairman:	<u>1040</u>
Section 5 Other Chairman:	<u>1040</u>
Section 6, Conflict of Interest:	<u>1040</u>
ARTICLE IV - DISCIPLINE OF POST MEMBERS	<u>1040</u>
Section 3 Unpaid Dues:	<u>1144</u>
ARTICLE V - REMOVAL OF OFFICERS FOR CAUSE	<u>1144</u>
Section 1 Charges:	<u>1144</u>
Section 2 Written Charges:	<u>1144</u>
Section 3 Right of Trial:	<u>1144</u>
ARTICLE VI - MEETINGS	<u>1244</u>
Section 1 Schedule of Meetings:	<u>1244</u>
Section 2 Quorum:	<u>1244</u>
Section 3 Special Meet Call by the Commander:	<u>1242</u>
Section 4 Special Meeting Call by a Member:	<u>1242</u>
ARTICLE VII - EXECUTIVE COMMITTEE	<u>1242</u>
Section 1 Meeting:	<u>1242</u>
Section 2 Quorum:	<u>1242</u>
Section 3 Chairman:	<u>1342</u>
Section 4 Power:	<u>1342</u>
Section 5 Interpretation:	<u>1342</u>
ARTICLE VIII - FINANCES	<u>1343</u>
Section 1 Dues:	<u>1343</u>
Section 2 Authorized Expenditures:	<u>1343</u>
Section 3 Itemized Accounts:	<u>1343</u>
Section 4 Authority to Bind:	<u>1343</u>

Section 5 Contracts:	<u>1343</u>
ARTICLE IX - AMENDMENTS	<u>1443</u>
Section 1 By-Laws Amended:	<u>1443</u>
Section 2 Final Voting:	<u>1443</u>
ARTICLE X – REPEAL AND SAVING CLAUSES	<u>1443</u>
Section 1 By-Laws Superseded:	<u>1443</u>
Section 2 Effective & Date:	<u>1544</u>

**The American Legion of Southwest Florida Post 90, Inc.**

**CONSTITUTION**

**PREAMBLE:**

For God and Country, we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in ~~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 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 Name:**

The name of this organization shall be The American Legion of Southwest Florida Post 90, Inc.

**Section 2 Location:**

The headquarters of this organization is located at 1401 SE 47<sup>th</sup> St., Cape Coral, Florida 33094.

**Section 3 Date:**

The foundation date of this organization is 4 March ~~1963~~. The authorization date under its current incorporation is 7 January 1999.

**ARTICLE II – NATURE AND OBJECTIVE**

**Section 1 Purpose:**

The purpose for which this organization is founded is set forth in the PREAMBLE.

**Section 2 Rank:**

The POST of the American Legion is a civilian organization and membership therein does not affect liability for military service. Military rank does not exist in The American Legion and no member shall be addressed by his military title in any meeting or Convention of The American Legion.

**Section 3 Non-Political:**

This organization is absolutely non-political and shall not be used for the dissemination of partisan principles nor promoting the candidacy of any person seeking public office.

## **ARTICLE III –ELIGIBILITY**

### **Section 1 Eligibility:**

Eligibility to membership in this post shall be as prescribed by the National Constitution of the American Legion.

### **Section 2 Active Membership:**

There shall be neither form nor class of membership except an active membership, and dues will be paid annually.

### **Section 3 Life Membership:**

Life membership may be granted in accordance with National By-Laws.

### **Section 4 One Post:**

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

### **Section 5 Discipline:**

Members and Post Officers may be reprimanded, suspended, or expelled from The American Legion only upon proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty, and conduct unbecoming a member of the American Legion. Charges and trial if necessary shall be in accordance with the American Legion Department of Florida Constitution, ~~Article X, Section 14.~~

~~An opening of an elected Post Officer position or an elected Executive Committee position is filled by the approval of the members of the Post and the Executive Committee, and the so approved Officer or Executive Committee member shall hold office for the unexpired term of the officer or member of the committee who is succeeded.~~

### **Section 6 Expulsion:**

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 that where such consent has been asked for and denied by such Post, he may then appeal to the Executive Committee of the department of the expelling post for permission to be admitted to membership in this Post and shall be ineligible for membership until such permission is granted.

## **ARTICLE IV - OFFICERS**

### **Section 1 Officers:**

The officers of this post shall be as follows: Commander, 1<sup>st</sup> Vice Commander, 2<sup>nd</sup> Vice Commander, Adjutant, Assistant Adjutant, Finance Officer, Service Officer, Judge Advocate, Chaplain, Historian, Sergeant at Arms, and the immediate Past Commander, upon his acceptance, shall be a member of the Executive Committee.

**Section 2 Election:**

The officers of this Post shall be elected at the regular meeting of the Post in compliance with the Department Constitution and By-Laws, except the Adjutant, Assistant Adjutant, Judge Advocate, and Service Officer who shall be appointed by the Commander subject to the approval by the Executive Committee. Upon approval, the above listed Officers will become a part of the Executive Committee.

**Section 3 Term:**

The term of office for all officers shall be for one year, or until their successor is chosen or elected and duly installed.

**Section 4 Vacancies:**

All vacancies existing in any elected office of the Post or in the Executive Committee, from any cause other than the expiration of term, shall be filled by approval of the members of the Post 90 and the Executive Committee. The Post Commander or Executive Committee may recommend an appointment and that the final decision for making the appointment lies with the Post membership. The person so appointed as officer or to the Executive Committee shall hold office for the unexpired term of the officer or member of the committee who is succeeded. The unexcused absence of an officer or Executive Committeeman from three consecutive regular Post Meetings or scheduled Executive Committee meetings shall constitute a vacancy.

**Section 5 Territorial Vacancy:**

The office of any Post or Executive Officer will be declared vacant when it becomes known that the incumbent has permanently left the Department of Florida territorial area.

**Section 6 Legislative Power:**

The legislative power of this Post is vested in the membership thereof at regular or special meetings.

**Section 7 Bonding:**

The Post Officers will be bonded with a standard bonding agency or a Crime Insurance Policy to cover Employee Dishonesty; Forgery and Alteration; Theft and Disappearance; and Computer Fraud in the amount practical to cover such amounts immediately available.

**ARTICLE V — AMENDMENTS**

**Section 1 Amendment:**

This Constitution is adopted subject to the provisions of the National Constitution of The American Legion and the Department Constitution of the Department of Florida, The American Legion. Any amendments to said National or Department Constitution which are in conflict with a provisions hereof shall be regarded as automatically repealing or modifying the provisions of the Constitution to the extent of such conflict.

**Section 2 Amending:**

This Constitution may be amended at any regular meeting of the Post, whereas a quorum has been met as herein provided, by a two-thirds (2/3) vote of all members present thereat provided, that the proposed amendment shall have been presented in writing and read at the previous regular meeting of the Post, and provided further, that written notice shall have been given to all members at least 10 days (ten) in advance of the date when such amendment is to be voted upon notifying said members that at such a meeting a proposal to amend the Constitution is to be voted on. Such notice shall be by U.S. Mail, weekly email or within the regular newsletters of the Post and be posted on the Post Bulletin Board.

**Section 3: Quorum**

For the final voting on amendments to this Constitution, and as affecting such matters only, a quorum shall consist of fifteen (15) members in good standing.

**ARTICLE VI - AMERICAN LEGION AUXILIARY UNIT**

**Section 1 Recognition:**

This post recognizes an auxiliary organization known as American Legion Auxiliary Unit #90.

~~Membership in the American Legion Auxiliary Unit #90 is identified in the American Legion Department of Florida Constitution Article XII, Section 2. Article XII, Section 2 states that "Membership in the Auxiliary shall be limited to the mothers, wives, daughters, sisters, granddaughters and great granddaughters of members of The American Legion; and to the mothers, wives, daughters, sisters, granddaughters and great granddaughters of all men and women who were in the Army, Navy, Marine Corps, and Air Force of the United States between April 6, 1917 to November 11, 1918; or December 7, 1941 to December 31, 1946; or June 25, 1950 to January 31, 1955; or February 28, 1961 to May 7, 1975; or August 24, 1982 to July 31, 1984; or December 20, 1989 to January 31, 1990; or August 2 1990, to the date cessation of hostilities as determined by the Government of the United States all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served on active duty in the Armed Forces of any of the Governments associated with the United States during any of the said periods and died in the line of duty or after honorable discharge and to those women who of their own right are eligible to membership in The American Legion";~~ Qualification for membership in the American Legion Auxiliary shall be prescribed by the National Organization of the American Legion.

**ARTICLE VII – SONS OF THE AMERICAN LEGION AND AMERICAN LEGION RIDERS**

**Section 1 SAL Recognition:**

This Post recognizes a subsidiary organization under its jurisdiction, to be known as The Sons of The American Legion, Detachment 90 of Southwest Florida Post 90, Inc. Qualification for membership in the Sons of The American Legion shall be as prescribed by the National Organization of The American Legion.



**Section 2 American Legion Riders Recognition:**

This post recognizes a program to be known as The American Legion Riders Chapter 90. Qualification for membership in the American Legion Riders shall be as prescribed by the Department of Florida. The operation of The American Legion Riders Chapter 90 shall be in accordance with their Standard Operating Procedure (SOP).

**ARTICLE VIII – EXECUTIVE COMMITTEE – ADMINISTRATIVE POWER**

**Section 1 Administrative Power:**

The administrative power of this Post shall be vested in the Commander thereof and an Executive Committee which shall consist of the Post Officers named in Article IV, Section 1 and seven (7) Executive ~~Committeemen~~Committeeperson.

**Section 2 Number:**

Seven (7) Executive ~~Committeemen~~Committeeperson shall be elected at the regular meeting of the Post in compliance with Post By-Laws and the Department Constitution and By-Laws.

**Section 3 Term:**

The Executive ~~Committeemen~~Committeeperson shall hold office and serve for a term of one year or until their successors have been elected and installed, and shall serve without compensation.

**ARTICLE IX – RULES OF ORDER**

**Section 1 Governance:**

This Post shall be governed in conformance with the Post, Department, and National Constitution and By-Laws.

**Section 2 Rules:**

This Post 90 shall use and follow The American Legion Post Officers Guide in conducting its meetings, installation of members and other ceremonies therein.

**The American Legion of Southwest Florida Post 90, Inc.**

The forgoing Constitution was amended at the Regular Post Meeting of June 26, 2017 and adopted by this Post.

| Assistant Adjutant Name: ~~Brian Gehling~~John P. Baker Date:  
Assistant Adjutant Signature

| Commander Name: ~~John P. Baker~~Keith R. Berres Date  
Commander Signature

**Department of Florida The American Legion**

The forgoing Constitution of The American Legion of Southwest Florida Post 90, Inc. is approved.

| Department Judge Advocate Name: ~~Larry Sheets~~Bruce Comer Date  
Department Judge Advocate Signature

| Department Commander Name: ~~Joseph McGee~~Chris Hamrick Date  
Department Commander Signature

## The American Legion of Southwest Florida Post 90, Inc.

### BY-LAWS

#### ARTICLE I - ELECTION OF OFFICERS, EXECUTIVE COMMITTEEMEN, DELEGATES AND ALTERNATES

##### Section 1 Officers:

The Commander, First Vice Commander, Second Vice Commander, Finance Officer, Chaplin, Sergeant-at-Arms, Post Executive Committeemen, Delegates and Alternates to the Department Convention shall be elected as follows.

- (a) Nominations shall be opened at the regular meeting of the Post in compliance with the Department Constitution and By-Laws, and shall be continued for each office until such office is to be voted on; election shall be concluded at the regular meeting in compliance with the Department Constitution and By-Laws.
- (b) Any candidate receiving a majority of the whole number of votes cast shall be declared elected; and if no person has such a majority, then the ballot shall again be taken on the two persons on the list having the highest number of votes, until a majority vote has been cast within 3 days of the original vote.
- (c) Nominations for Post Executive ~~Committeemen~~ Committeepersons shall continue until there are at least seven candidates. The seven candidates receiving the highest number of votes shall be the Post Executive Committee.
- (d) Prior to balloting, the Commander shall appoint three tellers whose duty shall be to prepare, examine and count the ballots. Tellers may not be on the ballot.
- (e) The installation date for the duly elected officers shall be decided by the Post, subject to availability of the District Staff.
- (f) Delegates and Alternates – The Commander and Commander elect shall be ~~an~~ automatic ~~delegate~~ delegates to the Department Convention. All other delegates and alternates to which the Post may be entitled, in compliance with ~~Article V, Section 4 and 5 of the~~ Department of Florida By-Laws, shall be elected from and by the Post membership, by ballot at a regular meeting of the Post as presented in the By-Laws of the American Legion Department of Florida. These delegates and alternates so elected shall also be delegates and alternates to the District Conference. In the election of ~~delegates~~ delegates, no member should accept nomination if he knowingly cannot attend the afore mentioned sessions, his place as delegate will be taken by an alternate in compliance with ~~Article V, Section 4 in the~~ By-Laws of the Department of Florida, said alternate will be a delegate for the duration of the Department Convention. All Post delegates are required to vote the will of the Post as determined by its members.

##### Section 2 Rights:

The right of every member in good standing to vote shall not be denied, provided the member is present at the time of voting.

**Section 3 Eligibility:**

Every member of this Post in good standing shall be eligible to hold and may be elected to office in this Post, except as otherwise provide in Article IV, Section 2 of the Post Constitution.

**ARTICLE II - DUTIES OF OFFICERS**

**Section 1: Commander**

The Commander shall be the presiding officer and the elective head of the Post. ~~He-They~~ shall have full power and it shall be ~~his-their~~ duty to enforce the provisions of the National, Department and Post Constitution and By-Laws. ~~He-They~~ shall be guided by the decisions of the Post as a body. ~~He-They~~ shall be ~~chairman-chairperson~~ of the Post Executive Committee, except as hereinafter provided. ~~He-They~~ shall appoint all special and standing committees of the Post and all other officers whose appointments are not herein provided for. The Commander shall be an ex-officio of all committees. ~~He-They~~ shall perform such other duties as are usually incidental to the office.

**Section 2: First Vice Commander:**

The First Vice Commander shall actively cooperate with the Commander in all affairs of the Post; ~~he-they~~ shall act as representative of the Commander on all matters referred to him by the Commander; and shall preside at meetings in absence of the Commander, except as hereinafter provided. Membership is the primary concern of the First Vice, and ~~he-they~~ shall be chairman of the Membership Committee.

**Section 3: Second Vice Commander:**

The Second Vice Commander shall act as representative of the Commander on all matters referred to him by the Commander, and he shall preside at meetings in the absence of the Commander and First Vice Commander. ~~He-They~~ shall interest himself in developing Post activities, and in entertainment. They shall be the chairperson for the operation of the building, operations and personnel employed by the Post.

**Section 4: Adjutant:**

The Adjutant shall be charged with assisting the Commander in the administration of his office and of the policies and mandates of the Post and Executive Committee meetings. ~~He-They~~ shall keep an authenticated copy of the Post Constitution and By-Laws together with amendments thereof. ~~He-They~~ shall keep a file of all resolutions of the Post and rulings of the Post Executive Committee which in any way affects the permanent policy of the Post, such file to be properly indexed and to be separate and apart from the minutes of Post meetings and of Post Executive Committee meetings, as such resolutions and rulings shall be binding and valid if not in conflict with National, Department and Post Constitution and By-Laws, and shall be adhered to in the government of this Post. ~~He-They~~ shall perform such other duties as are usually incidental to the office.

**Section 5: Finance Officer:**

The Finance Officer shall be the custodian of the funds. ~~He-They~~ shall deposit all funds in

the name of the Post in such depository as is designated or approved by the Post Executive Committee. ~~He-They~~ shall be charged with the collection of all money, including dues, and the payment of all bills against the Post as ordered. ~~He-They~~ shall keep a correct account of all amounts and sources of receipts and amounts and purposes of disbursements. ~~He-They~~ shall make a report at the regular meeting each month, following the reading of the minutes, as to the condition of the Post's finances. ~~He-They~~ shall be a member ex-officio of all committees handling moneys pertaining to Post functions and activities. ~~His-The~~ books will be reviewed internally each month including a review of all tax returns, and shall be reviewed or audited by an outside accounting firm after each election of Officers annually. ~~He-They~~ will submit a consolidated annual report. The Post may employ the services of an outside accounting firm to prepare monthly financial statements and/or other financial services as deemed necessary.

#### **Section 6: Service Officer:**

The Service Officer shall supervise all matters pertaining to service to comrades in the prosecution of all just claims against the United States or State governments, employment relief and aid to veterans widows and orphans. ~~He-They~~ will maintain confidential files covering all cases.

#### **Section 7: Judge Advocate:**

The Judge Advocate shall advise the Post Officers on all legal matters, including the construction and interpretation of the Post Constitution and By-Laws, and shall perform such other duties as are usually incidental to the office.

#### **Section 8: Chaplain:**

The Chaplain shall assume the spiritual leadership of the Post. ~~He-They~~ shall take part in the initiation of new members, the dedication of halls, monuments or colors, and the funeral services of comrades, adhering to such ceremonial rituals as may be recommended by the National or Department headquarters from time to time. ~~He-They~~ shall especially be charged with visiting and comforting all sick and disabled comrades and their families.

#### **Section 9: Historian:**

The Historian shall collect from year to year all records and data of value and interest to the ~~Post, and Post and~~ shall complete during his term of office a complete history of the year's activities.

#### **Section 10: Sergeant at Arms:**

The Sergeant at Arms is the keeper of the Flag, and Post Standard to see that the Flag and Standard are in proper place at all regular meetings and at military funerals. They are responsible for the proper storage and maintenance of the rifles and the blank ammunition. ~~He-They~~ shall preserve order at all meetings and maintain a permanent Log Book which all members attending regular meetings shall be required to sign.

## ARTICLE III - COMMITTEES

### Section 1 Commander Authority:

The Commander shall have the power to appoint all special and standing committees by and with the advice and consent of the Post Executive Committee. He shall also have the power to appoint by and with the advice and consent of the Post Executive Committee all other officers of the Post whose appointments are not herein otherwise provided for.

### Section 2 SAL:

~~This Post recognizes the existence and importance of a Sons of The American Legion (SAL) Squadron. Qualification for membership in the Sons of The American Legion shall be as prescribed by the National Organization of The American Legion. The Post Commander shall appoint a committee of three (3) or more members chairperson from the Post to govern and advise the Squadron. Other provisions for this Squadron shall be in accordance with National and State Constitution and By Laws.~~

### Section 3 Riders:

~~This Post recognizes the existence and importance of The American Legion Riders. Qualification for membership in The American Legion Riders shall be as prescribed by the National Organization of the American Legion. Other provisions for this Squadron shall be in accordance with National and State Constitution and By Laws. The Post commander shall appoint a chairperson from the Post to govern and advise the Chapter.~~

### Section 4 Committee Chairman:

Unless the Commander names the chairman of a committee or unless he directs the committee name to choose its own chairman the first named member of a committee will be the chairman thereof, except as herein otherwise provided for.

### Section 5 Other Chairman:

The Commander, or other Post Officer or Executive Committeeman as appointed by the Commander, shall become a member of each standing committee.

### Section 6, Conflict of Interest:

No contract or other transaction between the Post and one or more of its Officers or Executive ~~Committeemen~~ Committeepersons shall be entered into whereas such Officer or Executive ~~Committeeman~~ Committeeperson has a personal financial interest in such contract or transaction without first obtaining an affirmative vote of the majority of the Executive Committee. Full disclosure of the Officer's or Executive Committeemen's involvement in such contract or transaction shall be given to the Executive Committee prior to such vote. Officers and Executive Committee members shall not be employed or paid for any services of the Post unless zpproved by the membership.

## ARTICLE IV - DISCIPLINE OF POST MEMBERS

**Section 1 Charges:**

Members may be suspended or expelled from the Legion only upon showing of cause. Charges shall be based on disloyalty, neglect of duty, dishonesty and 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 lose his membership until given a fair trial by the Post in accordance with the Department Constitution ~~Article X, Section 14~~, and the Department By-Laws addendum "Rules Governing Trials".

**Section 2 Appeal:**

Any member who has been suspended or expelled has the right of appeal to his Department Executive Committee as set forth by the Department Constitution ~~Article X, Section 15~~, and the Department By-Laws addendum "Rules Governing Trials".

**Section 3 Unpaid Dues:**

A member whose dues for the current year have not been paid by February first {1<sup>st</sup>} shall be classed as delinquent. If his dues are paid on or before April first, he shall be automatically reinstated. If he is still delinquent after April first, he shall be suspended from all privileges. If he is still under such suspension on December thirty first of such year, his membership in the American Legion shall be forfeited. A member so suspended or whose membership has been so forfeited may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs. Provided, however, that this Post, the Department and the National organization may waive the provisions hereof, upon payment of dues for the year in which reinstatement occurs.

**ARTICLE V - REMOVAL OF OFFICERS FOR CAUSE**

**Section 1 Charges:**

Any Officer or Executive Committeeman may be reprimanded, suspended, removed from office, or expelled from this Post and/or the American Legion in accordance with ~~Article X, Section 14~~ of the Constitution of the Department of Florida.

**Section 2 Written Charges:**

Any disciplinary action where the potential punishment is suspension or expulsion from the American Legion, or in the case of an Officer, the removal from office, against any Member or Officer shall be sworn or verified written charges by the accuser(s).

**Section 3 Right of Trial:**

Any Officer or Executive Committeeman under charges may have the right for a trial and such trial shall be governed by the "Rules Governing Trials" as described by the American Legion, Department of Florida.

## ARTICLE VI - MEETINGS

### Section 1 Schedule of Meetings:

Regular meetings of this Post shall be held ~~on the fourth Monday of each month or on such other day as may be determined by the Post Commander or be~~ monthly as approved by a majority of the Post Officers and Executive Committee.

### Section 2 Quorum:

A quorum for the transaction of business shall consist of ten (10) members in good standing, except as herein otherwise provided.

### Section 3 Special Meet Call by the Commander:

The Commander shall have the power to call special meetings of the Post or of the Post Executive Committee for the transaction of any business which he shall judge necessary and expedient.

### Section 54 Called by a Majority of the Executive Committee:

Special meetings of the Post may be called at any time by a majority of the Post Executive Committee when in its judgment it is necessary for the transaction of urgent business of the Post.

### Section 45 Special Meeting Call by a Member:

Special meetings of the Post will be called by the Commander upon the receipt of written application signed by eight members of the Post in good standing, provided, that such application shall clearly set forth the purpose for which such meeting is to be called.

### Section 5 Called by a Majority of the Executive Committee:

Special meetings of the Post may be called at any time by a majority of the Post Executive Committee when in its judgment it is necessary for the transaction of urgent business of the Post.

Formatted: Heading 3, Left, Space Before: 0 pt, After: 0 pt

## ARTICLE VII - EXECUTIVE COMMITTEE

### Section 1 Meeting:

The Executive Committee named in Article VIII, Section 1 of the Post Constitution shall meet at the judgment of the Commander or otherwise herein provided by the Executive Committee.

### Section 2 Quorum:

~~Ten (10) members of the Executive Committee shall constitute a quorum for the transaction of business~~ 60% of the members of the Executive Committee shall constitute a quorum for the transaction of business.



**Section 3 Chairman:**

The Commander shall be the Chairman and in ~~his~~-their absence the First or Second Vice will preside in that order.

**Section 4 Power:**

The Executive Committee shall have the power to transact such business as may be necessary for the welfare of the Post, and shall recommend to the Post for its consideration all matters of a legislative nature which it deems necessary for the welfare of the Post, its members, The American Legion, and the community. Except expenditures covering normal operating expenses, or routine needs, the committee shall have the power to authorize or approve emergency expenditures from the Post finances.

**Section 5 Interpretation:**

The interpretation of the Post Constitution and By-Laws or the Constitutionality of any resolution or order action rests with the Post Judge Advocate whose interpretation can be accepted or rejected by the Post Executive Committee.

**ARTICLE VIII - FINANCES**

**Section 1 Dues:**

The dues of this Post shall be determined by the vote of the Post body.

**Section 2 Authorized Expenditures:**

The Commander is authorized to spend up to five hundred (\$500.00) without prior approval of the Executive Committee for emergency use, to be followed by proof of expenditure.

**Section 3 Itemized Accounts:**

All Officers and Committees of the Post shall present to the Post itemized accounts of monies received and expended.

**Section 4 Authority to Bind:**

No member, officer, or committee of the Post shall have authority to bind it by contract or incur any obligation upon its behalf except by express authority of the Post Executive Committee.

**Section 5 Contracts:**

All contracts entered into on behalf of the Post shall be in writing, executed by the Post Commander, and evidenced by its corporate seal which shall be affixed by the Post Adjutant and attested by his signature.

## **ARTICLE IX - AMENDMENTS**

### **Section 1 By-Laws Amended:**

These By-Laws may be amended at any regular meeting of the Post, whereas a quorum has been met as herein provided, by a two-thirds (2/3) vote of all members present thereat; provided, that the proposed amendments shall have been presented in writing and read at the previous regular meeting of the Post, provided further, that written notice shall have been given to all members at least ten (10) days in advance of the date when such amendment is to be voted upon, notifying said members that at such a meeting a proposal to amend the By-Laws is to be voted on. Such notice shall be by U.S. Mail or by notice in the Post newsletter.

### **Section 2 Final Voting:**

For the final voting on amendments to these By-Laws, and as affecting such matters only, a quorum shall consist of fifteen (15) members in good standing.

## **ARTICLE X – REPEAL AND SAVING CLAUSES**

### **Section 1 By-Laws Superseded:**

These By-Laws supersede and take the place of all earlier By-Laws and amendments thereof and the same are hereby revoked and annulled; provided that nothing in these By-Laws contained shall be construed, without taking of proceedings authorized hereunder, to deprive any member of his membership or any rights a member accrued under previous By-Laws or retroactively to affect the provisions of the Post By-Laws heretofore submitted and approved by the Post.

**Section 2 Effective & Date:**

These By-Laws shall become effective when approved by the Department Commander.

The foregoing By-Laws were amended at the Regular Meeting of February 27, 2017 and adopted by this Post.

| Assistant Adjutant Name: ~~Brian Gehling~~John P. Baker Date  
Adjutant Signature

| Commander Name: ~~John P. Baker~~Keith R. Berres Date  
Commander Signature:

**Department of Florida The American Legion**

The forgoing Constitution of The American Legion of Southwest Florida Post 90, Inc. is approved.

| Department Judge Advocate Name: ~~Larry Sheets~~Bruce Comer Date  
Department Judge Advocate Signature:

| Department Commander Name: ~~Joseph McGee~~Chris Hamrick Date  
Department Commander Signature