



The American Legion  
Department of California  
1601 7<sup>TH</sup> Street  
Sanger, CA 93657-2801

CERTIFICATION OF CONSTITUTION, BYLAWS AND AMENDMENTS  
CONSTITUTION AND BYLAWS COMMISSION, DEPARTMENT OF CALIFORNIA

Post Articles                       District Articles                       \_\_\_\_\_ Articles

Post No.: 217                      District No.: 13                      Area: 2

Gilroy, CA  
(Location)

**Your articles, as submitted have been reviewed and by this Commission for entry into the Department Record. A copy of this form should be kept with your Post or District Records**

**ARTICLES RECEIVED:**

- By-Laws  
 Amendment

**REMARKS:** If the Constitution & By-Laws, By-Laws or the Amendments are ever changed or amended after the date of this form, the changes or revisions shall be submitted to the Constitution and Bylaws Commission - Department of California for review and approval. All Articles of any Bylaws must remain in compliance with the American Legion National Constitution and Bylaws as well as the American Legion – Department of California Constitution and Bylaws. It is the responsibility of the Post or District to always keep them current.

Thank you.

DATE: 5/11/2024

Phil Cazella  
Phil Cazella  
Commissioner, Area 2  
Constitution and Bylaws Commission, DOC



**THE AMERICAN LEGION**  
**DEPARTMENT OF CALIFORNIA**  
**GILROY POST NO. 217**  
**BYLAWS**

**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 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 Post existing under these Bylaws is to be known as GILROY POST NO. 217, THE AMERICAN LEGION, DEPARTMENT OF CALIFORNIA, hereafter referred to as, "Post."

**Section 2.** The Post is located in Gilroy, California.

**Section 3.** The mailing address shall be: 74 West 6<sup>th</sup> St, #D, Gilroy, CA 95020.

**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, the Articles of Incorporation of this Post, the National Constitution and Bylaws, and the Department Bylaws.

### **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 their 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 their full duty 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 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 any initiation fees and dues for the current calendar year; and shall furnish official evidence of eligibility.

**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 of The American Legion. No limitations may be placed on re-application of membership (e.g., turned down today, may 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, the expelled member may then appeal to the Department of California Executive Committee for permission to be admitted to the 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, Second Vice-Commander, the Adjutant, Finance Officer, Historian, Chaplain, Sergeant-at-Arms, Service Officer, and Judge Advocate.

b) . The elective officers of this Post shall be the Commander, and all Vice-Commanders.

c). The following officers shall be appointed by the Commander: Adjutant, Finance Officer, Historian, Chaplain, Judge Advocate, Service Officer, Sergeant-At-Arms, and Bar Council members.

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

**Section 2.** Nomination for Post elective offices and members of the Executive Committee shall be made during the first regular meeting in April, notice of which shall be given at the previous regular meeting. Written notice of the nominations meeting may be sent to each member at least ten (10) days prior to nominations.

**Section 3. a).** All Post officers shall be elected or appointed to a term of one year at a regular meeting prior to June 1<sup>st</sup> and shall be impressively installed at the first regular meeting in June, in accordance with the prevailing American Legion Officer's Guide and Manual of Ceremonies, and prior to the first day of September of that year.

b). All elections for opposed positions shall be by written secret ballot, and a majority of all votes cast shall be required for the election of the Commander and Vice-Commanders. The election of all other officers, if any, and Executive Committee members shall be by a plurality vote. Secret ballots shall be retained for thirty (30) days by the Post Adjutant.

**Section 4.** Every member of this Post in good standing shall be eligible to hold office. There shall be no limiting qualifications (e.g., length of time in the Post).

**Section 5.** In the event that any Post Officer or member of the Post Executive Committee shall be absent for three consecutive meetings of the Post or Executive Committee meeting without being excused by the Post Commander or Executive Committee, such office may be declared vacant by a majority vote of those present and voting at a regular Post meeting held after a written notice to all members that such vote will take place. The vacancy so created shall be filled by election or appointment at the next general post meeting by the same process 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 Committee for report there from. This does not preclude any member's right to make a motion on the floor of a Post meeting for any expenditures relating to Post business.

**Section 2.** The Executive Committee shall prescribe the form in which the financial records shall be kept using standard accounting practices.

**Section 3.** The Post financial records shall be maintained on a fiscal year basis, beginning July 1<sup>st</sup> and ending on June 30<sup>th</sup>.

**Section 4.** All Post expenditures 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 217 and directed by the Post Commander and pre-approved by at least two (2) other members of the Post Executive Committee will not exceed five hundred (500) dollars. All emergency expenditures shall be disclosed to the general membership at the next regular business meeting.

#### **Section 6. AUDIT**

a). The Post shall perform an examination of its financial records annually by October 1<sup>st</sup> and submit a *Certification of Financial Audit* to the Department by November 15<sup>th</sup> with a copy provided to the District Commander and District Adjutant.

b). If the Post has gross annual revenues of less than fifty thousand dollars (\$50,000), it shall have its books examined by a reputable bookkeeper or a certified public accountant, or a committee of three (3) competent persons, none of whom will be the Commander, Adjutant, Finance Officer or any person charged with the responsibility of handling Post funds.

c). If the Post has gross annual revenues of fifty thousand dollars (\$50,000) or over, it shall have its books examined by a reputable bookkeeper or certified public accountant and submit a copy of their report with the *Certification of Financial Audit*.

### **ARTICLE VII – THE AMERICAN LEGION AUXILIARY**

**Section 1.** The Post recognizes an auxiliary organization to be known as the "Auxiliary Unit of Gilroy Post 217, The American Legion, 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, 1921, with subsequent amendments adopted and approved by later conventions.

**Section 2.** The rules contained in the current edition of Robert's Rules of Order Newly Revised will govern this Post in all cases to which they are applicable and in which they are not inconsistent with these Bylaws, any special rules of order the Department may adopt, the Bylaws of Department and National, and Federal, State and Local regulations.

## **ARTICLE IX – EXECUTIVE COMMITTEE**

**Section 1.** The Executive Committee shall consist of a minimum of two (2) members in addition to the Commander, Vice-Commanders, and the Adjutant. The Commander, Vice-Commanders and Adjutant shall be Chairman, Vice-Chairmen and Secretary, respectively.

**Section 2.** Executive Committee members may be elected for a term of one (1) year, but not to exceed three (3) years, provided that at least one-third (1/3) of the said Executive Committee shall be elected in each Legion year.

**Section 3.** In event that any member of the Post Executive Committee be absent for three 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 and voting 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 by the same process as prescribed by the original election or appointment of that position.

**Section 4.** 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 by a simple majority vote before becoming effective. The Executive Committee shall manage the business of the Post.

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

## **ARTICLE X – MEETINGS**

**Section 1.** a). The regular meetings of this Post shall be held on the day, time, and location prescribed by the Post Executive Committee and approved by a majority of those present and voting by the Post membership at a regular meeting.

b). Regular meetings may be rescheduled upon notification in writing to all members prior to the beginning of the month in which the meeting has been changed.

**Section 2.** Special meetings may be called by the Commander or by the Executive Committee or must be called upon the written request of a minimum of five (5) members of the Post. No special meeting shall be called unless announcement by the Commander at the regular meeting preceding or unless notice be mailed or electronically transmitted to each member no less than ten (10) days prior to said meeting stating the time and 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.** 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 a minimum of five (5) members.

**Section 5.** No member shall take part in any Post meeting or election unless in good standing.

**Section 6.** No member shall be represented or shall vote by proxy. There shall be no voting by absentee ballot.

**Section 7.** The Post has the option to meet by electronic means using either phone, internet, or other electronic means to conduct Post business and/or elections as scheduled or otherwise any business required by these Bylaws. The Post membership must be notified by either mail or electronic mail at least 10 (ten) days prior to said meeting and the same quorum as for all other meetings will be required to conduct business.

## **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 and 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. The Post Commander shall ensure that reports and fees required by Department are submitted on time. Failure to complete required reports or submit required fees shall cause to place the Post on probation and may not be seated at Department Convention until all obligations are met.

**Section 2.** Duties of 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. The First Vice-Commander shall be the chairperson of the Membership Committee and select their committee with the approval of the Commander.

**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 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. The Adjutant shall keep such records as the Department and National Organizations may require and render reports of membership annually or when called upon at a meeting.

**Section 5.** Duties of the Finance Officer. The Finance Officer shall be charged with the custody of the funds of the Post. They shall keep its accounts and report thereon at regular meetings of the Post. They shall receive all funds of the Post and pay all bills approved by the Post. The office of Finance Officer and any other officers and/or positions charged by the Post Constitution and/or Bylaws with the responsibility of handling Post funds should be bonded. The Finance Officer shall sign all checks disbursing the monies of the Post and shall furnish such surety bonds in such sum as shall be fixed by the Post Executive Committee.

**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 other duties as directed by the Post or the Executive Committee.

**Section 7.** 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 Bylaws and to perform such other duties as are usually incident to the office.

**Section 8.** 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.

**Section 9.** 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 assigned to them by the Post.

**Section 10.** The duties of the Service Officer. The Post Service Officer shall assist Post members and other veterans where needed and shall serve to protect the rights and privileges of all veterans, their dependents, and survivors and to handle such other matters as may be properly considered service work.

**Section 11.** Duties of the Bar Council. The Bar Council shall consist of two (2) members each serving for two (2) years with staggered terms. The Bar Council shall attend all Bar Council meetings and report with minutes and financial reports to the Post after each meeting and convey to said Council the wishes of the Post.

## **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, payable annually. 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 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 their dues are paid on or before February 1st, they shall be automatically reinstated. If they are still delinquent after February 1st, they shall be suspended from all privileges. If they are still under suspension on June 30th of such year, their 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.

### **ARTICLE XIII – DELEGATES FOR THE DEPARTMENT CONVENTION**

**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 time and place for holding the election shall be announced by the Post Commander at least one regular meeting in advance of the election and shall be held no later than June 1st. Following the election, a *Certification of Post Delegates* shall be submitted to Department no later than June 1st along with any delegate fees imposed. Failure to certify their delegates or pay delegate fees with Department may be cause for forfeiture of those delegates at Convention.

### **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.** Membership Committee. The Membership Committee shall have charge of all matters pertaining to the membership of the Post, including the procuring of new members, and reinstatement and eligibility of members, subject to the approval of the Post.

**Section 3.** Finance Committee. 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 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 – ADMINISTRATIVE HEARINGS**

**Section 1.** Members of their 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 ten (10) percent of the membership in good standing requesting the holding of an election for the purposes of recalling an elective officer 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 or the member’s membership card. The Adjutant shall deliver the said petition and their 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 their records and resubmit the same to the Executive Committee at its next meeting thereafter with their 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 or emailed to each member of the Post in good standing at their 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 or member of the Executive Committee shall be recalled, the Post 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 Bylaws or Amendments thereof must be submitted in writing at a regular meeting of the Post and read there at. At the next regular meeting or, if postponed, at a subsequent regular meeting, the proposed Bylaws or Amendment shall be adopted by a two-thirds (2/3) affirmative vote of those present and voting. Changes of amendments to the Post Constitution and/or Bylaws shall be certified in writing by the Post Commander and Adjutant before submission to Constitution and Bylaws Commission through the Department.

**Section 2.** a). These Bylaws shall be amended to conform to any changes in the National and Department of California Constitution and Bylaws no later than ninety (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 or effect until approved by the Constitution and Bylaws Commission of the Department of California but shall be temporarily enforced pending action thereon if not in conflict with the Constitution and Bylaws or adopted policy of The American Legion, or The American Legion - Department of California.

### **ARTICLE XIX - ELIGIBILITY OF MEMBER AND SPOUSE TO BURIAL IN POST PLOT**

**Section 1.** In any Cemetery Plot or Lot procured or purchased by this Post or which is under the control of said Post, only those who have been members in good standing of Gilroy Post 217 of The American Legion for a continuous period of five years immediately prior to death shall be eligible to be buried in said Plot or Lot. The spouse of a member may be buried with said member. The heirs of anyone using a burial plot must give Post 217 permission for the burial of cremated remains with markers above the casket.

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

CERTIFICATION

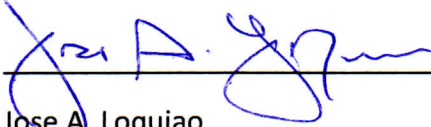
Above the signatures of the Commander and Adjutant, certify to the following:

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

First reading, April 4, 2024 (Monthly Meeting).


Second reading and adoption, May 2, 2024 (Monthly Meeting).

Certified by,



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Jose A. Loquiao  
Commander, Gilroy Post 217



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Samuel P. Palmisano  
Adjutant, Gilroy Post 217