

# **THE AMERICAN LEGION POST 238**

## **CONSTITUTION AND BY-LAWS**

**NINTH EDITION**

**Approved by William "Rick" Johnson, Department Commander**

**March 17, 2021**

### **PREAMBLE TO THE CONSTITUTION OF THE AMERICAN LEGION**

**For God and Country we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; To maintain law and order; To foster and perpetuate a one hundred percent Americanism; To preserve the memories and incidents of our associations in all wars; To inculcate a sense of individual obligation to the community, state and nation; To combat the autocracy of both the classes and the masses; To make right the master of might; To promote peace and good-will on earth; To safeguard and transmit to posterity the principles of justice, freedom and democracy; To consecrate and sanctify our comradeship by our devotion to mutual helpfulness.**

# CONSTITUTION

SAFETY HARBOR POST 238

THE AMERICAN LEGION

DEPARTMENT OF FLORIDA

## ARTICLE I: NAME

Section 1: The name of this organization shall be Safety Harbor Post 238, The American Legion, Department of Florida, located in Safety Harbor, Florida.

## ARTICLE II: PURPOSES

Section 1: The purposes of this Post shall be as set forth in the foregoing Preamble of the American Legion, to the extent and in the amount that the majority of the Post membership deems the Post is capable of performing.

## ARTICLE III: NATURE

Section 1: This Post shall be a civilian organization with no member being addressed by his/her Service title in any Post meeting with membership herein not effecting liability for Police or Military Service.

Section 2: This Post shall be non-political and non-partisan and not used for the promotion of a person seeking public preferment or office.

## ARTICLE IV: ELIGIBILITY

Section 1: Eligibility for membership shall be as set forth in the National Constitution of the American Legion.

## ARTICLE V: OFFICERS

Section 1: All Officers, except the Adjutant, Judge Advocate and Service Officer shall be elected annually. All Officers shall be certified to the Department Adjutant not more than fifty (50) days nor less than ten (10) days prior to the Annual Department Convention. Such Officers shall be responsible for upholding the principles of the American Legion and effecting the Post alignment to decisions and regulations set down by duly constituted bodies of the American Legion.

## ARTICLE VI: FINANCE

Section 1: The revenues of this Post shall be derived from annual dues of membership and from such other sources as may be approved by the Post membership.

Section 2: National and Department membership dues shall be transmitted to the

Department as prescribed by National and Department regulations.

#### **ARTICLE VII: POST HOME POLICY**

Section 1: It is, and will remain, a smoke free building, except for designated areas. This includes the use of electronic cigarettes (E-Cigs).

#### **ARTICLE VIII: AMERICAN LEGION AUXILIARY**

Section 1: The Post recognizes an auxiliary organization to be known as The Auxiliary Unit 238 of Safety Harbor Post 238 The American Legion.

Section 2: Membership in the Auxiliary shall be prescribed by the National Constitution of the American Legion Auxiliary.

#### **ARTICLE IX: SONS OF THE AMERICAN LEGION**

Section 1: The Post recognizes a subordinate organization to be known as Sons of The American Legion Squadron 238 of Safety Harbor Post 238 The American Legion.

Section 2: Membership in this squadron shall be prescribed by the National Constitution of the American Legion and the National Constitution of the Sons of the American Legion.

#### **ARTICLE X: THE AMERICAN LEGION RIDERS**

Section 1: The Post recognizes The American Legion Riders to be known as The American Legion Riders Chapter 238 of Safety Harbor Post 238 The American Legion.

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

#### **ARTICLE XI: AMENDMENTS**

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

Section 2: This Constitution may be amended at any regular Post meeting in accordance with the rules set forth in the Post By-Laws, ARTICLE XVI.

#### **ARTICLE XII: OMISSIONS**

Section 1: Any question of procedure not otherwise provided for in this Constitution or By-Laws, will be governed by the National or Department of Florida Constitution of the American Legion or by Roberts Rules of Order.

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

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THE AMERICAN LEGION  
DEPARTMENT OF FLORIDA  
PROPOSED AMENDMENT TO BY-LAWS

The amendment below was adopted by Post 238 in a regular meeting dated Aug 8; Sep12, Oct10, 2023

\_\_\_\_\_  
SIGNATURE POST COMMANDER OR ADJUTANT

**INSTRUCTIONS**

This form must be filled out in triplicate.

Proposals must arrive in Department Headquarters no later than forty (40) days prior to Department Convention.

**AMENDMENT**

Post By-Laws Article V: Section 2

Members may participate in meeting virtually utilizing video web conferencing.

Note: Additions to original text shown by **bold underline**  
Deletions to the original text are shown by ~~striketrough~~

DO NOT WRITE BELOW THIS LINE

APPROVED \_\_\_\_\_ REJECTED \_\_\_\_\_

FOR DEPARTMENT ACTION \_\_\_\_\_

FOR NATIONAL ACTION \_\_\_\_\_

CONSOLIDATED WITH \_\_\_\_\_

OTHER ACTION \_\_\_\_\_

SIGNATURE \_\_\_\_\_  
(CHAIRMAN)

\_\_\_\_\_  
DATE RECEIVED IN DEPARTMENT

PROPOSAL NUMBER \_\_\_\_\_

## BY-LAWS

**NINTH EDITION, MARCH 17, 2021**

**SAFETY HARBOR POST 238**

**THE AMERICAN LEGION**

**DEPARTMENT OF FLORIDA**

### ARTICLE I: MANAGEMENT

**Section 1:** The management of this Post will be entrusted to the Officers of this Post, hereinafter named the Executive Committee. No Officer or person related by birth, marriage or by familial relationship of the Executive Committee shall be gainfully employed by the Post in any capacity.

**Section 2:** The Post Executive Committee shall consist of the following:

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

**Section 3:** All Officers of this Post will be elected by the Post as prescribed herein, with the following exceptions: Post Adjutant, Judge Advocate, and Post Service Officer who will be appointed by the Post Commander-elect and their names submitted to the Executive Committee for approval following their appointment and prior to installation into office. An

elected Officer may also hold an appointive office, but may not concurrently hold more than one elected office.

## **ARTICLE II: DUTIES OF THE EXECUTIVE COMMITTEE**

**Section 1:** The Executive Committee will exercise general supervision over the management and affairs of the Post. Their duties shall consist of, but not be limited to, the following:

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

## **ARTICLE III: MEMBERSHIP**

**Section 1:** There shall be no form or class of membership except an Active Membership, whose dues, except for PUFL (Paid Up For Life) members, shall be paid annually. A "Member in Good Standing" is defined as a member whose dues are paid for the current year. No person may be a member of more than one Post at the same time.

**Section 2:** A candidate for new membership in Post 238 must submit an application for membership with proof of eligibility for membership, together with annual dues to the Membership Chairperson, who will verify eligibility

requirements. The Post Adjutant will submit the application for vote at the next regular Post meeting. A majority vote of the membership present is required for a candidate to be elected to membership. A rejected candidate may appeal to the Executive Committee, which will investigate and render its decision at the next regular Post meeting.

**Section 3:** Members in good standing of other Posts may transfer their membership to Post 238, subject to the same membership requirements as those stated above for a new member. There will be no additional cost for this transfer during the current year. Any member in good standing in this Post is entitled to a Certificate of Transfer.

**Section 4:** New members and transfer members will immediately have the same duties, privileges, and responsibilities of current Post members.

**Section 5:** Members may be suspended or expelled from the Post only upon a proper showing of cause. Charges shall be based upon disloyalty to the American Legion or the National Government; neglect of duty, dishonesty, or conduct unbecoming a member of Post 238. All charges must be made under oath in writing by the accusers and any trials must follow the Rules Governing Trials of The American Legion Department of Florida.

Any member who has been suspended, expelled or removed from office has the right to appeal under the Rules Governing Appeals of The American Legion Department of Florida.

**Section 6:** Members of the Executive Committee will, either jointly or individually, inform members of the PUFL (Paid Up For Life) membership Plan offered by National and make available the appropriate application forms.

**Section 7:** The fiscal year of the Post is July 1st to June 30th.

#### **ARTICLE IV: DUES**

**Section 1:** Post membership is annual, January 1st to December 31st. Dues for next year are payable on or before October 20th of the current year. If dues are not paid prior to January 1st, the member is classified as delinquent. If dues are still delinquent on February 1st, the member is suspended. A member has until June 30th to pay his back dues or be dropped from the roll by National Constitution mandate and his membership is terminated.

## **ARTICLE V: MEETINGS**

**Section 1:** All Regular and Special meetings will be open to all members in good standing of Post 238.

- **Section 2:** **Members may participate in meetings virtually utilizing video web conferencing.** The Regular monthly meeting will commence at 7:00 p.m. on the second Tuesday of each month at the Post, or any other place specified by the Executive Committee. The Executive Committee will meet at 6:00 p.m. prior to the Regular monthly meeting.

**Section 3:** Special meetings may be called at any time by the Commander, or by a majority vote of the Executive Committee, provided that notice of such meeting is prominently displayed throughout the Post at least forty-eight hours before the meeting.

**Section 4:** A quorum for Regular Business Meetings will consist of no less than eleven members, at least six of whom must be Post Officers. A quorum for Executive Committee Meetings will consist of no less than seven Executive Committee members.

**Section 5:** The Officers will follow the American Legion Manual of Ceremonies while conducting Post meetings and ceremonies.

## **ARTICLE VI: RECORDS**

**Section 1:** All records of the Post will be kept in the office of the Adjutant in the Post Headquarters. They are subject to inspection at any reasonable time by any Post member in good standing.

No permanent record(s) of this Post will be removed from Post Headquarters without the approval of the Commander or the Executive Committee.

**Section 2:** The names and telephone numbers of the Executive Committee will be prominently displayed in the Post.

## **ARTICLE VII: ELECTIONS**

**Section 1:** A nominating committee, consisting of three members, will be appointed by the Commander at least thirty days preceding the date for nominations for election. They will present a qualified slate of nominees willing

to accept the position for which they are nominated. Nominating Committee member(s) may also be a nominee.

**Section 2:** Names of the nominees will be presented to the floor at the March and April Regular Business Meetings. Nominations will be accepted from the floor at both nomination meetings. A person may be nominated for more than one office however the member must choose immediately which nomination for office to accept. At this point, nominations will be closed. The election will then be held at the May Regular Business Meeting. In no case will the election of officers occur less than 10 days, nor more than 90 days before the Annual Department Convention.

**Section 3:** Notice of election meetings and results will be prominently displayed in the Post.

**Section 4:** Members, eligible under the provisions of the Department Constitution, may vote or hold an elected or appointive office. Officers may be re-nominated.

**Section 5:** The Commander, under the provisions of the Department Constitution, will appoint two non-nominee Post members to be the Judges-of-Election; said Judges will be announced at the election meeting immediately prior to the voting.

**Section 6:** Officers will be elected one office at a time, in the order listed in Department By-Laws.

**Section 7:** In order to vote, a member must show their current membership card and sign the official roster, at which time they will receive an official ballot.

**Section 8:** For the convenience of the members, early voting will be held at the Post Home for 7 days prior to elections. Limited hours will be available to members to cast their vote during these 7 days. Early voting hours will be prominently posted.

**Section 9:** On the day of elections, early voting will be held at the Post Home from 11:00 a.m. to 6:00 p.m.

**Section 10:** When an early voting ballot is issued, it must be immediately completed and turned in. No ballots will be mailed.

## **ARTICLE VIII: INSTALLATION**

**Section 1:** All Post Officers will be installed by the District Commander, or his designated representative. The installation will be on a date fixed by the Commander-Elect and agreeable to the outgoing Commander. This date will be subsequent to, but not later than sixty days after, adjournment of the Annual Department Convention.

**Section 2:** All elected and/or appointed Officers unable to attend the Official Installation will be sworn in by the Post Commander, or his designated representative, before entering upon their duties of Office.

## **ARTICLE IX: DUTIES OF OFFICERS**

**Section 1: The Commander** presides at all meetings of the Post. He or she is the Chief Executive Officer of the Post responsible for all operations of the Post. He or she will make an annual report covering the affairs of the Post during his term in office, together with any recommendations he may have for the ensuing year. A copy of his or her report will be inserted in the Post minutes and a copy forwarded to the Department Adjutant.

**Section 2:** The **1st Vice-Commander** will assume the duties of the Commander in the absence or disability of, or when called upon by the Post Commander. The 1<sup>st</sup> Vice Commander will make membership his or her primary concern. He or she may counter-sign checks in the absence of the Commander or the Finance Officer. He or she will work closely with Adjutant and Program Chairs to ensure the Post's success.

**Section 3:** The **2nd Vice-Commander** is responsible for, but not limited to creating and maintaining an "I Like My Post" atmosphere in the Post that encourages members to enjoy Legion activities. He or she is also responsible for fund raising, patriotic activities and promoting the Honor Guard. He or she will chair the Planning and Maintenance Committee. He or she will perform other duties as requested by the Commander.

**Section 4:** The **Adjutant** will keep a full and accurate record of the proceedings of all Post meetings. He or she is also responsible for

correspondence and secretarial work of the Post under the direction of the Commander and will keep such records as the Post Commander and National and Department Headquarters requires.

**Section 5:** The **Finance Officer** is in charge of all Post finances and will see that funds are deposited in an approved institution and will prepare a statement of financial disbursements and balances at each regular Post meeting. He or she will sign all checks disbursing Post funds, except as previously noted in Section 2. He or she will assist in preparing a summary of Post expenditures for the preceding year.

**Section 6:** The **Chaplain** is responsible for the spiritual welfare of the Post membership. He or she will perform nonsectarian services for funerals, dedications, or public functions and will adhere to the guidelines prescribed by National and Department headquarters. He or she will perform other duties as requested by the Commander.

**Section 7:** The **Historian** will maintain a record of Post activities and prepare a book, which at the end of the year will be given to the Post Adjutant for filing as a permanent Post record. He or she will submit a report each year to the Department Historian and perform other duties as requested by the Post Commander.

**Section 8:** The **Judge Advocate** is the Post's legal authority. When necessary he or she will secure competent advice in the conduct of Post business. He or she is the guardian of the constitutional form for Post meetings and government. He or she is in charge of auditing the Post's financial accounts and other duties as requested by the Commander.

**Section 9:** The **Sergeant-At-Arms** will preserve order at all Post meetings, set up the meeting room, take charge of the Colors, and perform other duties as assigned by the Commander.

**Section 10:** The **Service Officer** will render aid and assistance to veterans and their dependents. He or she will maintain contact with the State Service Officer and the National and Department Rehabilitation Commission so that he or she is kept informed of laws regarding aid to veterans and their dependents.

He may request disbursement from the Welfare Fund, under supervision of the Commander, and will report all expenditures from said Fund to the Post membership in addition to a written monthly report of assistance activity at the next regular meeting. He or she will submit a year-end report to the Department Rehabilitation Commission Chairperson.

**Section 11:** The **Executive Committee Members** will assist in the management and general supervision of Post affairs. Not charged with specific duties, they represent the membership-at-large and may, from time-to-time, be asked by the Commander to perform other assigned duties

#### **ARTICLE X: VACANCIES**

**Section 1:** When a vacancy occurs, the Commander will appoint a member in good standing to fill the vacancy and the name will be submitted to the Executive Committee for approval. The Adjutant will, within seven days of the confirmation, report the name and address of the new officer to the Department Adjutant.

In the event of a vacancy in the Post Commanders office, the order of succession shall be 1st Vice Commander and then 2nd Vice Commander. Vacancies in other offices shall be filled by appointments by the Commander with concurrence of the Executive Committee.

#### **ARTICLE XI: COMMITTEES**

**Section 1:** The Post Commander, immediately after taking office, may appoint any committees he or she deems necessary to successfully carry out the programs of the Post for the ensuing year. (Refer to the appropriate section of the National Officers Guide.)

**Section 2:** The duties of the appointed committees will be defined by the Commander and will conform as nearly as possible to the duties as defined by the National, Department, Area, and District Committees of the same nature. The Chairperson of each committee will be prepared to make a verbal report at any regular meeting of the Post. At year's end he or she will submit a written report to the Commander, which will be filed with the Post minutes.

**Section 3:** The Commander, upon taking office, may appoint a House Chairperson acceptable to and approved by the Executive Committee. His or

her main duties are maintenance of Post property. He or she will keep a schedule on the bulletin board of Post activity dates and will be in charge of the use of the hall and kitchen by other organizations. He or she will serve at the pleasure of the Commander.

**Section 4:** The removal of any committee, committee chairman or committee member when deemed in the best interest of the Post, will be recommended by the Commander, and submitted to the Executive Committee for approval.

#### **ARTICLE XII: ASSETS & LIABILITIES**

**Section 1:** No member of this Post, individually, as an Officer or otherwise, will at any time create, incur, or authorize any indebtedness or liability against this Post without the prior consent or authorization of the Post membership or the Commander.

**Section 2:** No property of the Post will be sold, transferred, conveyed, or otherwise disposed of without approval of the Executive Committee and the Post membership. The Commander may at his or her sole discretion, dispose of non-functioning Post equipment whose value does not exceed \$200 per item.

**Section 3:** The Commander may expend up to \$200.00 for emergency aid of Post 238 members or their members families without prior approval of the Executive Committee.

**Section 4:** The Commander may expend funds, to address urgent matters, if necessary to protect, preserve or secure Post property. This action must be approved (by conference or individual calls) by at least (4) elected members of the Executive Committee and ratified at the next Executive Meeting and presented and approved at the next Membership Meeting.

#### **ARTICLE XIII: 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, merely express the opinion of this Post on the subject. A copy of same will be forwarded to the Department Headquarters for its approval before any publicity is given or action taken other than passage by the Post floor.

**ARTICLE XIV: RULES OF ORDER**

**Section 1:** All proceedings of this Post will be conducted in accordance with the Officers Guide which states on page 115; "Roberts Rules of Order Newly Revised" is the accepting Authority for The American Legion.

**ARTICLE XV: AMENDMENTS**

**Section 1:** These By-Laws may be amended in any regular meeting of the Post by a two-thirds majority vote of the membership present and voting, a quorum being present.

Proposed amendments will be read at three consecutive regular meetings, at which time hard copies will be available. After the third reading the amendments will be voted upon. No motion will be accepted to delay, postpone, table, or otherwise kill any proposed amendment properly presented.

**Post Approval:**

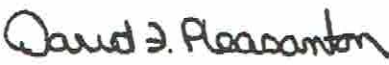
**These changes to the By-Laws were duly approved, after proper notice, by the membership of Safety Harbor Post 238 on October 10, 2023.**

**In Witness Whereof:**

  
\_\_\_\_\_  
**Robert Matheson, Post Commander**  
**Department Approval:**

  
\_\_\_\_\_  
**David Clinger, Adjutant/Judge Advocate**

**Pursuant to applicable provisions of the Department Constitution and By-Laws of the Department of Florida, the forgoing By-Laws of Safety Harbor Post 238 have been reviewed and approved this 24<sup>th</sup> day of March, 2024.**

  
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**Department Judge Advocate**

  
\_\_\_\_\_  
**Department Commander**