

# City of Albuquerque

## Office of the City Clerk

Richard J. Berry, Mayor

Trina Gurule, Acting City Clerk

### Interoffice Memorandum

November 27, 2017

To: CITY COUNCIL

From: TRINA GURULE, ACTING CITY CLERK

Subject: BILL NO. F/S O-17-51; ENACTMENT NO. O-2017-028

I hereby certify that on November 22, 2017, the Office of the City Clerk received Bill No. F/S O-17-51 as signed by the president of the City Council, Isaac Benton. Enactment No. O-2017-028 was passed at the November 6, 2017 City Council meeting. Mayor Berry did not sign the approved Ordinance within the 10 days allowed for his signature and did not exercise his veto power. Pursuant to the Albuquerque City Charter Article XI, Section 3, this Ordinance is in full effect without Mayor's approval or signature. This memorandum shall be placed in the permanent file for Bill No. F/S O-17-51.

Sincerely,

Trina Gurule  
Acting City Clerk



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1       WHEREAS, the Study revealed that among the 10 intersections in the City  
2 with the highest number of pedestrian injuries and fatalities, pedestrian error  
3 and driver inattention were frequently among the top contributing factors; and

4       WHEREAS, at the intersections with high incidents of pedestrian error and  
5 driver inattention as a contributing factor, the Study identifies the existence of  
6 pedestrians entering traffic outside of crosswalks for such purposes as  
7 interacting with motorists to solicit donations; and

8       WHEREAS, interaction with motorists at street intersections by pedestrians  
9 on the adjacent sidewalks or within street medians can distract drivers, which  
10 contributes to the danger experienced by pedestrians and motorists alike as  
11 identified by the Study; and

12       WHEREAS, driver interactions with pedestrians from the sidewalk, street-  
13 sides or medians foster scenarios for greater driver distraction and  
14 pedestrian-vehicle conflicts which increases the safety risk for all pedestrians  
15 and motorists in the vicinity; and

16       WHEREAS, motorist interaction with pedestrians from the street-side or  
17 median foster increased occurrences of pedestrians entering the roadway  
18 outside of designated cross walks for purposes of interacting with vehicles,  
19 which compounds safety concerns by creating additional conflict points for  
20 pedestrians and potentially distracted drivers; and

21       WHEREAS, roadways are specifically designed to minimize pedestrian  
22 vehicle interactions by providing signals and designated crossing areas and  
23 designated, grade separated accommodations for each – sidewalks for  
24 pedestrians and driving lanes for vehicles; and

25       WHEREAS, absent special safety accommodations specifically for  
26 pedestrians such as pedestrian refuges, roadway medians are not designed  
27 for use by pedestrians – instead they are designed for the purposes of  
28 channelizing traffic, promoting roadway safety by separating opposing lanes  
29 of traffic, and enhancing community aesthetics through landscape and artistic  
30 features; and

31       WHEREAS, both the American Association of State Highway and  
32 Transportation Officials (AASHTO) and National Association of City  
33 Transportation Officials (NACTO) recommend a minimum median width of 6

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1 feet (NACTO recommends a *preferred* width of 8-10 feet) when the median is  
2 contemplated to accommodate a pedestrian-refuge from traffic; and

3 WHEREAS, the Study identified some potential physical, capital  
4 improvements that might help improve intersection safety such as median  
5 barriers and flashing warning lights, but amendments to the City's traffic code  
6 as it relates to pedestrian and motorist conduct can also help promote safety  
7 without requiring additional capital expenditures from the City's limited capital  
8 resources; and

9 WHEREAS, the City recognizes and supports the first amendment rights of  
10 individuals on public sidewalks, physical interactions between pedestrians  
11 and motorists can present serious threats to safety for pedestrians and the  
12 general public and contributes to the City's high rate of pedestrian injuries  
13 and fatalities; and

14 WHEREAS, many existing roadway configurations in the City cannot safely  
15 facilitate the presence of pedestrians within the median or physical  
16 interactions between pedestrians and vehicles because of the relative  
17 vulnerability of pedestrians when compared to motor vehicles and vast speed  
18 discrepancies, maneuvering limitations and required stopping distances  
19 associated with automobiles; and

20 WHEREAS, the City has a compelling interest in adopting laws that help  
21 promote safety, and especially when the City has been identified as one of the  
22 most dangerous for pedestrians; and

23 WHEREAS, the City believes that by narrowly focusing on pedestrian  
24 activities that take place in areas that were not specifically designed for use by  
25 pedestrians or that do not otherwise include adequate safety accommodations  
26 for pedestrian-vehicle interactions, the City is using the least restrictive means  
27 to further this compelling interest; and

28 WHEREAS, through adoption of this ordinance the City expects that the  
29 Albuquerque Police Department will enforce the provisions of this ordinance  
30 evenly against all violators regardless of their purpose for engaging in the  
31 proscribed activities.

32 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
33 ALBUQUERQUE:

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1       SECTION 1.   “§ 8-2-7-2 OCCUPYING ROADWAYS, CERTAIN MEDIANS  
2   AND ROADSIDE AREAS PROHIBITED; CERTAIN PEDESTRIAN  
3   INTERACTIONS WITH VEHICLES PROHIBITED.

4       (A) It is unlawful for any person to stand on a street, highway, or controlled  
5   access roadway or the exit or entrance ramps thereto;

6       (B) It is unlawful for any person to access, use, occupy, congregate or  
7   assemble within 6 feet of a travel lane of a highway exit ramp or other  
8   controlled access roadway exit or entrance ramp, except on a grade separated  
9   sidewalk or designated pedestrian way, unless reasonably necessary because  
10   of an emergency situation where such area provides the only opportunity for  
11   refuge from vehicle traffic or other safety hazard;

12       (C) It is unlawful for any person to access, use, occupy, congregate, or  
13   assemble within the landscaped area of any street median, or within any  
14   median not suitable for pedestrian use, unless reasonably necessary during  
15   an otherwise lawful street crossing at an intersection or designated pedestrian  
16   crossing, or because of an emergency situation where the median provides  
17   the only opportunity for refuge from vehicle traffic or other safety hazard. For  
18   purposes of this section, a “median not suitable for pedestrian use” is any  
19   median that:

20           (1) Is located within a roadway designated as a Minor Arterial or  
21   greater intensity by the Albuquerque Major Thoroughfare Plan or within  
22   twenty-five feet of an intersection with such a roadway; and

23           (2) Has less than a six-foot-wide, paved (with concrete or equivalent  
24   material), grade-separated surface with an average slope of less than 9%; or

25           (3) Is otherwise identified as not suitable for pedestrian use by the  
26   City Traffic Engineer based on identifiable safety standards.

27       (D) It is unlawful for any pedestrian to engage in any physical interaction or  
28   exchange with the driver or occupants of any vehicle within a travel lane  
29   unless reasonably required because of an emergency situation.

30       (E) It is unlawful for any occupant of a motor vehicle within any travel lane  
31   or intersection to engage in any physical interaction or exchange with a  
32   pedestrian unless reasonably required because of an emergency situation.

1 (F) Nothing herein shall be construed as preventing maintenance or  
2 construction activities within medians or roadside areas by public agencies or  
3 agents thereof, entering or existing a bus or other form of transit, or as  
4 preventing physical interactions or exchanges between pedestrians and  
5 occupants of vehicles lawfully stopped or parked at a location where on-street  
6 parking is permitted.”

7 SECTION 2. SIGN PROGRAM. The Director of the Department of  
8 Municipal Development, in cooperation with the Albuquerque Police  
9 Department and the City Traffic Engineer, shall develop a signage program  
10 that posts notice of the limitations prescribed by this ordinance within priority  
11 locations based on enforcement needs and physical conditions, and based on  
12 budget availability.

13 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph,  
14 sentence, clause, word or phrase of this ordinance is for any reason held to be  
15 invalid or unenforceable by any court of competent jurisdiction, such decision  
16 shall not affect the validity of the remaining provisions of this ordinance. The  
17 Council hereby declares that it would have passed this ordinance and each  
18 section, paragraph, sentence, clause, word or phrase thereof irrespective of  
19 any provisions being declared unconstitutional or otherwise invalid.

20 SECTION 4. COMPILATION. The amendments set forth in Section 1  
21 above shall amend, be incorporated in and made part of the Revised  
22 Ordinances of Albuquerque, New Mexico, 1994.

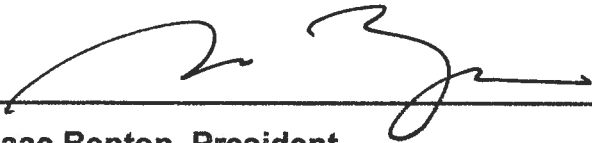
23 SECTION 5. EFFECTIVE DATE. This ordinance shall take effect five days  
24 after publication by title and general summary.  
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1 PASSED AND ADOPTED THIS 6<sup>th</sup> DAY OF November, 2017  
2 BY A VOTE OF: 8 FOR 0 AGAINST.

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4 Excused: Peña  
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8 Isaac Benton, President  
9 City Council

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13 APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2017

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17 Bill No. F/S O-17-51

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21 Richard J. Berry, Mayor  
22 City of Albuquerque

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26 ATTEST:

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29 Natalie Y. Howard, City Clerk

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