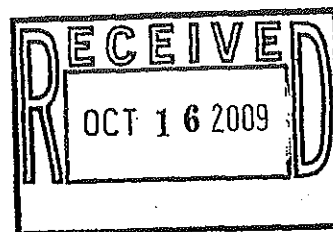


THE AMERICAN LEGION  
DEPARTMENT OF CALIFORNIA

401 Van Ness Ave., Rm 117  
San Francisco, CA 94102-4587



Post No. 291 Direct To: Post \_\_\_\_\_

District 25 Dept. File

Area 5 Date 8/5/09

215 E. 15th Street, Newport Beach, CA 92663-4536

(Mailing Address)

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

**ARTICLES RECEIVED:**

	Approved	Disapproved
(X) Const. & <del>By-Laws</del>	_____X_____	_____
( ) By-Laws	_____	_____
( ) 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 the instructions below and submit **TWO** copies of same to Dept. Headquarters at the address on the top of this page. Thank you.

DATED 10/9/09

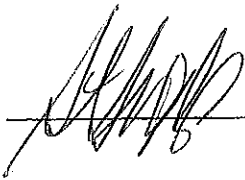
John Robinson  
Constitution & By-Laws  
Commissioner AREA 5

# NEWPORT HARBOR POST NO. 291 OF THE AMERICAN LEGION

## CONSTITUTION

This Constitution has been adopted by the members of Post 291  
and has been approved by The American Legion, Department of California.

Signature of Commander Steven B. Spriggs



Dated

10-15-2009

## Preamble

For God and Country, we associate ourselves together for the following purposes:

- To uphold and defend the Constitution of the United States of America;
- To maintain law and order;
- To foster and perpetuate a one hundred 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 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 Who We Are

### Section 1. Origination

Congress chartered the American Legion in 1919 as a patriotic, mutual-help, and wartime veterans' organization. It is a community-service organization that has over three million members -- men and women -- in over 15,000 American Legion Posts worldwide. These Posts are organized into 55 Departments -- one each for the 50 states, the District of Columbia, Puerto Rico, France, Mexico, and the Philippines. Post 291 was founded in 1924 by a group of thirty World War I veterans who were residents of the Newport Harbor area. The National American Legion through the American Legion, Department of California, charters this Post.

### Section 2. Name

This Post is a non-profit corporation, incorporated in the State of California with the legal name: NEWPORT HARBOR POST NO. 291 OF THE AMERICAN LEGION. In this Constitution and other internal documents the words "Post" and "Post 291" stand for "NEWPORT HARBOR POST NO. 291 OF THE AMERICAN LEGION". On July 25, 1974, a resolution, signed by the California Secretary of State, resolved that this corporation shall have perpetual existence.

### **Section 3. Controlling Documents**

The operation and governance of this Post shall be under the authority of:

- (1) This Constitution, which states the basic principles and laws of this Post and which may be amended after consent of its members and the American Legion Department of California;
- (2) A set of Bylaws, which shall not conflict with this Constitution and which may be amended after consent of its members and the American Legion Department of California. The Bylaws are semi-permanent general rules for the government of Post members and regulation of Post affairs;
- (3) A set of Regulations, which shall not conflict with this Constitution or the Bylaws and which may be changed after consent of those elected officers who have the responsibility of the Post governance and operations. These Regulations provide written details of how the day-to-day operations of the Post should be managed.

## **ARTICLE II Objectives and Purposes**

### **Section 1. Purpose**

This Post exists for the benefit of its members, who have served our country in times of war, and who pledge to promote the principles and policies as set forth in the foregoing Preamble and in the National and Department Constitutions of the American Legion.

### **Section 2. Fundraising Objectives**

Through fundraising, this Post will assist primarily veterans and active duty military personnel in need. Secondary beneficiaries will be selected local, state, and national charities. This Post may also provide grants to non-members who exemplify the principles stated in our Constitution.

### **Section 3. Business Objectives**

This Post shall be operated as a non-profit corporation although some of its business activities may be taxable. It shall conduct its business operations in order to perpetuate its existence and support its Fundraising Objectives. It shall conform to government tax laws

## **ARTICLE III**

### **Nature**

#### **Section 1. Ownership**

The corporation shall have no capital stock but is to be composed of members only. As a non-profit corporation no part of its assets may privately benefit any member; an exception would be needy members who may be eligible for donations.

#### **Section 2. Civilian Organization**

This Post is a civilian organization, and. Military rank does not exist in this Post. Members shall not be addressed by their military title in any Post function. No member shall use their past or present military rank to promote themselves or their ideas in any Post function.

#### **Section 3. Non-Partisan**

The American Legion, while endorsing a political agenda, is strictly non-partisan. This Post 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.

## **ARTICLE IV**

### **Membership**

#### **Section 1. Eligibility**

Members of the United States Armed Forces, during times of war, who are active or who have been honorably discharged are eligible for membership. The eligibility dates for membership in this Post are those dates and conditions set forth in Article IV, Section 1, of the National Constitution of THE AMERICAN LEGION.

#### **Section 2. Class of Membership**

There shall be no form or class of American Legion Membership except active membership.

#### **Section 3. Application for Membership**

The Post's Bylaws shall prescribe the rules and regulations pertaining to new and continuing membership.

## **ARTICLE V**

### **Post Administration**

#### **Section 1. Authority**

An Executive Board: (1) Shall administer the affairs of the Post according to the controlling documents described in Article I, (2) Shall consider all matters affecting the Post and shall make recommendations to the Post regarding major Post decisions, and (3) Is accountable to and reports directly to the Post membership on all major Post decisions. Post membership may overrule the Executive Board at a Post meeting by the process of making and seconding a motion, having a discussion, and then having a vote requiring a two-thirds majority of members present to pass.

#### **Section 2. Executive Board Composition**

The Post Executive Board is a group of eighteen officers (fifteen elected and three appointed) headed by the Commander who is the highest-ranking officer. The Executive Board (Board) shall consist of 14 elected officers and the Junior Past Commander. The fifteen elected officers are: Commander, First Vice Commander, Second Vice Commander, Third Vice Commander, Finance Officer, Historian, Sergeant-at-Arms, Chaplain, Junior Past Commander, and six Member-At-Large. Each elected officer has one vote on all Board matters except the Commander (or designee), who votes only to break a tie vote. The Commander shall appoint three other non-voting officers to serve as the Adjutant, Judge Advocate and Service Officer. Each officer must be a member of this Post in good standing. The detailed responsibilities and authorities of these officers are defined in the Bylaws.

#### **Section 3. General Responsibilities**

The general responsibilities of the Board are to: protect the Post's assets, adhere to the principles and practices of the controlling documents described in Article I, encourage members' participation in Post functions and administration, increase membership, increase charitable donations, and maintain the respect and trust of all Post members. The Board shall insure that all Post members are treated with respect, according to their multiple positions as owners, major customers, and major volunteers of their time and money to the Post.

#### **Section 4. Executive Board Practices and Procedures**

The minutes of all Board and General Meetings shall be published so as to inform members of the Post's affairs. Executive Board Eligibility, Nominations, Elections, Terms, Recall, Bonding, Filling of Vacancies and other Board practices and procedures are defined in the Bylaws.

# ARTICLE VI

## Financial Management

### **Section 1. Business Practices**

In order for this Post to be successful and efficient in reaching its goals it must follow good business practices that shall include, but be not limited to, financial planning, budgeting, record keeping, reporting, analyzing, adjusting, auditing, and publishing. Post financial plans, budgets, and reports shall include both taxable and non-taxable items, which shall have separate account numbers, be clearly defined, and conform to all tax laws. The following sections describe the general requirements; the Bylaws provide the detailed requirements.

### **Section 2. Long Term Capital Improvement Plan**

The Executive Board shall develop (or annually update) and publish a five-year Capital Improvement Plan that projects expenses and the income to offset those expenses.

### **Section 3. Annual Budgeting**

The Executive Board shall develop (or annually update) and publish an Annual Operating Budget that projects expenses and the income to offset those expenses. The Annual Operating Budget shall include all projected income (dues, donations received by the Post, fundraiser income, business income, etc.) and all projected expenses (donations made by the Post, operating costs, business expenses, reserve set aside for long term repair or replacement of assets, etc.) but shall use separate line items to identify these sources and uses of funds.

### **Section 4. Record Keeping**

The Executive Board shall cause all financial transactions of the Post and any official program or affiliate to be recorded in the Post's accounting books, entered into a computer accounting program, be available for verification and analyses by the Board, and be protected and preserved.

### **Section 5. Financial Reports**

The Executive Board shall produce monthly summary consolidated financial statements to be used at each monthly Board Meeting. These statements shall contain monthly and year-to-date data for each major Post income and expense category. These categories shall include membership dues, facility rentals, bar, restaurant, fundraisers, and any other major category of income and expense. These reports shall also compare actual income and expenses to budgeted amounts to help identify significant differences.

The Executive Board shall produce Year-end Consolidated Financial Reports that summarize the monthly reports. These reports must be published for the benefit of all Post members within 60 days following the end of the reporting period.

## **Section 6. Financial Audit**

The Executive Board shall adhere to the Department Of California Bylaws, Article V, Section 9, which says: "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 Office or any other person charged with the responsibility of handling Post funds. Such examination shall be made within ninety (90) days following installation of Post Officers, and for the period of the immediate preceding fiscal year of the Post. Each Post shall certify to the Department Adjutant prior to December First (1st) each year that such an examination has been made and file the original thereof with the Department Adjutant before the said date, with a copy thereof to the District Commander 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 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."

Department of California By-Law changes to this topic will automatically become part of this Constitution without the need for amendments.

The Executive Board shall publish the results of the audit for the benefit of all members.

## **Section 7. Members' Approval for Major Financial Matter**

Any new financial matter that involves 10 percent or more of the Post's Current Assets must first be approved by majority vote of the Board and then be authorized by majority vote of Post members present at an official meeting in accordance with the procedures described in the Bylaws. A -Major Financial matter shall not be subdivided to avoid the 10 percent rule.

## **Section 8. Board Approval for Minor Financial Matter**

The Board, according to the procedures in the Bylaws, must approve any new financial matter involving less than 10 percent of the Post's assets.

## **Section 9. Financial Disclosure**

Financial data should be made available to all members with few exceptions. These exceptions may include violations of privacy laws or disclosures that jeopardize the Post's financial condition. These exceptions shall not be used to conceal any other financial data.

## **Section 10. Business Considerations**

The business part of the Post includes, but is not limited to: marina rentals, facilities rental, bar, restaurant, etc. The Executive Board shall insure that a reasonable amount of overhead or indirect expenses such as insurance, utilities, administrative, maintenance, etc. are allocated to each revenue source. Separate accounts, in the Chart of Accounts, must be established to satisfy any tax laws such as Unrelated Business Taxable Income (UBTI), but all accounts shall be included in consolidated Post financial plans, budgets, and reports.



## **ARTICLE VII**

### **Sons of the American Legion**

Sons of The American Legion, Newport Harbor Squadron 291 is a program of Post 291 duly recognized by both the American Legion and the Sons of The American Legion. Sons of The American Legion, Newport Harbor Squadron 291 operates under the sponsorship and jurisdiction of Post 291 and is subject to such rules, regulations and supervision of the sponsoring Post 291. Financial data for Sons of The American Legion, Newport Harbor Squadron 291 must be included in the annual Post 291 audit.

## **ARTICLE VIII**

### **American Legion Yacht Club**

This Post recognizes The American Legion Yacht Club (ALYC) as a program of Post 291. ALYC operates under the sponsorship and jurisdiction of Post 291; therefore its financial data is included in the annual Post audit.

## **ARTICLE IX**

### **American Legion Auxiliary**

This Post recognizes American Legion Auxiliary Unit 291 as a separate organization and guest of Post 291 and therefore its financial data is not included in the annual Post audit.

# ARTICLE X

## Amendments

### Section 1. National or Department Amendments

This Constitution and Bylaws shall be amended to conform to any changes in the National or Department Constitution or Bylaws. Failure of the Post to adopt the required amendments shall not delay or modify the effect of such changes.

### Section 2 Post Initiated Amendments

Any amendment initiated by the Post shall not be in conflict with the policies of the National or Department American Legion. It shall not be in final force until approved by the Constitution and Bylaws Commission of the Department, 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 Department of California.

### Section 3. Amendments Procedure

The general procedure for enacting a Constitutional amendment that originates from this Post shall employ the following steps:

- (1) Any group of twenty-five or more Post members may submit to the Executive Board a properly written amendment.
- (2) At the next Board meeting the Board will vote on the amendment and it will require at least a two-thirds majority vote of those Board members present to pass. If the amendment does not pass then the Board shall send a written explanation to the petitioners.
- (3) If the amendment passes then it shall be presented to members at the next two General Meetings. Post members shall vote on the amendment after the second presentation and it will require at least a two-thirds majority vote of those Post members present to pass.
- (4) If passed by Post members the Amendment will be sent to The American Legion Department of California for approval and, if approved, it will become part of this Constitution.
- (5) If the Amendment fails at any step then it must be returned to the first step for reconsideration.

# CERTIFICATION

This Constitution was revised on 3 May, 2009.

The Executive Board approved this Constitution on 2 June 2009.

Copies of this Constitution were read, distributed and made available at the General Meeting on 10 June 2009

Copies of this Constitution were made available at the Post 291 office from 11 June 2009

Copies of this Constitution were made available on the Post 291 website as of 10 June 2009

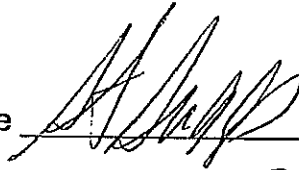
Copies of this Constitution were read, distributed and made available at the General Meeting on 8 July 2009

The Post 291 Members approved this Constitution at a General Meeting on 8 July 2009

Post 291 Commander

Name Steven B. Spriggs

Signature



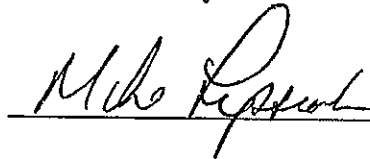
Dated

22 July 09

Post 291 Adjutant

Name Mike J. Lipscombe

Signature



Dated

22 July 09

The American Legion, Department of California approved this Constitution on 10/19/09.

Title 5<sup>th</sup> ASEA Commissioner

Name John Bonmfalk

Signature



Dated

10/19/09

Articles of Incorporation for this Post are on file with the secretary of State under the date of

18 August 1924

Corporate I.D. number 110515

Newport Harbor Post No. 291 of the American Legion