

THE AMERICAN LEGION
DEPARTMENT OF CALIFORNIA
POST 233 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 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: Elk Grove POST NO. 233, Inc, THE AMERICAN LEGION, DEPARTMENT OF CALIFORNIA, located at: Elk Grove, California hereafter referred to as, "Post."

Section 2. The physical address is:

American Legion Post 233 Elk Grove, Inc
8698 Elk Grove Blvd
Suite 1-243
Elk Grove, CA 95624..

The mailing address shall be:

American Legion Post 233 - Elk Grove
PO Box 161
Elk Grove CA 95759

ARTICLE II – OBJECTS

The objects and purpose 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 Constitution 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 military or Naval title in any meeting of the Post.

Section 2. This 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. Each member shall perform his full duty as a citizen.

Section 4. The roster of Post membership shall not be made available to anyone without first securing the approval of the Executive Committee.

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 nor 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 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 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 of the American Legion. No limitations may be placed on re-application of membership. (e.g. turned down today, he 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, he may then appeal to the Department Executive Committee for permission to be admitted to membership in the 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, Second Vice-Commander, Third Vice-Commander, Adjutant, Finance Officer, Historian, Sergeant-at-Arms , Chaplain, Service Officer and Judge Advocate. The Post may also have a Assistant Adjutant and an Assistant Sergeant-at-Arms as required.

b). The elective officers of this Post shall be the Commander, First Vice-Commander, Second Vice-Commander, Finance Officer, Sergeant-at-Arms and Third Vice-Commander (approved by Amendment 2017-001). In addition, there will be three (3) members-at-large to be part of the Executive Committee.

c). The following officers of the Post shall be appointed by the Commander: Adjutant, Service Officer, Historian, Chaplain, Judge Advocate and (if requested by the Commander) an Assistant Adjutant and/or an Assistant Sergeant-at-Arms..

d). Any other officer other than the Commander and Vice-Commanders and members-at-large may hold two or more of the above offices.

e) The administrative affairs of this Post shall, except as may be otherwise provided for in the By-Laws, be under the supervision of an Executive Committee as defined in the By-Laws. The term of office of members of the Executive Committee shall be for one year. This post, by its By-Laws, may provide for such other standing committees and/or boards as the business of the organization may require.

Section 2. Nomination of elective officers and members-at-large of the Executive Committee shall be held during the first regular meeting in March and April of each year and announcement thereof shall be made by the Adjutant at the last preceding regular meetings (normally in February & March), and by written notice to each member at least five (5) days prior to the regular March and April meetings.

Section 3. a).-All Post officers shall be elected/appointed for a period of one (1) year, (to begin at the start of the next fiscal year starting July 1st) at the regular meeting in May, (at least twenty (20) days prior to the opening of the Annual Department Convention) 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 members-at-large to the Executive Committee may be elected for a term of one year, but not to exceed three years provided that at least one-third (1/3) of the said member-at-large to the Executive Committee shall be elected in each Legion year.

b). All elections shall be by written, secret ballot and the majority of all votes cast shall be necessary to elect the Commander and Vice-Commanders. Other officers and Executive Committee shall be elected by a plurality vote. However, positions that have only one (1) nominee may be elected by acclamation.

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 officers and the Executive Committee 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 elective offices shall be filled by a secret ballot at a regular meeting following the vacancy, provided that the notice of the election be given at the meeting preceding the election.

Section 7. 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 respective Post at cost.

Section 8. In event that any Post Officer or member of the Post Executive Committee shall be absent for three (3) consecutive meetings of the Post and/or the Executive Committee without being excused by the Post Commander or Executive Committee, such office may 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 be taken. The vacancy so created shall be filled by election or appointment at the next general post meeting to include nominations and a vote as prescribed by the original election or appointment of that position.

ARTICLE VI – FINANCE

Section 1. No appropriations shall be made without first referring the same to the Finance Officer for report therefrom. The Executive Committee shall prescribe the form in which the financial records shall be kept.

Section 2. The fiscal year of the Post shall be from Jul 1st to Jun 30th of each year.

Section 3. All Post expenditures, regardless what conveyance or prior approval by the membership has taken place, shall require (2) signatures of the Commander's predesignated Post Officers. Emergency Expenditures, as defined by "those unanticipated expenditures for the benefit of the purposes of the American Legion and/or Post 233 and directed by Post Commander and pre-approved by at least two other Post Executive Committee will not exceed \$500.00. All emergency expenditures shall be disclosed to the general membership at the next regular business meeting.

ARTICLE VII – THE AMERICAN LEGION AUXILIARY

Section 1. The Post recognizes an auxiliary organization to be known as the, "Elk Grove Auxiliary Unit 233, American Legion Auxiliary, 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, 1921, with subsequent amendments adopted and approved by later conventions.

Section 2. "Robert's Rules Of Order" revised, shall govern the conduct of all meetings except as may be otherwise provided in these By-Laws.

Section 3. The order of business shall be conducted as shown in the most recent American Legion Post Officers Guide Book and Manual of Ceremonies.

ARTICLE IX – EXECUTIVE COMMITTEE.

Section 1. The management of this Post is conducted by the Executive Committee, which shall consist of three (3) members-at-large 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 the Post before becoming effective (except in emergency situations and the action must be reported to the membership in the next general meeting).

Section 3. The Commander, Vice-Commanders and Adjutant shall be chairman, vice-chairmen and secretary, respectively, of the Executive Committee.

ARTICLE X – MEETINGS

Section 1. a). The regular meetings of this Post shall be held on the 4th Thursday of each month at the Elks Lodge, 9240 Survey Rd, Elk Grove, CA 95624.

b). Regular meetings may be rescheduled upon announcement by the Commander at the regular meeting preceding, or unless there has been a reasonable attempt has been made notification in writing to each members prior to the a minimum of ten (10) days before either the original meeting date or the new meeting day which every provided the most time. Email may be considered “written notification” IAW California corporate law

Section 2. Special meetings may be called by the Commander or by the Executive Committee, or must be called upon the written request of five (5) or more members in good standing . No special meeting shall be called unless announcement by the Commander at the regular meeting preceding or unless notice be mailed to each member five (5) days prior to said meeting (this may include electronic mail), stating the time and 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 considered by the Executive Committee

Section 4. A quorum at all general membership meetings shall consist of six (6) members.

Section 5. The Executive Committee shall regularly meet at least once between meetings of the Post at a time and place designated by the Executive Committee. A majority shall constitute a quorum. The Executive Committee may hold such special meetings as Executive Committee 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.

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 to include the use of electronic notices (including email) as long as those members who do not have/use electronic means of communications are given notices by non-electronic means such as US Postal mail.

ARTICLE XI – DUTIES OF OFFICERS

Section 1. Duties of the 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 affairs of the Post, and such office shall be 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 of, disability of, or when called upon by the Post Commander, and shall perform such other duties as directed by the Post.

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 of, disability of, or when called upon by the Post Commander, and shall perform such other duties as directed by the Post.

Section 4. Duties of the Third Vice-Commander. The Third Vice-Commander shall assume and discharge the duties of the office of Second Vice-Commander in the absence of, disability of, or when called upon by the Post Commander, and shall perform such other duties as directed by the Post.

Section 5. Duties of the Adjutant. The Adjutant shall have charge of and keep 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 6. Duties of the Finance Officer. The Finance Officer shall be charged with the custody of the 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 deposit such funds in a bank in the County of Sacramento as may be designated by the Post Executive Committee. He shall draw all checks against the Post treasury upon counter signature by the Chairman and one other member of the Executive Committee, and pay all bills approved by the Post. He shall be bonded under the blanket bond to be procured from the Department Headquarters and paid for by the Post.

Section 7. Duties of the Historian. The 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 8. Duties of the 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 as are usually incident to the office.

Section 9. Duties of the 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 10. Duties of the 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.

Section 11. The duties of the Post officers are additionally prescribed in the National and Department Constitutions of the American Legion, as prescribed in the current Post Officer's Guide, and as prescribed in the current Manual of Ceremonies.

ARTICLE XII – DUES, FEES AND FUNDS

Section 1. The annual dues for this Post shall not be less than the combined amount of Department and National per capita dues, plus the District per capita dues and sufficient dues to be able to cover the normal operating expenses of the Post. Dues are payable annually in advance. This 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 two-thirds (2/3) majority of those present and voting.

Section 2. The membership initiation fee, if any, 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 and 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 1st shall be classed as delinquent. If his dues are paid on or before February 1st he shall be automatically reinstated. If he is still delinquent after February 1st, he shall be suspended from all privileges. If he is still under suspension on June 30th of such year, his 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. 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 his membership may make up past dues until December 30th for only the immediate preceding year. A separate initiation fee may be charged by the Post to reinstate such continuous membership.

Section 4. Monies that are reposed in the Building Fund shall only be used to acquire property to be used as a Post 233 Home, or for the repairs or modification of such Post Home.

ARTICLE XIII – DELEGATES 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 submitted at least twenty (20) days before the Department convention convenes. 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 Area Council and District By-Laws and shall serve for a term on one (1) year per term.

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. 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 prior to October 1st 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. Each Post shall certify to the Department Adjutant prior to November 15th 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 District of said Post. The Department Commander, the Post Commander, or the Post Executive Committee may order an audit of the books of the 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 delegate 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.

Section 3. Membership Committee. 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.

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

ARTICLE XV – LIMITATIONS OF LIABILITY

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

ARTICLE XVI – TRIALS

Section 1. Members of their 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 – RECALL PROVISIONS

Section 1. A petition, signed by ten (10) percent of the membership in good standing requesting the holding of an election for the purposes of recalling an elective officer, a Hall Board member or a member of the Executive Committee may be filed at any time with the Post Adjutant. The Post Adjutant shall, within five (5) days after filing said petition, compare the signatures on said petition with signatures on the applications of the respective signers on file in the Post records. The Adjutant shall deliver the said petition and his report on the correctness of the signatures to the Executive Committee 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 Executive Committee 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 Committee. If the report of the

Post 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 re-file said petition with the Adjutant who shall recheck with his records and resubmit the same to the Executive Committee at its next meeting thereafter with his report. If the petition is then found being 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 (may include electronic mail) 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 concluded 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 Committee)

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, Hall Board member or member of the Executive Committee 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 night 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 of these By-Laws must be submitted in writing at a regular meeting of the Post, and read thereat. At the next regular meeting, or subsequently if postponed, the proposed amendment may be adopted by a two-thirds (2/3) affirmative vote of those present and voting.

Section 2. a). 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.

b). 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.

Section 3. All amendments thereto shall be certified and signed as follows;

We hereby certify that the above By-Laws amendment(s) were read at two regular meetings and were adopted on _____, a quorum being present, and by a two-thirds affirmative vote of the present and voting.

First reading _____ (give date)

Second reading and adoption on _____ (give date)

CERTIFICATION

We hereby certify that the above Bylaws were read at two regular meetings and were adopted on _____, a quorum being present, and by a two-thirds (2/3) affirmative vote of the present and voting.

First reading _____

Second reading and adoption on _____

Signed by,

Commander

Adjutant

ARTICLE XIX – GENDER

Section 1. The masculine gender shall be deemed to denote the feminine or neutral gender, the singular to denote the plural and vice-versa where the context so permits.

ARTICLE XX– HALL BOARD

Section 1. The administration of the physical assets of the Post shall be supervised by the Hall Board.

Section 2. The Hall Board shall be elected at the same time and in the same manner as the Executive Committee.

Section 3. At their initial election, the members of the Hall Board shall be elected as follows: one (1) member to serve for three (3) years, one (1) member to serve for two (2) years and one (1) member to serve for one (1) year.

Section 4. At each annual election thereafter, one (1) member will be elected for a term of three (3) years, to fill an outgoing members expired term.

Section 5. The Chairman of the Hall Board will be the senior member.

Section 6. The Commander and the Vice-Commanders shall not be eligible to serve on the Hall Board. However, they and other members of the Executive Committee may attend the meetings of

the Hall Board as ex-officio members. (Judge Advocate Note: "Ex-Officio" means may participate as full members with voice and vote but are not required to do so. Ex-Officio members may not be counted to determine a quorum).

Section 7. Any vacancies on the Hall Board will be filled as prescribed in Article V, Section 6.

Section 8. Any Hall Board member who fails to attend three (3) consecutive meetings shall have his or her position declared vacant, unless sufficient reason for such absence can be established.

Section 9 The Hall Board shall negotiate, lease, buy, sell, hypothecate and enter into contract with any organization or individual for use, purchase, or sale of any building or equipment, or other real and personal property, providing that such action is approved at a regular or special Post meeting by Two Thirds (2/3) majority of those members present and voting, and providing that the membership is notified in writing not less than Five (5) days prior to such action.

Section 10. The Hall Board shall report all activities of the Board to the Post, monthly, at a regular meeting, or more often if deemed necessary by the Post Commander or Executive Committee.

Section 11. The Hall Board shall recommend and publish rules and policy regulating business transactions pertaining to the Club House, grounds, and equipment in a manner that will benefit the Post.

Section 12. The Hall Board shall enforce said rules and policy, and all subsequent changes thereto.

Section 13. The Hall Board shall act as Bargaining Agent for the Post in such matters relative to the use of building, grounds, and equipment, subject to approval by the Post, as prescribed in Article XXI, Section 9.


CERTIFICATION


Above the signatures of the Commander and Adjutant, certify to the following:

"We hereby certify that the above By-Laws were read at two meetings of the Post and adopted on 26 Apr, 2018, a quorum being present, and by a two-thirds (2/3) vote of those present and voting.

First reading, 26 Apr, 2018

Second reading and adoption 24 May 2018

Signed by,


 Commander


 Adjutant

Note-
Certification of all subsequent amendments are required.

These By-Laws or any amendments thereto must be sent in DUPLICATE to Department headquarters following approval by a member of the Constitution and Bylaws Commission (Usually the Commissioner assigned to your area), as one copy is kept by the Department Headquarters for the Post files and the original is returned to the Post for their files, after having been approved by the Constitution and By-Laws Chairman.

THE ARTICLES OF INCORPORATION FOR THIS POST ARE ON FILE WITH THE CALIFORNIA SECRETARY OF STATE, .



The American Legion
Department of California
1601 7th Street
Sanger, CA 93657-2801

Post No. 233
District No. 6
Area 1

Direct to: Post _____
Dept. File _____
Date: _____

(Mailing Address)

Your articles, as submitted have been reviewed and disposed of as follows, by this Commission:

ARTICLES RECEIVED:	APPROVED	DISAPPROVED
() Const. & By-Laws	_____	_____
(x) By-Laws	<u>MR</u>	_____
() Amendment	_____	_____
Article____Section____	Article____Section____	
Article____Section____	Article____Section____	
Article____Section____	Article____Section____	

REMARKS:

If the Constitution & By-Laws, By-Laws or the Amendments have been marked "Not approved", please correct your submission by regular Post procedure, to comply with instructions below and submit **TWO** copies of same to Department Headquarters at the address on the top of this page. Thank you.

DATE: 20 JUN 2018

Mark L. Rice
Constitution & By-Laws
Commissioner, AREA 1