

**The American Legion  
Department of California  
J. B. Clark Post 149, Inc.  
BY-LAWS**

**Passed at Post Meeting August 19, 2008**  
*Amendments in Italics passed April, 2009*

**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 per cent Americanism; to preserve the memories and incidents of our associations in the Great Wars; to inculcate a sense of individual obligation to the community, state, and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and goodwill on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate 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 Incorporated, THE AMERICAN LEGION Department of California, located at: Escondido, California. Hereinafter referred to as "Post."

**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 or winding up 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 The American Legion, or to a non profit fund, foundation or corporation, which is organized and operated exclusively for charitable purposes, and which has established its tax exempt status under Section 23701d of the Revenue and Taxation Code and/or Section 501 9c) (3) or Section 501 (c) (19) of the Internal Revenue code. If this corporation holds any assets in trust, such assets shall be disposed of in such manner as may be directed by decree of the Superior Court of the County in which this corporation's principle office is located, upon petition therefore by the Attorney General or by any person concerned in the liquidation.

**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 his military title in any convention or meeting of this Post.

Section 2. The Post shall be absolutely nonpolitical 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 his/her 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.

Section 3. Candidates for membership in this Post shall make application upon a form prescribed by the Executive Committee of this Post; shall pay therewith the initiation fee and dues for the current calendar year and shall furnish official evidence of eligibility

Section 4. All candidates 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 next previous regular meeting. A majority vote of those present and voting shall elect or reject a candidate. No member shall be elected to membership in this Post who is a member of any other Post in the American Legion. No limitations may be place on re-application of membership, (e.g., turned down today, he/she can reapply tomorrow).

Section 5. No person, who has been expelled by a 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 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 this Post shall be the Commander, First Vice Commander, the Second Vice Commander, the Adjutant, the Finance Officer, the Historian, the Sergeant-at-Arms, the Chaplain, Service Officer, and the Judge Advocate.
- B. The elective officers of the Post shall be the Commander, First Vice Commander, the Second Vice Commander, Finance Officer, and Sergeant-at-Arms.
- C. The following shall be appointed by the Commander: Adjutant, Chaplain, Historian, Judge Advocate, and Service Officer.
- D. Any other 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.
- F. All members of the Board of Directors shall have only one vote at the Board of Directors or Post meeting.

Section 2. Nomination for elective officers and members of the Board of Directors will be held during the regular meeting in April of each year and announcement thereof shall be made by the Adjutant at the last previous regular meeting.

Section 3.

- A. All Post officers shall be elected or appointed for a term of one year at the regular meeting in May or June – at least twenty (20) days prior to the opening of the Annual Department Convention. They 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 4 members of the Board of Directors shall be elected for a term of two years; two shall be elected each year.
- B. All elections shall be by written, secret ballot and a majority of all votes cast shall be necessary to elect the Commander and Vice Commanders.. The other officers and members of the Board of Directors shall be elected by a plurality vote of those present and voting.
- C. The Finance Officer and Adjutant will terminate office officially at the end of the Fiscal Year (June 30) with compensation, and the incoming Finance Officer and Adjutant shall be instructed and informed by the outgoing Finance Officer and Adjutant after installation without compensation. The newly elected Finance Officer and the appointed Adjutant shall be compensated starting July 1

Section 4. Each member of this Post in good standing shall be eligible to hold office in this Post as provided in Article IV, Section 2. There shall be no limiting qualifications – e.g. length of time in Post

Section 5. The duties of officers and the Board of Directors shall be those usually pertaining to such officers or directors and as further provided for in these By-laws.

Section 6. All vacancies in the elected or appointed offices shall be filled by a secret ballot at the regular meeting following the vacancy; provide that notice of the election be given at the previous meeting preceding the election.

Section 7. The Finance Officer and any other offices and/or position charged by the Post By-laws with the responsibility of handling Post funds shall be bonded under a blanket bond to be purchased from Department Headquarters and billed to the Post at cost.

Section 8. In the event that any member of the Post Board of Directors shall be absent for three (3) consecutive meetings of the Post or the Board of Directors without being excused by the Post Commander or the Board of Directors, such office shall be declared vacant by a majority vote of those present at a regular Post meeting held after a written notice to all members that such vote will take place. The vacancy so created will be filled by election or appointment, as the same was originally filled.

#### ARTICLE VI FINANCE

Section 1. The Board of Directors shall approve the form in which the financial records shall be kept. Any appropriations not budgeted shall be brought to the Board of Directors for approval except for an amount up to a fixed maximum, set by a vote of the Board that may be approved by the Commander, Finance Officer or majority vote at a regular Post meeting. The results of this action shall become part of the Standing Rules of the Post.

Section 2. All Post monies must be deposited in an institution insured by a Government Agency.

#### ARTICLE VII THE AMERICAN LEGION AUXILIARY

Section 1. This Post recognizes an auxiliary organization to be known as the Auxiliary Unit of J.B. Clark Post No. 149 Incorporated, The American Legion, Department of California.

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

#### 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 1921, with subsequent amendments adopted and approved by later conventions.

Section. 2. Roberts Rules of Order, Revised, shall govern the conduct of all meetings except as may be otherwise provided in these By-laws.

Section. 3. The Post shall furnish the Commander with a copy of Robert's Rules of Order (Revised) and a copy of prescribed Department Trial Manual, which the Commander shall use to govern the conduct of all meetings, except as may otherwise be provided in these By-Laws.

#### ARTICLE IX. BOARD OF DIRECTORS

Section 1. The Board of Directors shall consist of four (4) members in addition to the Commander, Vice Commanders, Adjutant, Junior Past Commander, and other elected and appointed officers. Appointed officers may make motions and take part in discussions, but may not vote on motions.

Section 2 The Board of Directors shall consider all matters affecting the Post and shall report to the Post which thereafter shall take effect unless repealed by the Post.

Section 3. The Commander, First Vice commander, Second Vice Commander, and the Adjutant shall be Chairpersons and Secretary, respectively, of the board of Directors.

#### ARTICLE X MEETINGS

Section 1. The regular Post meeting shall be held on the third Tuesday of each month at the Veterans Memorial Building in Escondido, California. *The date and time of the meeting shall be set by vote of the Post no later than the previous regular meeting and written notice shall be published no later than 5 days prior to the meeting.*

Section 2. Special meetings of the Post may be called by the commander or by the Board of Directors and must be called upon the written request of ten (10) members. No special meetings shall be called unless announced by the Commander at the regular meeting preceding or unless notice be mailed to each member five (5) days prior to said meeting, stating the time, place of the meeting and the subject to be considered.

Section 3 The Post at any meeting may consider and pass upon any matters, irrespective of whether such matters have been previously approved by the Board of Directors. It shall take a 2/3 vote of those present at the meeting to overturn actions of the Board of Directors concerning finance. In all other matters, a 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 officers.
- Section 5. The Board of Directors shall meet at least once a month at time and place designated by said Board. A majority of voting members shall constitute a quorum. Said Board may hold such special meetings as said Board or the Commander may deem advisable, notice thereof being mailed to each member at least seventy-two (72) hours 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 he is in good standing of Post 149.
- Section 7. No member shall be represented or shall vote by proxy. There shall be no voting by absentee balloting.
- Section 8. Unless otherwise specified, all notices required to be given by these by-laws shall be written notices.
- 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. Duties of Post Commander. It shall be the duty of the Post Commander to preside at all meetings of the Post and to have the responsibility of/and over the business affairs of the Post, and such officer shall be in chief executive officer of the Post. He shall perform such other duties as directed by the Post.
- Section 2. Duties of the First Vice Commander. The First Vice Commander shall assume and discharge the duties of the office of Commander in the absence or disability of, or when called upon by the Post Commander and shall serve as Chairman of the Committee as provided in Article XIV, Section 2.
- Section 3. Duties of the Second Vice Commander. The Second Vice Commander shall assume and discharge the duties of the office of First Vice Commander in the absence or disability of such officer, and shall perform other duties as directed by the Post.
- Section 4. Duties of the 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. He/she shall receive such salary as provided by the Post.
- Section 5. Duties of Finance Officer. The Finance Officer shall be charged with the custody of all funds of the Post. He shall keep its accounts and report thereon at regular meetings of the Post. He shall receive all funds of the Post and pay all bills approved by the Post. He shall serve as Chairman of the Committee as provided in Article XIV, Section 3. He shall be bonded under a blanket bond to be procured from the Department Headquarters and paid for by the Post.
- Section 6. Duties of the 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 board of Directors.
- Section 7. Duties of 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. 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., and to adhere to such ceremonial rituals as are recommended by the National or Departmental Headquarters from time to time.
- Section 9. Duties of Service Officer. The Service Officer shall be generally that of prosecuting claims and protecting the rights and privileges of all veterans, their dependents, and survivors and to handle such other matters as may properly be considered service work.
- Section 10. Duties of Sergeant-at-Arms. The Sergeant-at-Arms shall preserve order at all meetings and shall perform such other duties as may be from time to time assigned to him by the Post.

#### ARTICLE XII DUES, FEES AND FUNDS

- Section 1. The dues of this Post shall be paid annually in advance. The amount shall be set by recommendation of the Post Board of Directors, upon being read at two regular meetings, a quorum being present and adopted by a two-thirds majority of those present and voting.

Section 2 The membership-initiation fee shall be fixed 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 The dates for delinquency, suspension and expulsion from this Post for non-payment of dues shall be those dates and conditions set forth in Article IV, Section 4 of the By-laws, of the National Constitution of The American Legion. 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 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 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 at least twenty (20) days before the Department Conventions convene. The time and place for holding the election must be announced by the Post Commander one (1) regular meeting in advance of the election.

Section 2 Delegates of this Post to the County Council and representatives to the District Council shall be appointed or elected as prescribed by the County Council or District By-laws and shall serve for a term of one 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 subject to the approval of the Board of Directors.

Section 2 Audit – The Post shall keep book of account and shall cause said books 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 within ninety (90) days following installation of Post Officers and for the period of the immediate preceding fiscal year of the Post – said fiscal year shall be determined by the Post. The Post shall certify to the Department Adjutant prior to December 1st each year that such an examination has been made and file the original thereof with the Department Adjutant before the said date, with a copy thereof to the District Commander. The Department Commander, the Post Commander or the Post Executive Committee may order an audit of the books of account at such other times during the current year as may be deemed advisable. Failure of the Post to meet any of the requirements of this section within said times or any general or special extension thereof, shall be deemed a delinquency and the delegates of the Post shall not be entitled to be accredited at the Department convention. The certification to the Department Adjutant and the examination may be put on forms furnished by the Department Adjutant's office.

Section 3. The Membership 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 the approval of the Post. The Membership Committee composed of the chairman and two (2) members

Section 4. The Finance Committee shall be charged with the administration of the financial policy, preparation of an annual budget with recommendations, and supervision of receiving, disbursing and accounting of Post funds. The Finance Committee shall consist of the Chairman and two (2) members. Other than the Chairman, no member shall be an elected officer, the Adjutant or a member of the Clubroom committee.

Section 5. The Sons of the American Legion may be organized and operate as set forth by the Department of California.

Section 6. The American Legion Riders may be organized and operate as set forth by the Department of California.

ARTICLE XV LIMITATIONS OF LIABILITIES

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

ARTICLE XVI TRIALS

Section 1. Members of this Post shall be subject to disciplinary action as provided in the Trial Manual of the Department of California 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 INITIATIVE AND RECALL

Section 1. A petition, signed by ten (10) 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 Board of Directors may be filed at any time with the Adjutant. The Adjutant shall, within five (5) days after filing said petition, compare the signatures on said petition with the signatures on the applications of the respective signers on file in the Post records. The Adjutant shall deliver the said petition and his/her report on the correctness of the signatures to the Board of Directors at its next meeting. If it shall appear from the report of the Adjutant that ten (10) percent of the membership have signed said petition, the Board of Directors shall fix the 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 Board of Directors. If the report of the Adjutant shall show less than ten (10) percent of the membership have signed, said petition shall be forthwith returned to the member who filed the same with the Adjutant who shall then have ten (10) days thereafter to obtain the required number of valid signatures and refile said petition with the Adjutant who shall recheck his records and resubmit the same to the Board of Directors at its next meeting thereafter with his/her report. If the petition is then found sufficient, the recall election shall be fixed as set forth above.

Section 2. 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 his address as the same appears in the Post records, at least ten (10) days before the election.

Section 3. All recall elections shall be conducted by written secret ballot.

Section 4. At the election, the ballot shall read as follows: "Shall (name) be recalled"?

Yes \_\_\_\_\_ No \_\_\_\_\_

A "Yes" vote shall be counted as for the recall and a "No" vote shall be counted as against the recall. Only members in good standing shall be entitled to vote at such an election.

Section 5. If the officer or member of the Board of Directors shall be recalled, the Post, at its next regular meeting, shall elect a successor to fill the un-expired term. Nominations shall be held the same night as election. The person recalled shall not be eligible as a candidate for election to fill the vacancy.

ARTICLE XVIII AMEMDMENTS

Section 1. Proposed amendments to these by-laws must be submitted in writing to the Board of Directors, 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 affirmative vote of those present and voting.

Section 2. These by-laws shall be amended to conform to any change in the National or department constitution and by-laws. Failure of the Post to adopt the required amendments shall not delay or modify the effect of such changes.

Section 3. Any amendment initiated by the Post shall not be in final force and effect until approved by the Constitution and By-Laws Commission or the Department but shall be temporarily enforced pending action thereon if not in conflict with the Constitution, By-Laws or adopted policy of The American Legion or Department of California.

CERTIFICATION

Above the 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: August 19, 2008, a quorum being present, and by a two-thirds vote of those present and voting.

First Reading: July 15, 2008 Second Reading and Adoption: August 19, 2008

Signed: Joe Watt  
Signature of Post Commander

Signed : Edward C. Landis  
Signature of Post Adjutant

Certification in the event of any subsequent amendments is required. These By-laws or any amendments thereto, must be sent in duplicate to Department Headquarters, as one copy is kept by Department and the original is returned to the Post.

ARTICLES OF INCORPORATION FOR THIS POST ARE ON FILE WITH THE SECRETARY OF STATE UNDER THE DATE OF July 22, 1957. CORPORATE NUMBER 341481  
POST NAME J. B. Clark No. 149