

For  
God  
And  
Country



We  
Help  
America  
Work

**The American Legion  
Department of California  
J.B. Clark Post 149**

Date: November 15, 2022

**BY-LAWS**

**PREAMBLE**

For God and Country, we associate ourselves together for the following purposes: To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in all wars; to inculcate a sense of individual obligation to 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. The name of this organization shall be: J.B. Clark Post 149, The American Legion, Department of California, hereinafter referred to as "Post."
- Section 2. The Post is located in Escondido, California.
- Section 3. The mailing address shall be: 230 East Park Avenue, Escondido, California, 92025.

**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 foregoing Preamble, The Articles of Incorporation, and the National and Department Constitution of the American Legion.
- Section 2. This corporation is not organized, nor shall it be operated, for pecuniary gain or profit, and it does not contemplate the distribution of gains, profits, or dividends to the members thereof and is organized solely for non-profit purposes. The property, assets, profits, and net income of this corporation are irrevocably dedicated to charitable purposes and no part of the profits or net income of this corporation shall ever inure to the benefit of any director, officer, or member thereof or to the benefit of any private shareholder or individual.

Upon dissolution of this corporation, its assets remaining after payment of, or provision for payment of, all debts and liabilities of this corporation, shall be distributed to, and become property of, The American Legion, Department of California according to Department of California By-Laws, Article X, Section 7.

### **ARTICLE III – NATURE**

- Section 1. The Post is a civilian organization; membership therein does not affect or increase liability for military or police service. Rank does not exist in the Post. No member shall be addressed by their military title in any meeting of the Post.
- Section 2. The Post 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. Every member shall perform their duty fully as a citizen.

### **ARTICLE IV – MEMBERSHIP**

- Section 1. The eligibility for membership in this Post shall be those dates and conditions set forth in Article IV, Section 1 of the National Constitution of The American Legion.
- Section 2. There shall be no form or class of membership except active membership, where dues shall be paid annually or for life.
- Section 3. Candidates for membership in this Post shall apply using a form prescribed by the Post Executive Committee; shall pay the initiation fee and dues for the current calendar year and shall furnish official evidence of eligibility, such as a DD-214.
- Section 4. All applications for membership shall be referred to the Membership Committee, which shall, at each regular meeting of the Post, report upon all applications received during or after the previous regular meeting. A majority vote of those present and voting shall accept or reject a candidate. No member shall be accepted as a member in this Post who is a member of any other Post in the American Legion. No limitations may be placed on re-application for membership, (e.g., turned down today, they can reapply tomorrow).
- Section 5. 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. That member may appeal the expelling Post's decision to the Department Executive Committee for permission to be admitted to membership in this Post, and shall be ineligible for membership until such permission is granted.

## **ARTICLE V – OFFICERS**

- Section 1. a.) The officers of the Post shall be the Commander, Vice-Commanders, Adjutant, Finance Officer, Chaplain, Judge Advocate, Service Officer, Historian, and Sergeant-at-Arms.
- b.) The elected officers of the Post shall be the Commander, Vice-Commanders, Finance Officer, Sergeant-at-Arms, and members of the Executive Committee.
- c.) The following officers shall be appointed by the Commander: Adjutant, Historian, Chaplain, Judge Advocate, and Service Officer.
- d.) Any officer, other than the Commander and Vice-Commanders, may hold two or more of the above offices.
- e.) No member shall hold the office of Adjutant and Finance Officer concurrently.
- Section 2. Nominations of elective officers and members of the Executive Committee shall be held during the regular meeting in April of each year and the announcement thereof shall be made by the Adjutant for second round of nominations and elections at the regular meeting in May.
- Section 3. a.) All Post officers shall be elected or appointed for a term of one year at the regular meeting in May and shall be impressively installed, preferably by a ritual team, in accordance with the prevailing National Manual of Ceremonies, prior to the first day of September of that year. The four members of the Executive Committee shall be elected for a term of two years; two shall be elected each year.
- b.) All elections for opposed positions shall be conducted by written secret ballot and a majority of all votes cast shall be required for the election of the Commander and Vice Commanders. Other elected officers may be elected by plurality vote. Secret ballots shall be retained for thirty days by the Post Adjutant.
- Section 4. Every member of this Post in good standing shall be eligible to hold office in this Post. There shall be no limiting qualifications (e.g., length of time in the Post).
- Section 5. The duties of the officers and the Executive Committee shall be those usually pertaining to such officers as further provided for in these By-Laws.
- Section 6. All vacancies in the elected offices shall be filled by a secret ballot at the regular meeting following the vacancy; provided that notice of the election be given at the meeting preceding the election.
- Section 7. In the event that a member of the Executive Committee shall be absent for three consecutive meetings of the Post or the Executive Committee without being excused by the Commander or the Executive Committee, such office shall be declared vacant by a majority vote of those present at a regular Post meeting. The vacancy will be filled by election or appointment, as the same was originally filled.

## **ARTICLE VI – FINANCE**

- Section 1. No appropriations shall be made without first referring to the Finance Committee for a report. This does not preclude any member from making a motion on the floor of a Post meeting for any expenditures relating to Post business.
- Section 2. The Executive Committee shall approve the form in which the financial records shall be kept.
- Section 3. The fiscal year of the Post shall be from July 1st to June 30th of each year.
- Section 4. All Post expenditures, regardless of what conveyance or prior approval by the membership has taken place, shall require two (2) signatures of the Commander's pre-designated Post Officers.
- Section 5. Emergency expenditures, as defined by "those unanticipated expenditures for the benefit of the purposes of The American Legion and/or Post 149 and directed by the Post Commander and pre-approved by at least two other Executive Committee members will not exceed an amount established by the Executive Committee." All emergency expenditures shall be disclosed to the general membership at the next regular meeting.
- Section 6. All monies must be deposited in an institution insured by a Government Agency.

## **ARTICLE VII - THE AMERICAN LEGION FAMILY ORGANIZATIONS**

- Section 1. This Post recognizes an auxiliary organization to be known as the Auxiliary Unit 149 of The American Legion Auxiliary Department of California.
- Section 2. The Sons of the American Legion may be organized as a program of Post 149 and operate as set forth by the Department of California.
- Section 3. The American Legion Riders may be organized as a program of Post 149 and operate as set forth by the Department of California.

## **ARTICLE VIII – PROCEDURE**

- Section 1. Opening and closing of meetings, initiation of new members and installation of officers, shall be conducted as prescribed and approved by the National Convention of the American Legion in Kansas City in the year 1921, with subsequent amendments adopted and approved by later conventions.
- Section 2. Roberts Rules of Order, Latest Edition, shall govern the Post except as may be otherwise provided in these By-Laws, any special rules the Department may adopt, and Federal, State, and Local regulations.

## **ARTICLE IX – POST EXECUTIVE COMMITTEE**

- Section 1. The Executive Committee shall consist of four members in addition to the Commander, Vice Commanders, and the Adjutant.
- Section 2. The Executive Committee shall consider all matters affecting the Post and shall make recommendations to the Post, which thereafter shall be approved by a simple majority vote before becoming effective.
- Section 3. The Commander, Vice-Commanders, and the Adjutant shall be chair, vice-chair, and secretary, respectively, of the Executive Committee.

## **ARTICLE X – MEETINGS**

- Section 1. a.) The regular Post meeting shall be held on the day, time, and location prescribed by the Executive Committee and approved by a majority vote of the membership.
- b.) The regular meeting may be rescheduled upon written notification to all members at least ten days prior to the meeting.
- Section 2. Special meetings may be called by the Commander or by the Executive Committee, and must be called upon the written request of ten (10) members of the Post. No special meetings shall be called unless announced by the Commander at the regular meeting preceding or unless written notice be given to each member ten (10) days prior to said meeting, stating the time, place of the meeting and the subject to be considered. Only those items for which the meeting was called may be discussed at a special meeting.
- Section 3. a.) The Post at any meeting may consider and pass upon any matters, irrespective of whether such matters have been previously approved by the Executive Committee.
- b.) It shall take a two-thirds (2/3) majority vote of those present at the meeting to overturn actions of the Executive Committee concerning finance. In all other matters, a simple majority vote only is needed.
- Section 4. A quorum at all Post meetings shall consist of ten (10) members, six (6) of whom must be members of the Executive Committee.
- Section 5. The Executive Committee shall meet at least once a month at a time and place designated by the Committee. A simple majority shall constitute a quorum. The Executive Committee may hold special meetings as the Committee or the Commander deem advisable, written notice thereof being given to each member at least seventy-two hours (72) before the time and place of the meeting and the matter to be considered.
- Section 6. No member shall take part in any Post meeting or election unless they are in good standing.

- Section 7. No member shall be represented, or shall vote by proxy. There shall be no voting by absentee balloting.
- Section 8. All notices required to be issued according to these By-Laws shall be issued as written notices. Electronic communication constitutes written notification.
- Section 9. The One Forty Niner shall be the official publication of this Post and publication of notices contained therein shall be considered official.

#### **ARTICLE XI - DUTIES OF THE OFFICERS**

- Section 1. Post Commander: It shall be the duty of the Post Commander to preside at all meetings of the Post and to have the general supervision over the business affairs of the Post, and such officer shall be the Chief Executive Officer of the Post. They shall perform such other duties as directed by the Post.
- Section 2. First Vice-Commander: The First Vice-Commander shall assume and discharge the duties of the office of Commander in the absence of, disability of, or when called upon by the Post Commander, and shall serve as Chairman of the Membership Committee as provided in Article XIV, Section 3.
- Section 3. Second Vice-Commander: The Second Vice-Commander shall assume and discharge the duties of the office of First Vice-Commander in the absence of, disability of, or when called upon by the Post Commander, and shall perform other duties as directed by the Post.
- Section 4. Post Adjutant: The Adjutant shall have charge of and keep a full and correct record of all proceedings of all meetings, and under the direction of the Post Commander, handle all correspondence of the Post.
- Section 5. Finance Officer: The Finance Officer shall be charged with the custody of all funds of the Post. The Finance Officer shall keep its accounts and report thereon at regular meetings of the Post. The Finance Officer shall record all funds received by the Post and pay all bills approved by the Post. This officer shall serve as Chairman of the Finance Committee as provided in Article XIV, Section 4. The Finance Officer and any other officers and/or positions charged by the Post By-Laws with the responsibility of handling Post funds should be bonded and billed at the expense of the Post.
- Section 6. Post Historian: The Post Historian shall be charged with the individual records and incidents of the Post and Post members and shall perform such other duties as directed by the Post or the Executive Committee.
- Section 7. Post Judge Advocate: The Post Judge Advocate's duties shall be to advise the Post Officers on the construction and interpretation of the Post's By-Laws and to perform such other duties as are usually incident to the office.
- Section 8. 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., and to adhere to such ceremonial rituals as are recommended by the National or Department Headquarters.

Section 9. Sergeant-at-Arms: The Sergeant-at-Arms shall preserve order at all meetings and shall perform such other duties as may be assigned to them by the Post.

Section 10. Service Officer: The Service Officer duties shall be generally that of assisting with processing claims and protecting the rights and benefits of all veterans, their dependents, and survivors and to handle such other matters as may properly be considered service work.

## **ARTICLE XII – DUES, FEES, AND FUNDS**

Section 1. The annual dues of this Post shall not be less than the combined amount of the Department and National per capita dues, paid annually in advance. The amount may be changed by recommendation of the Executive Committee, upon being read at two regular meetings, a quorum being present, and adopted by a majority of those present and voting.

Section 2. The membership fee shall be a fixed amount and approved by the Post.

Section 3. From such dues and fees, the Post shall pay all per capita taxes or assessments, and such other expenditures as the Post may approve.

Section 4. A member whose dues for the current year have not been paid by January 1<sup>st</sup> shall be classed as delinquent. If their dues are paid on or before February 1<sup>st</sup>, they shall automatically be reinstated. If they are still delinquent after February 1<sup>st</sup>, they shall be suspended from all privileges. If they are still under suspension on June 30<sup>th</sup> of such year, their membership in The American Legion shall be forfeited. A member so suspended, or whose membership has been forfeited, may be reinstated to active membership in good standing by vote of the membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs. Continuous membership privileges and benefits may be affected by any break in continuous membership. To avoid such termination of continuous membership, a member who has forfeited their membership may make up past years dues until December 30<sup>th</sup> for only the immediately preceding year.

Section 5. Recognizing the existence of certain funds set aside for specific purposes in the assets of the Post, no obligations or disbursements shall be made against these funds except for the purposes for which they were established, except that notification for withdrawal of these funds shall be published to the membership prior to the regularly scheduled general meeting where a two-thirds (2/3) majority of those present and voting may approve the withdrawal.

### **ARTICLE XIII - DELEGATIONS AND REPRESENTATIVES**

- Section 1. The delegates and alternates to represent the Post at Department Conventions shall be elected at a regular meeting of the members of the Post by vote of those present and voting. The election shall be held and results submitted no later than June 1<sup>st</sup>. The time and place for holding the election must be announced by the Post Commander at least one regular meeting in advance of the election.
- Section 2. Delegates of the Post to the Area Council and the representatives to the District Council shall be appointed or elected as prescribed by the Area Council and District By-Laws and shall serve for a term of one (1) year.

### **ARTICLE XIV – APPOINTMENTS**

- Section 1. The Post Commander, immediately upon taking office each year, shall appoint a Finance Committee and such other committees as shall be found necessary. Standing committees shall consist of such members as may be determined by the Post and the chairman thereof shall be designated by the Post Commander.
- Section 2. Audit Committee: The Post shall keep financial records and shall cause said records to be examined by a licensed accountant or a committee of three (3) competent persons, none of whom shall be the Commander, Adjutant, or Finance Officer, or any other person charged with the responsibility of handling Post funds. Such examination shall be made by October 1<sup>st</sup> following installation of Post officers, and for the period of the preceding fiscal year of the Post, with the fiscal year defined in Article VII Section 2 of these By-Laws. The Post shall certify to the Department Adjutant prior to November 15<sup>th</sup> each year that such an examination has been made and file the original thereof with the Department Adjutant before November 15<sup>th</sup>, sending a copy thereof to the District Commander. The Department Commander, Department Executive Committee, District Commander, Post Commander, or the Post Executive Committee may order an audit of the financial records at such other times during the current year as may be deemed advisable. Failing to submit the certification by the deadline or any general or special extension thereof will cause the Post to be placed on probation until submission has been verified by the Department Adjutant.
- Section 3. Membership Committee: This committee shall have charge of all matters pertaining to the membership of the Post, including the procuring of new members, reinstatement, and eligibility of members, subject to Post approval.
- Section 4. The Finance Committee shall be charged with administration of the financial policy, preparation of the annual budget with recommendations, and supervisions of receiving, disbursing, and accounting for all Post funds.



## **ARTICLE XV - LIMITATIONS OF LIABILITIES**

- Section 1. This Post shall not incur, nor cause to be incurred, any liability or obligation whatsoever which shall subject to liability any other individual, corporation, or organization.

## **ARTICLE XVI - ADMINISTRATIVE HEARINGS**

- Section 1. Members of this Post shall be subject to disciplinary action as provided in the Department Administrative Hearing Manual, as adopted, and as the same may be amended from time-to-time hereafter. A copy of the verdict, certified by the Post Commander and Post Adjutant, shall forthwith be forwarded to the Department Adjutant.

## **ARTICLE XVII - RECALL PROVISIONS**

- Section 1. A petition, signed by five (5) percent of the membership in good standing requesting the holding of an election for the purpose of recalling an elective officer or member of the Executive Committee may be filed at any time with the Adjutant. The Adjutant shall, within five (5) days after filing said petition, compare the signatures on the petition with a current and valid membership report to ensure all petitioners are active and current members of the American Legion and of the Post at the time the petition was signed. The Adjutant shall deliver the petition and the report on the correctness of the signatures to the Executive Committee at the next regularly scheduled meeting. If it shall appear that five (5) percent of the membership have signed the petition, and the membership status of the petitioners is valid, the Executive Committee shall fix a date for the recall election, which date shall be fixed for a regular meeting of the Post to be held not less than two (2) weeks nor more than six (6) weeks after the meeting of the Executive Committee. If the Adjutants report shows less than five (5) percent of the membership have signed, the petition shall be returned to the member who filed the petition. That member shall then have ten (10) days thereafter to obtain the required number of valid signatures and re-file the petition with the Adjutant, who shall recheck the membership records and resubmit the petition to the Executive Committee at its next regularly scheduled meeting. If the petition is then found sufficient, the recall election shall be fixed as described above.
- Section 2. A two-thirds (2/3) vote of the Executive Committee may also initiate a recall of an Elected Officer. Should the Executive Committee vote to recall an elected officer, the recall shall be announced at the next regular meeting of the Post and the election shall be held at the next meeting. Notice shall also be disseminated as prescribed below in Article XVII Section 5.
- Section 3. Recall of an Appointed Officer may be initiated by two-thirds vote of the Executive Committee, or at the request of the Post Commander. A majority vote of the

Executive Committee shall constitute a recall. The Post Commander shall then nominate a person to fill the vacancy. The person recalled shall not be eligible to fill the vacancy.

Section 4. If an officer or member of the Executive Committee is recalled, the Post, at its next regular meeting, shall elect a successor to fill the remaining un-expired portion of the recalled officers term of office. Nominations shall be held the same night as the election. The person recalled shall not be eligible as a candidate for election to fill the vacancy.

Section 5. Notice of the date, time, and place of holding the recall election shall be mailed to each member of the Post in good standing at their address as it appears in the Post records, at least ten (10) days before the election. Members who have elected to receive Post correspondence electronically may be excluded from the mailing so long as the electronic notification of the election is published in accordance with the specifications of these By-Laws.

Section 6. All recall elections shall be conducted by written secret ballot.

Section 7. At the election, the ballot shall read as follows: "Shall (name) be recalled"? Yes or No

Shall \_\_\_\_\_ be recalled?

(Name of Officer/Member of Executive Committee)

\_\_\_\_\_  
YES

\_\_\_\_\_  
NO

A "Yes" vote shall be counted as 'For the recall'.

A "No" vote shall be counted as 'Against the recall'.

Only members in good standing, as outlined in these By-Laws, shall be entitled to vote at such an election.

#### **ARTICLE XVIII – AMENDMENTS**

Section 1. Proposed By-Laws or Amendments thereof must be submitted in writing to the Executive Committee, and at a regular meeting of the Post, and read there at. At the next regular meeting, or subsequently if postponed, the proposed Amendment may be adopted by two-thirds (2/3) affirmative vote of those present and voting. Changes of Amendments to the Post Constitution and By-Laws shall be certified in writing by the Post Commander and Post Adjutant before submission to the Constitution and By-Laws Commission through The American Legion Department of California.

Section 2. a.) These By-Laws shall be amended to conform to any change in the National or Department Constitution and By-Laws no later than 90 days following the close of

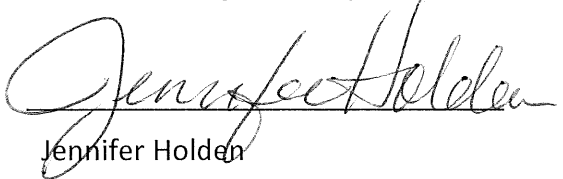
the National Convention of The American Legion. Failure of the Post to adopt the required Amendments shall not delay or modify the effect of such changes.

b.) Any amendment initiated by the Post shall not be in final force and effect until approved by the Constitution and By-Laws Commission of the Department but shall be temporarily enforced pending action thereon if not in conflict with the Constitution and By-Laws or adopted policy of The American Legion or Department of California.

#### CERTIFICATION

First Reading: October 18, 2022

Second Reading and Adoption: November 15, 2022



Jennifer Holden

Post 149 Commander



William Stintsman

Post 149 Adjutant

The above signatures of the Commander and Adjutant, certify the following:

We hereby certify that the above By-Laws were read at two meetings and adopted on November 15, 2022, a quorum being present, and by a two-thirds (2/3) vote of those present and voting.

Articles of Incorporation for this Post are on file with the Secretary of State under the date of July 22, 1957. Corporate number 0341481.

POST NAME: J. B. Clark No. 149

