

**THE AMERICAN LEGION
DEPARTMENT OF CALIFORNIA**

**BY-LAWS OF OCEANSIDE AMERICAN LEGION POST 146
Revised June 16, 2018**

The ARTICLES OF INCORPORATION for this Post are on file with the California Secretary of State under the date of September 8, 1932. Corporation Number C0150829

PREAMBLE:

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

OCEANSIDE Post No. 146 THE AMERICAN LEGION, Department of California, located at:
1617 Mission Avenue, Oceanside, 92058-2734
Here-in after 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, and in the Articles of Incorporation of this Post, and in the National and Department 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. Rank does not exist in the Post. No member shall be addressed by his or her military or naval title in any meeting of this Post.

Section 2. This Post shall be absolutely nonpolitical and shall not be used for the dissemination of partisan principles or for the promotion of the candidacy of any person seeking public office or preferment.

Section 3. Each member shall perform his or her full duty as a citizen.

ARTICLE IV - MEMBERSHIP

Section 1. The Eligibility for 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 an active membership, and dues shall be paid annually or for life.

Section 3. No person may be a member at any one time of more than one Post.

Section 4. All candidates for membership into The American Legion shall be voted upon by the membership of the Post at a regular meeting. A majority vote of those present and voting shall elect or reject a candidate.

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 and denied by such Post, he or she 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 1a. The officers of this Post shall be the Commander, the First Vice Commander, the Second Vice Commander, the Adjutant, the Finance Officer, the Judge Advocate, the Chaplain, the Service Officer, the Historian, three (3) Executive Committeepersons and the Sergeant-at-Arms. The Post is not required to, but may also have a Third Vice Commander, an Assistant Adjutant, and an Assistant Sergeant-at-Arms.

Section 1b. The elective officers of the Post shall be the Commander, First Vice Commander, Second Vice Commander, Third Vice Commander if desired and the three Executive Committeepersons.

Section 1c. The following officers may be elected or be appointed by the Commander: Adjutant, Finance Officer, Judge Advocate, Chaplain, Service Officer, Historian and Sergeant-at-Arms.

Section 1d. The Executive Committeepersons shall be elected for terms of three years.

Section 1e. Any officer other than the Commander or Vice Commanders may hold two or more of the above offices.

Section 2. Nominations for elective officers shall be made during the regular meeting held in the month of March and announcement thereof shall be made by the Adjutant at the preceding regular meeting. Nominations by the Nominating Committee and nominations from the floor may be made at the regular March meeting.

ARTICLE V – OFFICERS (continued)

Section 3. All Post officers shall be elected for a term of one (1) year with the exception of the Executive Committee persons, who shall be elected to the three (3) year term, during the regular meeting held in April. If there is only one candidate for each position, then the voting may be done by voice. If there is more than one candidate for a position, then voting for that position shall be done by secret ballot. The term of office shall commence on the 1st day of July and shall terminate on the 30th day of June. These elected officers shall be impressively installed, preferably by a ritual team, in accordance with the prevailing National Manual of Ceremonies, prior to the 1st day of July of the year of election.

Section 4. Every member in good standing shall be eligible to hold office in this Post.

Section 5. All vacancies in the elective offices shall be filled by the voting method of Article V, Section 3 at a regular meeting following the vacancy.

Section 6. The office of Finance Officer and any other offices and/or positions 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 7. In the event that any Post Officer is absent for three consecutive meetings of the Post without being excused by the Post or Commander, such office may be declared vacant by a majority vote of those members present at a regular Post meeting held after a written notice to all members that such vote will be taken. The vacancy so created shall be filled by election or appointment as the same was originally filled.

ARTICLE VI — EXECUTIVE BOARD

Section 1. The Executive Board shall consist of thirteen (13) members, namely, the Commander, First Vice Commander, Second Vice Commander, Adjutant, Finance Officer, Judge Advocate, Chaplain, Service Officer, Historian, Sergeant-at-Arms and three (3) Executive Committeepersons.

Section 2. The Executive Board shall consider all matters affecting the Post and shall make recommendations to the Post, which thereafter shall be approved by the Post before becoming effective, except that the Executive Board shall have the authority to approve the payment of expenditures up to \$250.00.

Section 3. The Commander, Vice Commanders, Adjutant and Finance Officer shall be Chairperson, Vice Chairpersons, Secretary and Treasurer of the Executive Board of this corporation.

ARTICLE VII – FINANCE

Section 1. The Executive Board shall approve the form in which the financial records shall be kept. Any appropriations not budgeted for and exceeding \$250.00 shall be brought to the Executive Board for approval prior to being presented at a regular scheduled meeting.

ARTICLE VII – FINANCE (continued)

Section 2. Expenditures in excess of \$250.00, with the exception of per capita tax, shall not be made without a vote of the majority of all members present and voting at a regular scheduled meeting.

Section 3. No officer or member of this Post shall open any charge account anywhere, nor make any purchase of any materials or services, except by authorization, upon formal motion adopted by the Executive Board or the Post.

ARTICLE VIII - THE AMERICAN LEGION AUXILIARY

Section 1. This Post recognizes an auxiliary organization to be known as the Auxiliary Unit of OCEANSIDE Post No. 146 THE AMERICAN LEGION, Department of California.

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

ARTICLE IX – 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, 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.

ARTICLE X — MEETINGS

Section 1. The regular meetings of this Post shall be held on the third Saturday of the month at 9 A.M. at a place to be designated by the Post, in Oceanside, California.

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

Section 3. The Post at any meeting may consider and act upon matters that have been previously considered by the Executive Board and recommended for approval or disapproval.

Section 4. A quorum at all meetings shall consist of Five (5) members.

Section 5. The Executive Board shall regularly meet on the Thursday preceding the regular Post meeting, at a time and place to be designated by the Commander. The Executive Board may hold such special meetings as the Executive Board or the Commander deems needed, notice thereof being mailed or phoned to all Executive Board members at least forty-eight (48) hours before stating time and place of the meeting, and the matter to be considered.

ARTICLE X — MEETINGS (continued)

Section 6. No member shall take part in any Post meeting unless he or she is 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. Unless otherwise specified all notices required to be given by these By-Laws shall be written notices.

ARTICLE XI - DUTIES OF OFFICERS

Section 1. Duties of the Post Commander - It shall be the duty of the Post Commander to preside at all Post meetings, and to exercise leadership over all Post activities, programs and business affairs of this Post, as the Commander is the Chief Executive Officer of the Post. He or she shall perform such other duties as directed by the Post. He or she shall receive work reports of all officers and committees at meetings of the Post and the Executive Board.

Section 2. Duties of the First Vice Commander - The First Vice Commander shall assume and discharge the duties of the office of the Commander in the absence or disability of, or when called upon by the Post Commander. He or she shall serve as the Chairperson of the membership committee, to lead and organize the membership campaign, and all Post members shall be expected to assist him or her.

Section 3. Duties of the Second Vice Commander - The Second Vice Commander shall assume the duties of the office of the First Vice Commander in the absence or disability of such officer, and shall perform such other duties as directed by the Post. He or she shall serve as the program chairperson, subject to direction and prior approval of the Commander, and the budget ways and means committee, approved by the Executive Board and/or the Post.

Section 4. Duties of 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 or she may receive such salary as provided by the Post. He or she shall process members' cards and maintain membership records as approved by the Executive Board, and shall serve as the "office manager" of the Post.

Section 5. Duties of Finance Officer - The Finance Officer shall be charged with the custody of the funds of the Post. He or she shall keep its accounts and report thereon at regular meetings of the Post. He or she shall receive all funds of the Post and pay all bills approved by the Post. He or she shall be bonded under a blanket bond to be procured from the Department Headquarters and paid for by the Post. He or she shall prepare the annual Finance report for audit, and prepare tax returns for approval by the Executive Board.

Section 6. Duties of Post Historian - The Post Historian shall be charged with the individual records and incidents of the Post and Post members, and shall perform such duties as directed by the Post, such as maintaining the Post archives.

ARTICLE XI - DUTIES OF OFFICERS (continued)

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 By-Laws and to perform such other duties as are usually incident to Parliamentary Law.

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 nonsectarian service for meetings, dedications, funerals, public functions, etc., adhering to the ceremonial rituals as recommended by the National or Department Headquarters. He or she shall conduct the Post's memorials for departed comrades, and send out cards of sympathy and get-well cards for the Post.

Section 9. Duties of Service Officer - The Service Officer is responsible for bringing to the attention of all veterans and their dependents the rights and benefits granted them by law. He or she must know how to utilize the expert services available through The American Legion, as well as those of other agencies in the community. His or her main function is to advise and counsel the claimant and to assist in the preparation of forms and in securing the necessary supporting evidence. When the forms are properly completed, they are to be forwarded to the Department Service Officer, who is an accredited representative of The American Legion, for presentation of the claim to the appropriate board or official of the agency involved. It is essential that all cases, claims, inquiries, recommendations, criticisms and suggestions handled by the Post Service Officer be channeled through the Department Service Officer. He or she must be able to inform claimants as to their compensation or pension rights. He or she must be familiar with other benefits, such as, insurance, education assistance, vocational training, dependents benefits, hospitalization, burial benefits and discharge review and retirement claims. He or she should serve as Chairman of the Post Rehabilitation Committee in directing these activities.

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 or her by the Post. He or she shall serve to greet and escort visitors, maintain the sign-in register at meetings, and be responsible for the Post colors at meetings.

Section 11. Duties of Executive Committeepersons - The Executive Committeepersons shall execute all in house audits of the Post financial and personnel records and sign all reports attesting to their accuracy and completeness. They shall make an examination of the financial records of the Post for the Commander in January. They shall make an examination of the financial records of the Post for the annual report within ninety (90) days of the installation of the Finance Officer and at such times as directed by the Commander and/or higher authority. They shall perform such other duties as directed by the Post.

ARTICLE XII - DUES, FEES AND FUNDS

Section 1. The annual dues shall not exceed \$50.00, due and payable October 20th of each year, for the succeeding calendar year, as per National's direct billing to members for renewal dues.

Section 2. The membership initiation fee shall be fixed by the Post.

ARTICLE XII - DUES, FEES AND FUNDS (continued)

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's dues for the current year having not been paid by January 1st shall be classed as delinquent. If his or her dues are paid on or before February 1st, he or she shall be automatically reinstated. If he or she is still delinquent after February 1st, he or she shall be suspended from all privileges. If he or she is still under suspension on June 30th of such year, his or 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.

ARTICLE XIII - DELEGATES AND REPRESENTATIVES

Section 1. The delegates and alternates to represent the Post at Department Coir shall be elected at the regular meeting in May by majority vote of those present and voting. 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 22nd District meetings, except the Commander, shall be elected in May each year and shall serve for a term of one (1) year. The Commander shall automatically be a delegate and the Chairman of the delegation. The delegates shall always caucus at the District meetings for each District balloting. In his or her absences, the Commander shall name a delegate to be Chairperson of the delegation Protem.

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 chairperson thereof shall be designated by the Post Commander.

Section 2. Audit - Each Post shall keep books 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, Finance Officer or any other person charged with the responsibility of handling Post funds. Such examination shall be made within ninety (90) days following the 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. Each 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 said date, with a copy thereof to the District Commander of the Post. The Department Commander, the Post Commander or the Post Executive Board 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 such 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.

ARTICLE XIV – APPOINTMENTS (continued)

Section 3. 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 First Vice Commander shall be the chairperson of the Membership Committee and shall consist of no less than three (3) members.

Section 4. Finance Committee - The Executive Board acting as the Finance Committee shall be charged with the administration of the financial policy, preparation of an annual budget with the recommendations, and supervision of receiving, disbursing and accounting of all Post funds.

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 - LIMITATION OF LIABILITIES

Section 1. This Post shall not incur, nor cause to be incurred, any liability or obligations whatever which shall subject to liability any other individuals, corporations or organizations.

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 the Post Adjutant, shall forthwith be forwarded to the Department Adjutant.

ARTICLE XVII — RECALL PROVISION

Section 1. A petition, signed by ten percent of the membership in good standing requesting the holding of an election for the purpose of recalling an elective officer or a member of the Executive Board 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 or her report on the correctness of the signatures to the Executive Board at its next meeting. If it shall appear from the report of the Adjutant that 10 (ten) percent of the membership have signed said petition, the Executive Board 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 Executive Board. If the report of the Adjutant shall show less than 10 (ten) percent of the membership have signed, said petition shall be forthwith returned to the member who filed the same with the Adjutant. The filing member shall then have 10 (ten) days thereafter to obtain the required number of valid signatures, and refile said petition with the Adjutant. The Adjutant shall recheck with his or her records and resubmit the same to the Executive Board at its next meeting thereafter with his or her report. If the petition is then found to be sufficient, the recall election shall be fixed as set forth above.

ARTICLE XVII — RECALL PROVISION (continued)

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 or her address as the same appears in the Post records at least 10 (ten) 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 _____ be recalled.”
(Name of Officer or member of the Executive Board)
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 election.

Section 5. If the Officer or member of the Executive Board shall be recalled, the Post, at its next regular meeting, shall elect a successor to fill the unexpired term. Nominations shall be held the same day as the election. The person recalled shall not be eligible as a candidate for election to fill the vacancy.

ARTICLE XVIII — AMENDMENTS

Section 1. Proposed amendments to these By-Laws must be submitted in writing 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 a two-thirds affirmative vote of those present and voting.

Section 2. These By-Laws shall be amended to conform to any changes 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 or 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 the Department of California, The American Legion.

**THE AMERICAN LEGION
DEPARTMENT OF CALIFORNIA**

AMENDMENT TO BY-LAWS APPROVAL

The By-Laws for Oceanside Post 146 were revised for the following reasons:

Article I: Update location of the Post

Article V, Section 3: Specify that when there is only one candidate for an officer position then voting may be done by voice, and when there is more than one candidate, then voting shall be by secret ballot.dues

Article V, Section 5: Specify that the method for vacancy voting be the same as Article V, Section 3 and delete the requirement that the vacancy must be announced at the meeting preceding the voting (there is no requirement to do this in The American Legion 2018 Officer's Guide, Section IV Nominations and Elections).

Article VI, Section 2: Change the Executive Board authority to approve the payment of expenditures up \$250.00 to agree with Article VII, Sections 1 and 2.

Article V, Section 6: Delete reference to “the Constitution” which the Post does not have.

Article VII, Section 2: delete unknown “(add)” after members present and voting.

Article X, Section 5: Delete statement that “A majority shall constitute a quorum” to eliminate the conflict with Section 4 which states “A quorum at a meeting shall consist of five (5) members.”

Article XVII, Section 5: Change recall elections to be during the day rather than at night.

We hereby certify that the above revision to the By-Laws was read at two meetings and adopted on June 16th, 2018 a quorum being present, and by a two-thirds vote of those present and voting.

First reading; May 19th, 2018

Second reading and adoption; June 16th, 2018

Post Commander Tony Azares: Tony Azares Date: 6/16/18

Post Adjutant Edd Robinson: Edd Robinson Date: 6/16/18