



The American Legion

Department of Texas

ONION CREEK POST 326

AMENDED AND RESTATED (2017)

POST CONSTITUTION & BY- LAWS

ONION CREEK AMERICAN LEGION POST 326

CONSTITUTION

PURPOSE

The purpose of this organization is to foster and to perpetuate a one hundred percent Americanism, to preserve the memories and incidents of our association 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 and sanctify our comradeship by our devotion to mutual helpfulness; to maintain law and order, a representative form of government, and to uphold and defend the Constitution of the United States and of the State of Texas.

ARTICLE I – NAME

Section 1. The name of this organization shall be Onion Creek American Legion Post No. 326, The American Legion.

ARTICLE II – OBJECTS

Section 1. The objects and purposes of this Post shall be to promote the principles and policies as set forth in the forgoing purpose and the National and Departmental constitutions of the American Legion.

ARTICLE III - NATURE

Section 1. This 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 promoting or retarding 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/her military title in any meeting of this Post.

ARTICLE IV – MEMBERSHIP

Section 1. Eligibility to membership in this Post shall be as prescribed by the National Constitution of The American Legion, and the Constitution and by-laws of The American Legion. Department of Texas, and as further stated in this Constitution and By-laws.

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 in a Post shall be acted upon at the next Post membership meeting following the making of such application, and shall at such meeting be accepted, rejected or referred for further investigation and consideration. If a majority or more of the Post membership cast their vote against the acceptance of such application, then such application shall be recorded as rejected.

Section 4. Any member of this Post may be expelled by a two-thirds vote of the Post Executive Committee after charges are preferred under oath in writing and a fair trial is had upon the same, under the rules and regulations of the Department of Texas and the Uniform Code of Procedure of the Post, (Which are not to be in conflict with the rules and regulations of the Department of Texas) and Article IV, National By-Laws of the American Legion.

Section 5. If the accused is convicted, his/her membership is suspended until his/her final appeal is heard and a decision is rendered, and if he/she is expelled by the decision, he/she shall not be eligible for membership in this Post for one year from the date of expulsion, and then only in the event his/her application for reinstatement is approved in the manner in which memberships are approved in this Post.

Section 6. No person who has been expelled by a Post shall be admitted to membership in this Post, without the consent of the expelling post until after a year has elapsed since his/her expulsion, and then only in the event his/her application for reinstatement is approved in the manner in which memberships are approved in that Post.

ARTICLE V – OFFICERS

Section 1. The administrative affairs of this Post of The American Legion shall except as may be otherwise provided by the By-Laws, be under the supervision of a Post Executive Committee which shall consist of at least two members in addition to the Officers of the Post. The term of office for members of the Post Executive Committee shall be for one year. This Post, by its By-Laws, may provide for such other standing committees as the business of the organization may require.

Section 2. The officers of this Post shall be a Commander, a First Vice Commander, a Second Vice Commander (“when used”), an Adjutant, a Finance Officer, a Historian, a Chaplain, a Sergeant-at-Arms, a service Officer, and such other officers as may be deemed necessary by this organization.

Section 3. A nominating committee shall be appointed by the Post Executive Committee who shall report their nominations to the next regular by-monthly meeting, preceding the annual election of officers. Nominations may also be made from the floor at such meeting, and again at the meeting for the annual election.

Section 4. All Officers and Executive Committeemen shall be elected annually, by majority vote on written ballots, or by a voice vote in the election of Officers and Committeemen when the position(s) are uncontested, at a Post meeting held not less than fifteen days prior to the Department Convention (Article V, Section 4, Department Constitution) and shall be installed not later than the first regular Post meeting in October following their election. Only those members holding current calendar year membership cards shall have the privilege of vote in the election. They shall

hold office until their successors are dully installed or as otherwise provided. Any Post Officer or Post Executive Committeeman may be removed for cause by the Post Executive Committee, a two-thirds vote of said Committee being necessary to effect such removal. The membership shall be entitled to be present at the Post Executive Committee meeting without voice or vote. The decision of the Post Executive Committee shall be subject to the approval or reversal by the Post membership at the next regular Post meeting where a quorum is present.

Section 5. The duties of Officers and Executive Committeemen shall be those usually appertaining to such Officers or Committeemen and as further provided in the By-Laws.

Section 6. Officers and Executive Committeemen are expected to attend the regular meetings of the Post Executive Committee. Failure of any Officer or Executive Committeeman to attend three successive meetings without reasonable cause having been furnished the Post Adjutant or Post Commander shall be cause for forfeiture of said office. The Post Executive Committee shall decide when an Officer's failure to attend three successive regular business meetings without reasonable cause having been furnished the Post Adjutant or Post Commander, shall be cause for forfeiture of said office. The Post Executive Committee shall decide when an Officer by his/her failure to attend three business meetings has forfeited his/her right to continue in office when or whether to declare such office vacant and when to order an election to fill the vacancy.

Section 7. In case of a vacancy in any office for any cause, the said vacancy shall be filled at any regular meeting provided at least five days notice of such election has been given to the members.

ARTICLE VI – FINANCE

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

Section 2. The amount of membership or initiation fees and the amount of annual dues shall be fixed and determined by this Post.

Section 3. The Post shall pay to Department Headquarters the Department and National annual membership dues within thirty days from receipt thereof each paid member of the Post.

ARTICLE VII – CHARTER MEMBERS

Section 1. Members who joined this Post prior to the issuance of charter shall be known as charter members.

ARTICLE VIII – AMERICAN LEGION AUXILIARY

Section 1. This Post recognizes an auxiliary organization to be known as the Auxiliary Unit of Onion Creek American Legion Post 326, The American Legion.

Section 2. Membership in the Auxiliary shall be as prescribed by the National and Department of Texas Constitutions and By-Laws of The American Legion.

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 American Legion, Department of Texas. Any amendment to said National Constitution or Department Constitution which is in conflict with any provisions 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 at any regular Post meeting by a vote of two-thirds of the members of said Post attending such regular meeting; provided that the proposed amendment shall have been submitted in writing to the Post Executive Committee in session and approved by it; or if rejected, in whole or in part; it may be taken to a regular Post meeting on a minority report; and provided that the proposed amendment shall have been submitted in writing and read at the next preceding regular meeting of said Post; and provided further, that written notice shall have been given to all members at least five days in advance of the date when such amendment is to be voted upon, notifying said members that at such meeting a proposal to amend the Constitution is to be voted upon.

Section 3. Anything not covered by this Constitution shall be governed by the Constitution of the Department of Texas.

ARTICLE X – REAL PROPERTY

Section 1. Real property owned by the Post may be sold, (after first complying with Article VI, Section 6, Department Constitution), leased or otherwise disposed of, where control of said property is involved, at any regular meeting ~ a vote of two-thirds of the Post members attending a regular meeting, provided that the proposal shall have been submitted in writing, after approval by a majority of the Post Executive Committee, if there be a Post Executive Committee, and further after approval by a majority of the Board of Trustees; if there be a Board of Trustees. and read at the preceding regular meeting of the Post, and provided further notice shall have been given all members by mail at least fifteen days in advance of the date when such proposal is to be voted upon and that notice is given in the local press and radio and that it is posted on the Post bulletin board in the same time limits prior to the actual voting on the proposal.

ONION CREEK AMERICAN LEGION POST 326

BY-LAWS

ARTICLE I- NAME

Section 1. The Post existing under these By-Laws is to be known as ONION CREEK AMERICAN LEGION Post No. 326, Austin, Texas

Section 2. The objects of this Post are as set forth in the Constitution.

ARTICLE II –MANAGEMENT

Section 1. The government and management of the Post is entrusted to a Post Executive Committee which shall consist of two members in addition to the Officers of this Post. They shall be elected annually as provided in Article V. Section 4 of the Constitution and all shall take office immediately upon installation.

Section 2. The Post Executive Committee shall meet for organization and such other business as may come before it at the call of the Post Commander within ten days after the installation of the new officers. Thereafter the Post Executive Committee shall meet at the call of the Post Commander at least once a month and as often as said Post Commander may deem necessary. The Post Commander shall call a meeting of the Post Executive Committee upon the joint written request of three or more members of said Post Executive Committee; a majority of the members of the Committee shall constitute a quorum thereof.

Section 3. The Post Executive Committee shall hire such employees as may be necessary; shall authorize and approve all expenditures; shall require adequate bonds from all persons having the custody of Post funds; shall cause all funds to be placed in the hands of the Post Finance Officer for deposit and accounting purposes; shall hear the reports of Post Committee Chairmen, and generally shall have charge of and be responsible for the management of the affairs of this Post. At the end of each fiscal year, an audit committee shall be appointed to conduct a complete audit of Post records before turning them over to the new Post Finance Officer. Except for hiring and firing of employees, all actions of the Post Executive Committee shall be submitted for approval to the membership at the next regular membership meeting.

Section 4. Post 326 investment funds will be managed by an investment sub-committee under the Post Finance Officer. Investments will be restricted to include government and government agency bonds, Corporate bonds at least one notch above investment grade (i.e. and SI&P rating of BBB or above), foreign sovereign bonds rated AA or above, insured municipal bonds and up to 30% in equity mutual funds or exchange traded funds (ETFs). Investments will be diversified with no more than 15% in any one fund or issue.

ARTICLE III – DUTIES OF OFFICERS

Section 1. Duties of Post Commander. It shall be the duty of the Post Commander to preside at all meetings of the Post and to have general supervision over the business and affairs of the Post, and such Officer shall be the Chief Executive Officer of the Post. The Post 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 immediately forwarded to the Department Adjutant. The Post Commander shall see that this Constitution and By-Laws are observed. The Post Commandeer shall perform such other duties as are directed by the Post.

Section 2. Duties of Post First Vice Commander and Post Second Vice Commander (“when used”). The Post First Vice Commander shall assume and discharge the duties of the office of Post Commander in the absence or disability of, or when called upon by the Post Commander. The Post Second Vice Commander (“when used”) shall assume and discharge the duties of the First Vice Commander in the absence or disability of, or when called upon by the Post Commander. Both the Post First Vice Commander and the Post Second Vice Commander shall perform such other duties as may be directed by the Post Commander

Section 3. Duties of Post 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, issue membership cards, handle certificates of transfer, render reports of membership annually or when called upon at a meeting, and under direction of the Post Commander, handle all correspondence of the Post. The Post Adjutant shall comply with Article V. Section 5, Department Constitution.

Section 4. Duties of Post Finance Officer. The Post Finance Officer shall have charge of all finances and see that they are safely deposited in some local bank or banks and shall report once a month to the Post Executive Committee and the Post, in writing, the condition of the finances of the Post, with such recommendations as the Post Finance Officer may deem expedient or necessary for raising funds with which to carry on the activities of the Post. The Post Finance Officer shall sign all checks disbursing the moneys of the Post, such checks are to be countersigned by another authorized signature (preferable the Post Commander) when in excess of \$1,000 or more. All authorized signatures will be approved by the Post Executive Committee. The Post shall furnish such surety bond in such sum as shall be fixed by the Post Executive Committee.

Section 5. Duties of the Post Historian. The Post Historian shall be charged with the individual records and incidents of the Post and Post members, shall perform such other duties as may properly pertain to the office as may be determined by the Post or Post Executive committee.

Section 6. Duties of Post Chaplain. The Post Chaplain shall be charged with the spiritual welfare of the Post comrades and will offer divine but non-sectarian 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. Duties of Post Sergeant at Arms. The Post Sergeant at Arms shall preserve order at all times and meetings and shall perform such other duties as may from time to time be assigned to Post Sergeant at Arms by the Post Commander or Post Executive Committee. The Post Sergeant at Arms shall have charge of Post Colors, and shall not display or permit them to be displayed without specific authority of the Post Commander.

Section 8. Duties of Post Service Officer. The Post Service Officer shall comply with the Service Officer's Manual and Post Officers Guide of the American Legion, and recommendations of National Department Headquarters, and needs of this Post.

ARTICLE IV – DELEGATES

Section 1. Delegates and alternates to a Department, Division, or District Convention shall be elected by written ballot by the Post at a regular meeting of the Post to be held not less than fifteen days prior to the date of such conventions. However, the Post, by two-thirds vote of members present may authorize the Post Commander to appoint such delegates. The Post Commander shall, immediately upon their election or appointment, designate the chairman.

Section 2. Each duly registered delegate shall be entitled to one vote. A Post may select one of the following methods of providing for those votes of delegates that do not attend the convention. A Post may select either the Pro-Rata Rule or the Modified Unit Rule for their by-laws. Alternates for delegates shall have all the privileges of registered delegates except that of voting. A registered delegate is one who has received his/her credentials after his/her registration fee has been paid.

Section 3. The chairman of the delegation shall cast the entire delegate vote on any convention matter, after first polling the delegates present, so as to reflect the vote of each delegate present.

ARTICLE V – DUES – FISCAL YEAR

Section 1. Annual dues shall be as prescribed by the Post and shall be payable on or before October 20th of each year for the succeeding calendar year. A member whose dues for the current year have not been paid by January first shall be classed as delinquent. If his/her dues are paid on or before February first, he/she shall be automatically reinstated. If he/she is still delinquent after February first, he/she shall be suspended from all privileges. If he/she is still under such suspension on June thirtieth of such year, his/her 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.

Section 2. The newly elected Post Officers shall be installed at a regular or special meeting, as may be designated by the Post Executive committee, as soon as practicable after the annual election, not later than the first regular Post meeting in October following their election, and according to Article V. Section 4 of this Constitution.

Section 3. The Chairman of the membership committee may recommend to the Post Executive Committee the names of members whose dues shall be paid for by the Post with reasons for such recommendations. The Post Executive Committee shall have the power to approve or reject recommendations except new members and transfers.

ARTICLE VI – POST COMMITTEES APPOINTMENTS

Section 1. The Post Commander, immediately upon taking office each year shall appoint such standing committees as the Post Commander deems necessary for the efficient operation of the Post. Such as those listed in the Post Officers Guide; the Post Commander shall also appoint such

other committees as the Post Commander finds to be necessary from time to time. All of such committees shall consist of such members and the chairman thereof as shall be designated by the Post commander and confirmed by the Post Executive Committee.

Section 2. The duties and functions of the respective Post committees shall be in accordance with the current Post Officers Guide of The American Legion and with the recommendations of National and Department Headquarters.

ARTICLE VII – 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 merely 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 or action other than mere passage by the Post is taken.

ARTICLE VII – MEETINGS

Section 1. The regular and special meetings of the Post shall be held at Onion Creek Club or as otherwise designated by the Post Commander, at which place may be transacted such business as may properly be brought up for action, approve the minutes of the previous meeting and minutes of all Post Executive Committee meetings since the last regular meeting; such meetings may be converted into entertainment meetings, as may be deemed advisable by the officers of the Post. Procedure at regular meetings shall comply with the current Manual of Ceremonies.

Section 2. The regular business meetings of the Post shall be as determined by the Post Commander. Other business or social meetings may be held as directed by the Post Commander and the Post Executive Committee.

Section 3. The Post Commander or a majority of the Post Executive Committee shall have power to call a special meeting of the Post at any time.

Section 4. Upon the written request by signed petition of not less than twenty five percent of the members in good standing of the Post delivered to the Post Commander, requesting a special meeting of the Post, the Post Commander shall call the said special meeting within not less than seven days., nor more than fourteen days after receipt of the said petition. In the said petition shall be stated the purpose for which the meeting is requested and matters not pertaining to said purpose for the meeting shall not be considered at such meeting. In notices given to the membership of said meeting, the subject matter to be discussed shall be stated. The Post commander or a majority of the Post Executive Committee shall have the power to call a special meeting of the Post and the notice of the call for this meeting sent to the membership shall contain the subject matter to be discussed at the said meeting and the said meeting shall not discuss other matters not relating to said notice.

Section 5. At least four members in good standing shall constitute a quorum at any regular or special meeting of the Post.

ARTICLE IX – NOTICES

Section 1. Every member shall furnish the Post Adjutant with his/her address for mailing purposes. Notices sent to the last known address shall constitute sufficient legal notice.

Section 2. The Post Adjutant shall cause written notice of the annual election to be given at least five days prior thereto, such notices to be based on the mailing list.

ARTICLE X – RULES OF ORDER

Section 1. All proceedings of this Post shall be conducted under and pursuant to Robert's Rules of Order, Newly Revised, except as herein otherwise provided.

ARTICLE XI –LIMITATIONS OF LIABILITIES

Section 1. This Post shall incur, or cause to be incurred, no liability nor obligations whatsoever which shall subject to liability any other Post, subdivision, group of men or women, members of the American Legion, or other individuals, corporation, or organization.

ARTICLE XII – AMENDMENTS

Section 1. These By-Laws may be amended at any regular Post meeting by a vote of two-thirds of the members of said Post attending such regular meeting; provided that the proposed amendment shall have been submitted in writing to the Post Executive Committee in session and approved by it; or if rejected in whole or in part, it may be taken to a regular Post meeting on a minority report; and provided that the proposed amendment shall have been submitted in writing and read at the next preceding regular meeting of said Post, and provided, further, that written notice shall have been given to all members at least five days in advance of the date when such amendment is to be voted upon notifying all said members that at such meeting a proposal to amend the By-Laws is to be voted upon.

POST CERTIFICATION

We the following officers of Onion Creek Post 326 of The American Legion, hereby certify that the foregoing Constitution and By Laws, after due notice was given to all members, was adopted at a regular meeting of the Post held on the 2nd day of August, 2017, A.D.

 _____, POST COMMANDER

ATTEST:

 _____, POST ADJUTANT

DEPARTMENT CERTIFICATION

Passed on by the Department Judge Advocate on the 21st day of September, 2017, A.D., and
Approved by the Department Executive Committee on the 24th day of Sept., 2017.

 _____
DEPARTMENT JUDGE ADVOCATE

AMERICAN LEGION POST 326

List of AMENDMENTS

Amendment -05122001 (Content unknown, may have been several amendments and changes to original document according to the minutes of that general meeting.)

Amendment No. 01-08042010

Amendment No 02-08042010

Amendment No. 03-24082010

Amendment No 03-10022013 (*Added to ARTICLE 2 – Management—Section 4*)

Amendment - 02082017

AMENDMENTS

Amendment-05122001

Content unknown, may have been several amendments and changes to original document according to the minutes of that general meeting.

Amendment No. 01-08042010

ARTICLE V—OFFICERS, Section 2 (Constitution)

(As Stated)

Section 2. The officers of this Post shall be a Commander, a Vice Commander, an Adjutant, a Finance Officer, a Historian, a Chaplain, a Sergeant-at-Arms, a Service Officer, and such other officers as may be necessary by this organization.

(As Amended)

Section 2. The officers of this Post shall be a Commander, a First Vice Commander, a Second Vice Commander (“when used”), an Adjutant, a Finance Officer, a Historian, a Chaplain, a Sergeant-at-Arms, a service Officer, and such other officers as may be deemed necessary by this organization.

Amendment No 02-08042010

ARTICLE III-DUTIES OF OFFICERS-Section 2 (By-Laws)

(As Stated)

Section 2. Duties of Post Vice Commander. The Post Vice Commander shall assume and discharge the duties of the office of Post Commander in the absence or disability of, or when called upon by the Post Commander.

(As Amended)

Section 2. Duties of Post First Vice Commander and Post Second Vice Commander (“when used”). The Post First Vice Commander shall assume and discharge the duties of the office of Post Commander in the absence or disability of, or when called upon by the Post Commander. The Post Second Vice Commander (“when used”) shall assume and discharge the duties of the First Vice Commander in the absence or disability of, or when called upon by the Post Commander. Both the Post First Vice Commander and the Post Second Vice Commander shall perform such other duties as may be directed by the Post Commander

Amendment No. 03-24082010

ARTICLE III-DUTIES OF OFFICERS – Section 4 (By-Laws)

(As Stated)

Section 4. Duties of Post Finance Officer. The Post Finance Officer shall have charge of all finances and see that they are safely deposited in some local bank or banks and shall report on a month to the Post Executive Committee and the Post, in writing, the condition of the finances of the Post with such recommendations as the Post Finance Officer may deem expedient or necessary for raising funds with which to carry on the activities of the Post. The Post Finance officer shall sign all checks disbursing the moneys of the Post, such checks are to be countersigned by another authorized signature (preferable the Post Commander) when \$500 or more. All authorized signatures will be approved by the Post Executive Committee. The Post shall furnish such surety bond in such sum as shall be fixed by the Post Executive.

(As Amended)

Section 4. Duties of Post Finance Officer. The Post Finance Officer shall have charge of all finances and see that they are safely deposited in some local bank or banks and shall report once a month to the Post Executive Committee and the Post, in writing, the condition of the finances of the Post, with such recommendations as the Post Finance Officer may deem expedient or necessary for raising funds with which to carry on the activities of the Post. The Post Finance Officer shall sign all checks disbursing the moneys of the Post, such checks are to be countersigned by another authorized signature (preferable the Post Commander) when in excess of \$1,000 or more. All authorized signatures will be approved by the Post Executive Committee. The Post shall furnish such surety bond in such sum as shall be fixed by the Post Executive.

Amendment No 03-10022013

Add to ARTICLE 2 – Management (By-Laws)—Section 4

Section 4. Post 326 investment funds will be managed by an investment sub-committee under the Post Finance Officer. Investments will be restricted to include government and government agency bonds, Corporate bonds at least one notch above investment grade (i.e. and SI&P rating of BBB or above), foreign sovereign bonds rated AA or above, insured municipal bonds and up to 30% in equity mutual funds or exchange traded funds (ETFs). Investments will be diversified with no more than 15% in any one fund or issue.

Amendment-02082017

ARTICLE V—OFFICERS, Section 4 (Constitution)

(First sentence as stated)

Section 4. All Officers and Executive Committeemen shall be elected annually, by majority vote on written ballots at a Post meeting held not less than fifteen days prior to the Department Convention (Article V, Section 4, Department Constitution) and shall be installed not later than the first regular Post meeting in October following their election.

(As amended)

Section 4. All Officers and Executive Committeemen shall be elected annually, by majority vote on written ballots, or by a voice vote in the election of Officers and Committeemen when the position(s) are uncontested, at a Post meeting held not less than fifteen days prior to the Department Convention (Article V, Section 4, Department Constitution) and shall be installed not later than the first regular Post meeting in October following their election.

Amendment-02082017

Article III, Section 4, Duties of the Post Finance Officer (By-Laws)

(Last sentence as stated)

The Post shall furnish such surety bond in such sum as shall be fixed by the Post Executive.

(As amended)

The Post shall furnish such surety bond in such sum as shall be fixed by the Post Executive Committee.