

# CITY of ALBUQUERQUE

## TWENTY SECOND COUNCIL

COUNCIL BILL NO. O-17-51 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Trudy E. Jones

1 ORDINANCE

2 AMENDING THE TRAFFIC CODE AND THE MUNICIPAL ORDINANCE  
3 RELATING TO VEHICLE SOLICITATIONS BY PEDESTRIANS

4 WHEREAS, according to the National Highway Traffic Safety Administration,  
5 more than 4,000 pedestrians die and 70,000 get injured by encounters with  
6 vehicle traffic annually; and

7 WHEREAS, New Mexico was among the 10 worst states for pedestrian  
8 fatalities per 100,000 population from 2010 through 2013; and

9 WHEREAS, New Mexico has been identified as a focus state for pedestrian  
10 and bicyclist safety by the Federal Highway Administration (FHWA) due to the  
11 high number of pedestrian and bicyclist fatalities from encounters with  
12 vehicles; and

13 WHEREAS, among all of the pedestrian and bicyclist involved crashes in  
14 New Mexico, more than 40% occur in Albuquerque and over 80% happen  
15 around intersections; and

16 WHEREAS, in 2015 the City commissioned a study by the University of New  
17 Mexico to study the occurrences and possible causes of pedestrian and  
18 bicyclist involved crashes in Albuquerque (the “Study”); and

19 WHEREAS, the Study revealed that among the 10 intersections in the City  
20 with the highest number of pedestrian injuries and fatalities, pedestrian error  
21 and driver inattention were most frequently among the top contributing  
22 factors; and

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

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

1       **WHEREAS, interaction with motorists at street intersections by pedestrians**  
2       **on the adjacent sidewalks or within street medians can distract drivers, which**  
3       **contributes to the danger experienced by pedestrians and motorists alike as**  
4       **identified by the Study; and**

5       **WHEREAS, driver interaction with pedestrians from the sidewalk, street-side**  
6       **or median foster scenarios for greater driver distraction which increases the**  
7       **safety risk for all pedestrians and motorists in the vicinity; and**

8       **WHEREAS, motorist interaction with pedestrians from the street-side or**  
9       **median foster increased occurrences of pedestrians entering the roadway**  
10       **outside of designated cross walks for purposes of interacting with vehicles,**  
11       **which compounds safety concerns by creating additional conflict points for**  
12       **pedestrians and potentially distracted drivers; and**

13       **WHEREAS, roadways are specifically designed to minimize pedestrian**  
14       **vehicle interactions by providing signals and designated crossing areas and**  
15       **designated, grade separated accommodations for each – sidewalks for**  
16       **pedestrians and driving lanes for vehicles; and**

17       **WHEREAS, roadway configurations cannot safely facilitate physical**  
18       **interactions between pedestrians and vehicles because of the relative**  
19       **vulnerability of pedestrians when compared to motor vehicles and vast speed**  
20       **discrepancies, maneuvering limitations and required stopping distances**  
21       **associated with automobiles;**

22       **WHEREAS, the Study identified some potential physical, capital**  
23       **improvements that might help improve intersection safety such as median**  
24       **barriers and flashing warning lights, amendments to the City’s traffic code as**  
25       **it relates to pedestrian and motorist conduct can also help promote safety**  
26       **without requiring additional capital expenditures; and**

27       **WHEREAS, the City recognizes and supports the first amendment rights of**  
28       **individuals on public sidewalks, physical interactions between pedestrians**  
29       **and motorists can present serious threats to safety for pedestrians and the**  
30       **general public and contributes to the City’s high rate of pedestrian injuries**  
31       **and fatalities; and**

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

1 WHEREAS, the City has a compelling interest in adopting laws that help  
2 promote safety at intersections, and especially when the City has been  
3 identified as one of the most dangerous for pedestrians; and

4 WHEREAS, the City believes that by narrowly focusing on pedestrian  
5 activities that anticipate or request physical interactions with motorists, the  
6 City is using the least restrictive means to further this compelling interest;

7 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
8 ALBUQUERQUE:

9 Section 1. “§ 8-2-7-2 SOLICITING RIDES OR BUSINESS PROHIBITED [ON  
10 ROADWAYS; CERTAIN PEDESTRIAN INTERACTIONS WITH VEHICLES  
11 PROHIBITED].”

12 [A] It is unlawful for any person to stand on a street, highway, or  
13 controlled access roadway or the exit or entrance ramps thereto for the  
14 purpose ~~[either of soliciting engaging traffic for]~~ a ride, employment or  
15 business from the occupant of any vehicle or of watching or guarding of any  
16 vehicle while parked or about to be parked on a street or highway[; and

17 B. It is unlawful for any person to stand or walk within any street median  
18 except in the case of an emergency situation where the median provides the  
19 only opportunity for refuge from vehicle traffic or other safety hazard;

20 C. It is unlawful to stand on any sidewalk or street-side for the purpose of  
21 engaging drivers or occupants of motor vehicles in any manner that elicits or  
22 requests a physical interaction between a pedestrian and the driver or  
23 occupants of any vehicle unless reasonably required in response to an  
24 emergency situation; and

25 D. It is unlawful for any driver of a motor vehicle to stop a motor vehicle or  
26 to remain stopped in any traffic lane at an intersection for the sole purpose of  
27 interacting with any pedestrian unless reasonably required in response to an  
28 emergency situation.]”

29 Section 2. Section 13-3-1-7 RELATING TO BUSINESS SOLICITATIONS IS  
30 AMENDED AS FOLLOWS:

31 “§ 13-3-1-7 CATEGORY A PERMIT; LOCATIONS PERMITTED.

[Bracketed/Underscored Material] - New  
[Bracketed/Strikethrough Material] - Deletion

1 Holders of a Category A Permit shall be allowed to solicit in the following  
2 locations within the city with the exception of the H-1 Historic Old Town Zone,  
3 subject to any rules and regulations adopted by the Mayor:

4 (A) On public sidewalks in commercially zoned districts so long as the  
5 solicitation [does not target motorists, so long as it] does not obstruct or  
6 restrict the free use of the sidewalk by pedestrians and so long as the  
7 solicitation does not effectively reduce the width of the sidewalk along local or  
8 collector streets to less than four feet; and along local or collector streets  
9 abutting schools and churches, along arterial streets, to less than six feet;  
10 provided, however, that no solicitations shall be permitted on any sidewalk  
11 designated as a park by the Mayor.

12 (B) On public streets in accordance with applicable provisions of the  
13 Traffic Code set forth in Chapter 8 of this code of ordinances.”

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

21 Section 4. COMPILATION. The amendments set forth in Sections 1 and 2  
22 above shall amend, be incorporated in and made part of the Revised  
23 Ordinances of Albuquerque, New Mexico, 1994.

24 Section 5. EFFECTIVE DATE. This ordinance shall take effect five days  
25 after publication by title and general summary.

26  
27  
28  
29  
30  
31  
32