



ADMINISTRATIVE RULE

SUBJECT: RESTRICTIONS AND PROHIBITIONS IN CIVIC CENTER PARK AND OHLONE PARK FOR AUGUST 5, 2018

PURPOSE

The purpose of this rule is to preserve public safety, protect park property, safely and fairly balance competing uses of the City's parks, and facilitate First Amendment rights during events being planned for Civic Center Park and Ohlone Park on August 5, 2018.

Pursuant to Berkeley Municipal Code ("BMC") Chapters 13.44 and 6.46, the City Manager is authorized to impose conditions on the issuance of a permit for a street or park event. No one has applied for or obtained a permit for use of Civic Center Park or Ohlone Park, or for the use of City streets in the vicinity of those parks, for August 5, 2018. 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.

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

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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 rule and 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 6.32.030:

On August 5, 2018, it shall be a violation of this Rule for any person to bring into Civic Center Park or Ohlone Park, any of the following items:

- Metal pipes
- Lengths of lumber or wood (any size)
- Wooden dowels
- Poles or staffs
- Baseball bats or sticks modified for use as a weapon
- Glass bottles or metal cans modified for use as a weapon
- Bricks
- Rocks
- Pepper or bear spray (OC spray)
- Mace
- Knives or daggers
- Firearms
- Shields
- Axes, axe handles, or hatchets
- Ice picks
- Razor blades
- Tasers
- Improvised explosive devices (IEDs)
- Spray cans
- Fireworks, firecrackers, explosives
- Smoke canisters
- Dynamite
- Heavy-gauge chain
- 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

On August 5, 2018, in Civic Center Park and Ohlone Park, signs and flags must be hand held, and may not be affixed to any pole or stick.

On August 5, 2018, in Civic Center Park and Ohlone Park, the wearing of a mask, scarf, bandana or any other accessory or item that covers or partially covers the face and shields the wearer's face from view, or partially from view, is prohibited, except for coverings worn due to religious beliefs, practices, or observances, or due to medical necessity.

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Law enforcement personnel are exempt from this Rule.



Dee Williams-Ridley, City Manager

August 3, 2018

Date