



ADMINISTRATIVE RULE

SUBJECT: RESTRICTIONS AND PROHIBITIONS IN DEFINED AREA OF BERKELEY FOR AUGUST 5, 2018

PURPOSE

The purpose of this rule is to preserve public safety, protect public and private property, and facilitate First Amendment rights of freedom of speech and assembly at various events being planned in Berkeley at Civic Center Park, Ohlone Park, and environs on August 5, 2018.

Pursuant to Berkeley Municipal Code (“BMC”) Chapter 13.45, the City Manager is authorized to issue narrowly tailored temporary regulations in a defined area of the City that are consistent with the First Amendment to the U.S. Constitution, and is authorized to take such other narrowly tailored actions as are necessary to preserve public health, public safety and property on City streets and sidewalks when no permit has been obtained pursuant to BMC Chapter 13.44.

No person or association has applied for or obtained a permit for use of City streets and sidewalks in connection with the August 5, 2018 events. Therefore, the conditions, restrictions and prohibitions of this Rule shall apply.

The August 5, 2018 events, dubbed, variously, “No to Marxism in America 2/Exposing Communism,” “Stop the Hate Rally,” “Sweep out the Fascists,” are being planned by groups with opposing political viewpoints, such as the “alt-right”, on the one hand, and the anti-fascists, on the other. There are concerns that the motivation behind some of the August 5 events is to mark and revive violent conflicts that occurred during protests in Berkeley in 2017, both on the University of California campus and in City parks and streets. The 2017 events drew large crowds, including masked agitators who started fires, destroyed property, and engaged in violent confrontations with those endorsing opposing viewpoints. The events of 2017, occurring on February 1, 2017, March 4, 2017, April 15, 2017, April 27, 2017, August 27, 2017 and September 24, 2017, required a substantial police response, including mutual aid. During many of these events, participants came armed with metal pipes, baseball bats, lengths of 2”x 4” lumber spiked with nails, bricks, pepper spray, mace, daggers, combat shields, poles, axe handles, hatchets, helmets, masks, and similar items. Fights broke out and numerous people were seriously injured at some of the events. Arrests were made for offenses that included battery and assault with a deadly weapon. Violence at the 2017 events was well documented by the Berkeley Police Department, the news media, and participants on social media. Numerous participants wore masks or otherwise covered their faces so as to attempt to evade identification while attempting to or committing crimes and engaging in violence.

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At the August 27, 2017 conflict, coordinated groups of individuals used Ohlone Park as a meeting place to stage weapons, shields, and other implements of riot, and to practice fighting maneuvers and tactics. These individuals donned masks and collectively marched with their weapons and shields to Civic Center Park, accompanied by a flatbed truck that carried additional implements of riot. Once at the park, a member of the assembled group gave amplified announcements warning, "If you don't want violence, move away." The group deployed purple smoke to create confusion, violently attacked several individuals, and attempted to provoke physical confrontations with police officers. Several people were seriously injured, 13 people were arrested, and the violent, masked agitators largely escaped capture.

Events organized by the same or similar groups in other areas of the country this year have resulted in serious injuries to participants and police officers, due to physical assaults and use of explosives such as M-80s and M-1000s.

Issuance of this regulation is not a waiver of the City's current authority to enforce rules against unpermitted events, and does not constitute a sanction of any unpermitted event.

REGULATION

PURSUANT TO BMC 13.45.020:

On August 5, 2018, the following items are prohibited from being brought by any person into the area of Berkeley designated on Exhibit A (attached hereto) and bounded by Sacramento Street to the west, Piedmont Avenue to the east (between Dwight Way and Bancroft Way) and Oxford Street to the east (between Hearst Avenue and Bancroft Way), Dwight Way to the south, and Delaware Street to the north (except between Shattuck and Avenue and Oxford Street, where Hearst Avenue will mark the northern boundary):

- Bricks
- Rocks
- Billy clubs
- Poles, sticks, staffs, dowels or baseball bats modified for use as a weapon
- No flags, signs, or banners mounted on poles, boards, sticks, or staffs unless affixed to a building or non-movable structure
- Pepper or bear spray (OC spray)
- Mace
- Knives or daggers
- Firearms
- Shields
- Axes, axe handles, or hatchets
- Ice picks
- Tasers
- Improvised explosive devices (IEDs)
- Fireworks, firecrackers, explosives
- Dynamite
- Torches, lanterns or other devices that use fire or fuel
- Slingshots
- Any other item that is generally considered an "implement of riot" that can be used as a weapon.

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Law enforcement personnel are exempt from this Rule.



Dee Williams-Ridley, City Manager

August 3, 2018

Date

