



Office of the City Manager

August 3, 2013

To: Honorable Mayor and
Members of the City Council

From: William Rogers, Acting City Manager

Subject: Update on Demonstration at the Downtown Berkeley Post Office

The purpose of this memorandum is to provide you with an update on communications received from the United States Postal Service (USPS) regarding the demonstration at the Downtown Berkeley Post Office and to clarify the Berkeley Police Department's (BPD) involvement in potential USPS enforcement actions.

USPS police have notified BPD of their intention to enforce 39 Code of Fed Regs section 232.1(h)(5), which provides "no tables, chairs, freestanding signs or posters, structures, or furniture of any type may be placed in postal lobbies or on **postal walkways, steps, plazas, lawns or landscaped areas, driveways, parking lots, or other exterior spaces**" of the Post Office's property.

USPS Police have also informed BPD they have communicated with demonstrators about their intent to enforce and have provided demonstrators with a document entitled: *Rules and Regulations Governing Conduct on Postal Service Property* (attached).

BPD does not plan to be involved in an enforcement action by USPS police. However, if a threat to public safety arises during an enforcement action by USPS police, BPD will respond to help maintain public safety.

Please let me know if you have any questions.

Cc: Christine Daniels, City Manager
Michael Meehan, Police Chief
Sarah Reynoso, Acting City Attorney
Mark Numainville, City Clerk
Ann-Marie Hogan, City Auditor
Matthai Chakko, Asst. to the City Manager /Public Information Officer



Rules and Regulations Governing Conduct on Postal Service Property

These rules and regulations apply to all real property under the charge and control of the U.S. Postal Service, to all tenant addresses, and to all persons residing in or on such property. These rules and regulations must be kept posted at a conspicuous place on all such property. These rules and regulations shall not apply to:

- a. Any portions of real property, owned or leased by the Postal Service™, that are leased or subleased by the Postal Service to private tenants for their exclusive use.
- b. With respect to restrictions on soliciting, electioneering, collecting debts, vending, and advertising on sidewalks along the street frontage of Postal Service property taking within the property lines of the Postal Service that are not physically distinguishable from adjacent municipal or other public sidewalks and any paved areas adjacent to such sidewalks that are not physically distinguishable from such sidewalks.

Advertising Provisions

Except as otherwise ordered, properties must be closed to the public after normal business hours. Properties also may be closed to the public in emergency situations and at such times as may be necessary for the orderly conduct of business. Admission to properties when closed to the public may be limited to authorized individuals who may be required to sign the register and display identification when requested by Security Force personnel or other authorized individuals.

Control of Handwritten Signs

Preservation of Property

Entering, spilling, creating any hazard to persons or things, throwing articles of any kind from a building, climbing upon the roof or any part of the building, or willfully destroying, damaging, or removing any property or any part thereof is prohibited.

Conformity with Signs and Directions

All persons in and on property shall comply with official signs of a prohibitory or directory nature and with the directions of Security Force personnel or other authorized individuals.

Inspection

Purses, briefcases, and other containers brought into, while on, or being removed from the property are subject to inspection. However, items brought directly to a Postal Service facility's customer mailing acceptance area and deposited in the mail are not subject to inspection, except as provided by the *Administrative Support Manual*, part 274. A person arrested for violation of this part may be searched incident to the arrest. Vehicles and their contents brought into, while on, or being removed from restricted nonpublic areas are subject to inspection. Persons entering these areas who object and refuse to consent to the inspection of the vehicle, its contents, or both may be denied entry. After entering the area without objection, consent to inspection shall be implied. A full search of the person and the vehicle driven or occupied by that person may accompany an arrest.

Control of Handwritten Signs

Disturbances

Disorderly conduct, or conduct that creates loud and unusual noise or obstructs the usual use of entrances, foyers, corridors, offices, elevators, stairways, and parking lots, or that otherwise tends to impede or disturb the public employees in the performance of their duties or otherwise impedes or disturbs the general public in transacting business or obtaining the services provided on Postal Service property is prohibited.

Gambling

Participating in games for money or other personal property, the operation of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of lottery tickets is prohibited on postal premises. This does not apply to state lottery tickets at vending facilities operated by licensed blind persons where such lotteries are authorized by state law.

Alcoholic Beverages, Drugs, and Smoking

Anyone under the influence of alcohol or any drug that has been defined as a "controlled substance" may not enter Postal Service property or operate a motor vehicle on Postal Service property. The possession, sale, or use of any "controlled substance" except when permitted by law) or the sale or use of any alcoholic beverage (except as authorized by the Postmaster General or designee) on Postal Service premises is prohibited. The term "controlled substance" is defined in Title 21, *United States Code*, section 802. Smoking is prohibited in all Postal Service buildings and office space, including public lobbies.

Soliciting, Electioneering, Collecting Debts, Vending, and Advertising

Soliciting alms and contributions, campaigning for election to any public office, collecting private debts, commercial soliciting and vending, displaying or distributing commercial advertising, soliciting signatures on petitions, polls, or surveys (except as otherwise authorized by Postal Service regulations), and impeding entrance to or departure from Post Offices™ are prohibited on Postal Service property. These prohibitions do not apply to the following:

- a. Commercial or nonprofit activities performed under contract with the Postal Service or pursuant to the provisions of the Randolph-Sheppard Act.
- b. Posting notices on employee bulletin boards as authorized by Title 39 *Code of Federal Regulations* (CFR) 243.2.
- c. The solicitation of U.S. Postal Service and other federal military or civilian personnel for contributions by recognized agencies as authorized by the *Manual on Fund Raising Within Federal Service*, issued under Executive Order 12353.

Public Assembly and Public Address

Leafleting, distributing literature, picketing, and demonstrating by members of the public are prohibited in lobbies and other interior areas open to the public. Public assembly and public address, except when conducted or sponsored by the Postal Service, are prohibited in lobbies and other interior areas open to the public.

Depositing Literature

Depositing or posting of handbills, flyers, pamphlets, signs, posters, placards, or other literature (except official Postal Service and other governmental notices and announcements) on the grounds, walks, driveways, parking and maneuvering areas, exteriors of buildings, and other structures, or on the floors, walls, stairs, racks, counters, desks, writing tables, window ledges, or furnishings in interior public areas on Postal Service premises is prohibited. This does not apply to the following:

- a. Posting notices on employee bulletin boards as authorized by 39 CFR 243.2.
- b. Interior space assigned to tenants for their exclusive use.

Photographs for News, Advertising, or Commercial Purposes

Photographs for news purposes may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings except where prohibited by official signs or Security Force personnel or other authorized personnel or a federal court order or rule. Other photographs may be taken only with the permission of the local postmaster or installation head.

Dogs and Other Animals

Dogs and other animals (except those used by blind persons with disabilities) must not be brought onto Postal Service property for other than official purposes.

Vehicular and Pedestrian Traffic

Drivers of all vehicles in or on Postal Service property must be in possession of a current and valid driver's license and vehicle registration, and the vehicle must display all current and valid tags and licenses required by the jurisdiction in which it is registered. Drivers who have had their privilege or license to drive suspended or revoked shall not drive any vehicle in or on Postal Service property during such period of suspension or revocation.

Drivers of all vehicles in or on Postal Service premises shall drive in a careful and safe manner at all times and must comply with signals and directions of Security Force personnel, other authorized individuals, and all posted traffic signs.

Blocking of entrances, driveways, walks, loading platforms, or fire hydrants is prohibited.

Parking without authority, parking in unauthorized locations or in reserved locations, or parking continuously in excess of 18 hours without permission or contrary to the direction of posted signs is prohibited. Supplemental specific traffic directives may be issued by the postmaster or installation head. When issued and posted, such directives shall have the same force and effect as if made a part hereof.

Voter Registration

Voter registration may be conducted on Postal Service property only with the approval of the postmaster or installation head. See 39 CFR 232.100(d) for the conditions that apply to voter registration activities on Postal Service property.

Weapons and Explosives

No person while on Postal Service property may carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, or store the same on Postal Service property, except for official purposes.

Discrimination Prohibited

No person entering on postal property shall be subjected to discrimination on the basis of race, color, sex, religion, national origin, age (40 years of age or older), or disability (physical or mental) in using any of the services offered by the U.S. Postal Service.

Violations of Rules and Regulations

Alleged violations of these rules and regulations are heard, and the penalties prescribed herein are imposed, either in a federal district court or by a federal magistrate in accordance with applicable court rules. Questions regarding such rules must be directed to the managing counsel for the office involved.

Individuals found guilty of violating these rules and regulations are subject to a fine of not more than \$50 or imprisonment of not more than 30 days, or both. Nothing contained in these rules and regulations shall be construed to abrogate any other federal laws or regulations or any state or local laws and regulations applicable to any area in which the property is situated.

Enforcement Provisions

Security Force personnel will exercise the powers of special police and are responsible for enforcing the regulations in this notice in a manner that will protect U.S. Postal Service property, Postal Inspectors, Office of Inspector General Special Agents, and anyone designated by the Chief Postal Inspector may also enforce these regulations.