

Alvin Myo Dunn American Legion Post 365

The American Legion, Department of California
1234 South Santa Fe Avenue
Vista, California 92084

CONSTITUTION AND BY-LAWS

PREAMBLE

For God and ~~Country~~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 association 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 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

The name of this organization shall be: Alvin Myo Dunn American Legion Post 365, Department of California, located at 1234 South Santa Fe Avenue, Vista, California, 92084, hereinafter referred to as "Post²."

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 No. 158702, dated 10/19/45, Validation No. 3658-E, and the National and Department Constitutions 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 nonprofit purposes. The property, assets, 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 private shareholder or individual.

Upon the dissolution or winding up of this corporation, its assets remaining after payment of, or provision for payment of, all debts and liabilities of the 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 23701(d) of the Revenue and Taxation Code and/or Section 501(C)(19) of the Internal Revenue Code. If this corporation holds any assets in trust, such shall be disposed of in such a 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

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/her military title in any meeting of this Post. Each member shall perform his/her duty fully as a citizen.

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Section 2

This Post shall be absolutely non-political 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. No candidate for nomination or election to, nor any incumbent of, any remunerative elective public office shall hold any elective office or any appointive remunerative office in this Post, provided, however, that this provision shall not affect membership on Post, Department or National standing or special committees.

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ARTICLE IV - MEMBERSHIP

Section 1

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.

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Section 2

There shall be no form or class of membership except active membership, and dues shall be paid annually or for life.

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Section 3

Candidates for membership in this Post shall make application upon a form prescribed by the Executive Board of this Post, pay therewith the dues for the current calendar year and shall furnish official evidence of eligibility. Official evidence of eligibility is a DD214 or a Active Duty ID card until cessation of hostilities as determined by the United States Government.

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Section 4

An investigating committee shall verify all applications for membership and transfers. A majority vote of those members present and voting at a regular Post meeting shall accept 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.

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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/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.

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ARTICLE V - OFFICERS: ELIGIBILITY AND ELECTION

Section 1

The officers of this Post shall be:

- ~~the~~ Commander,
- ~~the~~ First Vice Commander,
- ~~the~~ Second Vice
• Commander,
- ~~the~~ Adjutant,
- ~~the~~ Finance Officer,
- ~~the~~ Historian,
- ~~the~~ Sergeant-at-Arms,
- ~~the~~ Assistant Sergeant-at-Arms,
- Chaplain,
- Judge Advocate,
- Service Officer,
- Junior Past Commander
- and the elected Executive Board.

All officers shall be elected except the Adjutant, Judge Advocate, Service Officer who are selected by the Commander. (see Article XI, Section 1) The ~~and~~ Junior Past Commander has his/her position by virtue of seniority and past position.

Section 2

The Executive Board shall consist of all Post Officers, elected and appointed. ~~T, and the~~ elected members of the Executive Board, with a maximum of six (6) shall be being one (1) per hundred (100) members or fraction thereof, ~~with a maximum of six (6) directors.~~

Section 3

Nominations for elected officers shall be held in April of each year, with the second nominations and the election held in May.

Section 4

Election of officers shall be completed during the May meeting each year and shall be by written, secret ballot, unless the candidate is unopposed.

Section 5

The Post Commander shall appoint an election committee, to consist of three (3) tellers to count ballots. Any person running for an elected office shall be ineligible to serve as a teller.

Section 6

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

Section 7

Post officers and directors shall be elected for a term of one (1) year. A majority of over fifty percent (50%) of all votes cast shall be necessary to elect the Post Commander and Vice Commanders. Other officers shall be elected by a plurality vote.

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Section 8

In the event that any Post officer or member of the Executive Board shall be absent for three (3) consecutive meetings of the Post or Executive Board without being excused by the Post Commander or the Executive Board, such office may be declared vacant by a majority vote of those members present at a regular Post meeting. After the vacancy has been created, first nominations for that office may be held. Written notice will be sent to all members, notifying them of the vacancy and that second nominations and election will be held at the regular Post meeting. This notice will be mailed at least five (5) days previous to that meeting by regular mail, telephonically or electronically.

Section 9

All vacancies, either elective or appointive, however created, shall be filled by election or appointment, as originally filled, at one of the two regular meetings following the vacancy.

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Section 10

Installation of elective officers shall take place prior to the Department of California Convention, with an impressive ritual and according to the National Manual of Ceremonies.

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Section 11

The Junior Past Commander shall continue as Commander until the Post of Ceommander is filled.

ARTICLE VI – FINANCE

Section 1

No money shall be paid from the funds of this Post except on statements duly certified and approved by the Executive Board or upon appropriations authorized by such Executive Board with the approval of the Post, provided, however, that a majority of the members present and voting at any regular Post meeting or special meeting of the Post can appropriate and authorize an expenditure for any special purpose.

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Section 2

The Executive Board, with the approval of the Post, shall be charged with the administration and supervision of the receipt and disbursement of Post monies, and the maintenance of complete financial records, which shall account for all Post funds.

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Section 3

The sale or purchase of any real estate in the name of the Post may be accomplished by recommendation from the Executive Board, and approved by a two-thirds majority of the members present and voting at the second regular meeting following such recommendation. Written notice must be provided to all members, stating the recommendation, the date, the time and place of the meeting.

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Section 4

Upon the recommendation of the Executive Board, the sale, purchase or survey of fixtures or other Post property shall be approved by a majority vote of those members present and voting at a regular business meeting.

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Section 5

No member of the Post, without approval of the Post membership and appointment by the Commander, shall sponsor any activity in the name of the Post, or in any way place the Post under any obligation.

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Section 6

Recommendations from the Executive Board concerning special Post sponsored activities must be referred to the Post membership at the next regular meeting. The Board's recommendation on such activity must be approved by a majority of those members present and voting. If approved, the

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.

~~(Observance of this section shall be mandatory.)~~

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Section 2

~~“Roberts” Rules of Order, Newly Revised (11th edition)~~ shall govern the conduct of all meetings except as may be otherwise provided in these By-Laws,

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Section 3

The recommended order of business shall be:

- 01. Opening ceremonies (National Manual of Procedure”).
- 02. Roll call of officers.
- 03. Reading of the minutes of the previous meeting.
- 04. Initiation of new members (“National Manual of Procedures”)
- 05. Introduction of guests.
- 06. Nomination, election or installation of officers.
- 07. Applications for membership.

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- 08. Balloting upon applications for membership.
- 09. Communication and notice (sick call and relief).
- 10. Report of the Executive Board
- 11. Reports of Adjutant and Finance Officer.
- 12. Reports of standing committees.
- 13. Reports of special committees.
- 14. Unfinished business.
- 15. New business.
- 16. Good and Welfare of the Legion.
- 17. Closing ceremonies (“National Manual of Procedures”)

ARTICLE IX - MANAGEMENT

Section 1

The administration, government and management of the Post are entrusted to the Executive Board, with the approval of the membership herein prescribed. The Executive Board shall consider all matters affecting the Post and shall make recommendation to the membership for approval.

Section 2

AUDIT: The Post shall keep books of account and shall cause said books to be examined, covering a fiscal period, ending on any date, which includes December 31 of the previous calendar year and up to and including the date of examination. Said examination shall be made within a period of ninety (90) days following the annual installation of officers each year, by a licensed accountant or by a committee of three (3) competent persons, none of whom shall be the Commander, Adjutant, Finance Officer or any other member of the Post charged by the Post Constitution and By-Laws with the responsibility of handling Post funds. To the regular accounts used to operate the Post shall be added the clubroom account, used to operate the Post clubroom, for the purpose of the annual audit.

The Post shall certify to the Department Adjutant, prior to December One (1) each year that such an examination has been made, and shall 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 copy thereof to the District Commander ~~of the district of said 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 seated 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.

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Section 3

The offices of the finance Officer and any other officer and/or position charged by the Post Constitution and ~~B~~ ~~y~~ ~~L~~ ~~a~~ ~~w~~ ~~s~~ 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.

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Section 4

The Post ~~Commander~~, immediately after ~~being installed in office~~, shall ~~appoint a Budget, Finance and Audit Committee of three (3) members, none of who shall be an officer of the Post or charged with the handling of Post funds.~~

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Section 5

The Executive Board shall cause the Finance Officer to deposit and maintain sufficient funds in a regular checking or savings account to pay current bills.

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Section 6

The Executive Board shall appoint a House Chairman. The House Chairman will not have a vote on the Executive Board unless he/she has been nominated and elected from the floor as one of the elected Executive Board.

Section 7

The House Chairman shall have charge of the maintenance, upkeep and repair of the clubroom & kitchen, and such other responsibilities as the Post Commander may designate.

Section 8

The ~~House~~ ~~Chairman~~ and ~~Clubroom Manager~~ shall ~~hire sufficient employees to meet the~~ business needs of the Post and shall coordinate the operation of all facilities for Post functions; shall order and maintain sufficient stock to meet the business requirements of the Post; shall maintain a stock inventory; and shall submit a financial report of bar receipts and stock expenditures to the Executive Board at their monthly meeting.

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Section 9

The Clubroom Manager will keep a record of hours worked by building employees and report to the Payroll Company for tax purposes. All wages or salaries shall be paid by check, or as otherwise authorized.

Section 10

The House Chairman shall formulate a set of house rules and present them to the Executive Board for recommendation, and to the Post for the approval of the membership. The House Chairman, the Clubroom Manager, and the Bartender on duty shall strictly enforce such rules. Any member or guest failing to abide by the rules may be requested to leave the clubroom and may be asked to appear before the House Committee to explain his/her actions. Use of the clubroom is a privilege that may be denied at any time for misconduct.

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Section
SECTION 11

The Post Finance Officer shall pay all bills as approved by the Executive Board, or by the Post membership, within seven days of such approval, unless otherwise instructed.

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The Clubroom Manager, once hired by the House Chairman, may be replaced only by the recommendation of the House Chairman and a two-thirds affirmative vote of the House Committee.

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Section 13

The Clubroom Manager shall make by-weekly deposits of all clubroom receipts. The Clubroom Manager will be responsible for all authorized payments for goods or services from the clubroom account. The authorized signatures on the clubroom account will be; Post Commander, Second Vice Commander, House Committee Chairman and Clubroom Manager.

Section 14:

Communications with Post members may be written, telephonically or electronically.

ARTICLE X – MEETINGS

Section 1

The regular business meeting of this Post shall be held on the third Saturday of each month at 10:00 AM. This meeting shall be held at the Post located at 1234 South Santa Fe Avenue, Vista, California.

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Section 2

Debate on any subject shall be limited to three (3) minutes by any one member, except by consent of a majority of the membership present. No member shall speak a second time on a motion until all other members who desire to speak on the motion have had the floor. The maker of a motion has the right to be the last speaker on the motion. (Refer to "Roberts' Rules of Order".)

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Section 3

A special Post meeting may be called by the Commander or Executive Board, and must be called upon by written, telephonic or electronic request of twenty-five (25) members. No special Post meeting shall be called unless announced by the Commander at the regular Post meeting preceding, or unless 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.

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Section 4

A quorum at all Post General meetings shall consist of ten (10) members.

Section 5

The Executive Board shall regularly meet once a month at a time and place designated by it. A majority shall constitute a quorum. The Commander and Adjutant shall be the chairman

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and secretary, respectively. It may hold such special meetings as it or the Commander may deem

advisable, notice thereof being given to each member of the Executive Board, at least seventy-two (72) hours before the time of the meeting, giving the time and place and the matter to be considered.

Section 6

No member may take part in a Post meeting or election unless he is a member in good standing. (Refer to Article XII, Section 4)

Section 7

All General Meetings shall adjourn not later than 90 minutes from start of meeting. The members may, by majority vote, suspend this rule.

Section 8

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

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 meetings of the Post and to have general supervision over the business affairs of the Post, and such officer shall be the Chief Executive Officer of the Post. The Commander shall appoint the Adjutant, Judge Advocate and Service Officer. The Commander shall perform such other duties as directed by the Post.

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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, and shall perform such other duties as directed by the Post. The First Vice Commander is responsible for Post membership, which includes recruitment programs, verification of membership eligibility for new member applications and transfers, and presenting prospective new members to the general meeting for final approval or rejection.

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Section 3: Duties of the Second Vice Commander

The Second Vice Commander shall assume and discharge the duties of the First Vice Commander in the absence or disability of such officer, and shall perform such other duties as directed by the Post. The Second Vice Commander shall be responsible for Ways & Means and all Post activities ensuring that Post events are adequately advertised, planned, coordinated and manned with volunteers.

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Section 4: Duties of the Adjutant

The Adjutant shall have charge of and keep a full and correct record of the proceedings of all meetings, and under the Post Commander, handle all correspondence of the Post. The Adjutant is the Chief Administrative Officer of the Post.

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~~Correspondence of the Post, The Adjutant is the Chief
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Section 5: Duties of the Finance Officer

The Finance Officer shall be charged with the custody of the funds of the Post. Said officer shall keep the Post accounts and reports thereon at regular meetings of the Post; shall receive all funds of the Post and pay all bills approved by the Post; shall be bonded under a blanket bond to be procured from the Department Headquarters and paid for by the Post. If Post maintains more than \$10,000.00 at any given time during the year, the Post shall procure an additional private bond.

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 Executive Board.

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Section 7: Duties of the Post Chaplain

The Post Chaplain shall be charged with the spiritual welfare of the Post's comrades and will offer divine but non-sectarian service in the event of dedications, funerals, public functions, etc., adhering to such ceremonial rituals as are recommended by the National or Department Headquarters from time to time.

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Section 8: Duties of the Post Sergeant-at-Arms

The Sergeant-at-Arms shall preserve order at all meetings, is charged with care and maintenance of Post colors and ceremonial weapons and shall perform such other duties as may be assigned to him by the Post.

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Section 9: Duties of the Post Assistant Sergeant-at-Arms

The Assistant Sergeant-at-Arms shall assume and discharge the duties of the office of the Sergeant-at-Arms in the absence or disability of such officer and shall perform such other duties as directed by the Post.

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Section 10: Duties of the Post Service Officer

The Service Officer shall be the primary point of contact for providing information, referrals and resources on education, employment, death benefits, disability benefits for veterans and their families.

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Section 11: 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 Constitution and By-Laws, and to perform such other duties as are usually incident to the office. The Judge Advocate shall also act as Post Parliamentarian.

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Section 12: Duties of the Post Junior Past Commander

Shall be to act as advisor and confidant to the Post Commander. The Junior Past Commander shall also be the Chairman of the Nomination and Steering Committee.

ARTICLE XII - DUES, FEES AND FUNDS

Section 1

Annual membership dues shall be payable in advance and shall be as recommended by the Executive Board and approved by the majority vote of members present and voting at the next regular Post meeting. Dues amounts, once adopted, shall stand without amendment throughout the entire Legion year for which adopted.

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Section 2

The Post shall fix initiation and/or reinstatement fees in the same manner as prescribed in Section 1 above.

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Section 3

From such dues and fees, the Post shall pay all Legion per capita taxes or assessments, as prescribed by the National and Department by-laws

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Section 4

A member whose dues for the current year have not been paid by January 1 shall be classed as delinquent. If dues are not paid on or before February 1, the member shall be automatically reinstated. If dues are still delinquent after February 1, the member shall be suspended from all privileges. If the member is still under suspension on June 30, membership in the American Legion shall be forfeited. A member so suspended, or whose membership has been forfeited, may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs.

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ARTICLE XIII - DELEGATES AND REPRESENTATIVES

Section 1

The delegates and alternates to represent the Post at the Department Convention shall be elected at the regular general meeting in May immediately following elections of Post officers and at least 20 days before the Department Convention convenes.

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Section 2

The newly elected Post Commander shall automatically be a delegate and chairman of the delegation. In the Commander's absence, the Commander shall appoint a chairman.

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Section 3

The duly elected delegates to the annual Department Convention shall be the representatives to the Twenty-second District.

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ARTICLE XIV – APPOINTMENTS

SECTION 1

The Post Commander, immediately upon taking office, shall appoint committees as shall be found necessary. Standing committees shall consist of such number of members as may be

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determined by the Post; the chairman and members of standing committees shall be designated by the Post Commander.

Section 2: Sons of the American Legion Liaison

There shall be one Post member designated as the Liaison Officer appointed by the Commander.

ARTICLE XV - LIMITATION OF LIABILITY

Section 1

This Post shall incur, nor cause to be incurred, no liability nor obligation which shall subject to liability any other Post, subdivision, group of members, member of the American Legion nor other individual, corporation of organization.

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ARTICLE XVI - TRIALS

Section 1

A petition, signed by ten percent (10%) of the membership in good standing, requesting the holding of an election for the purpose of recalling an elective officer or member of the Executive Board, may be filed at any time with the Adjutant. The Adjutant shall, within five (5) days after receiving 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/her report on the correctness of the signatures to the Executive Board at the next meeting.

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ARTICLE XVII - RECALL PROVISION

Section 1

A petition, signed by ten percent (10%) of the membership in good standing, requesting the holding of an election for the purpose of recalling an elective officer or member of the Executive Board, may be filed at any time with the Adjutant. The Adjutant shall, within five (5) days after receiving 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/her report on the correctness of the signatures to the Executive Board at the next meeting.

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If it shall appear from the report of the Adjutant that ten percent (10%) 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 said meeting of the Executive Board.

If the report of the Adjutant shall show that less than ten percent (10%) of the membership have signed, said petition shall then forthwith be returned to the member who filed the petition 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 re-check his/her records and re-submit the petition, with his/her report, to the Executive Board at its next meeting thereafter. If the petition is then found to be sufficient, the recall election shall be fixed as set forth below.

Section 2

Notice of the date, time, and place of the recall election shall be mailed to each member in good standing, at his/her address as it appears in the Post records, at least ten (10) days before the election.

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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 director)

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 elections.

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 at the same meeting as the election. The person recalled shall not be eligible as a candidate for the election to fill the vacancy.

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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 thereat. At the next regular meeting, the proposed amendment may be adopted by an affirmative vote of two-thirds of those members in good standing present and voting. They must then be submitted in duplicate to the Department for approval before they are effective.

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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.

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Section 3

Nothing in the By-Laws of this Post shall be construed to conflict with the laws of the State of California, its Articles of Incorporation or with the National or Department Constitution or By-Laws.

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Section 4

We, the undersigned, hereby certify that the above By-Laws were revised and adopted on ~~xxx10- Month March~~ 2018~~6~~, a quorum being present, by a two-thirds majority of those members present and voting.

Date of First Reading: ~~xxxxxx-20 Feb 2016~~

Date of Second Reading: ~~xxxxx10 March 2016~~

Commander: _____ Date: _____
Commander Chip Dykes

Adjutant: _____ Date: _____
Adjutant David Polanco

Alvin Myo Dunn American Legion Post 365,
The American Legion, Department of California

The Articles of Incorporation of this Post are on file with the Secretary of State under date of 28
_May 1934, Number D-0158702

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