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

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

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

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

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

22       **WHEREAS, roadway configurations cannot safely facilitate physical**  
23       **interactions between pedestrians and vehicles because of the relative**  
24       **vulnerability of pedestrians when compared to motor vehicles and vast speed**  
25       **discrepancies, maneuvering limitations and required stopping distances**  
26       **associated with automobiles; and**

27       **WHEREAS, the Study identified some potential physical, capital**  
28       **improvements that might help improve intersection safety such as median**  
29       **barriers and flashing warning lights, but amendments to the City’s traffic code**  
30       **as it relates to pedestrian and motorist conduct can also help promote safety**  
31       **without requiring additional capital expenditures from the City’s limited capital**  
32       **resources; and**

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1 WHEREAS, the City recognizes and supports the first amendment rights of  
2 individuals on public sidewalks, physical interactions between pedestrians  
3 and motorists can present serious threats to safety for pedestrians and the  
4 general public and contributes to the City’s high rate of pedestrian injuries  
5 and fatalities; and

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

9 WHEREAS, the City believes that by narrowly focusing on pedestrian  
10 activities that take place in areas that were not specifically designed for use by  
11 pedestrians or that do not otherwise include adequate safety  
12 accommodations, the City is using the least restrictive means to further this  
13 compelling interest; and

14 WHEREAS, through adoption of this ordinance the City expects that the  
15 Albuquerque Police Department will enforce the provisions of this ordinance  
16 evenly against all violators regardless of their purpose for engaging in the  
17 proscribed activities.

18 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
19 ALBUQUERQUE:

20 SECTION 1. “§ 8-2-7-2 [OCCUPYING ROADWAYS, CERTAIN MEDIANS  
21 AND ROADSIDE AREAS PROHIBITED; CERTAIN PEDESTRIAN  
22 INTERACTIONS WITH VEHICLES PROHIBITED].”

23 ~~[(A)] It is unlawful for any person to stand on a street, highway, or~~  
24 ~~controlled access roadway or the exit or entrance ramps thereto [for the~~  
25 ~~purpose either of soliciting a ride, employment, or business from the occupant~~  
26 ~~of any vehicle or of watching or guarding any vehicle while parked or about to~~  
27 ~~be parked on a street or highway].~~

28 [(B)] It is unlawful for any person to access, use, occupy, congregate or  
29 assemble within 4 feet of a travel lane of a highway exit ramp or other  
30 controlled access roadway exit or entrance ramp, except on a grade separated  
31 sidewalk or designated pedestrian way, unless reasonably necessary because  
32 of an emergency situation where such area provides the only opportunity for  
33 refuge from vehicle traffic or other safety hazard;

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1 (C) It is unlawful for any person to access, use, occupy, congregate, or  
2 assemble within the landscaped area of any street median, or within any  
3 median not suitable for pedestrian use, unless reasonably necessary as a  
4 refuge from traffic during an otherwise lawful street crossing at an  
5 intersection or designated pedestrian crossing, or because of an emergency  
6 situation where the median provides the only opportunity for refuge from  
7 vehicle traffic or other safety hazard. For purposes of this section, a “median  
8 not suitable for pedestrian use” is any median that:

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

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

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

16 (D) It is unlawful for any pedestrian located on or within a sidewalk,  
17 designated pedestrian way, or vehicle travel lane, to engage in any physical  
18 interaction or exchange with the driver or occupants of any vehicle within a  
19 travel lane unless reasonably required because of an emergency situation.

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

23 (F) Nothing herein shall be construed as preventing maintenance or  
24 construction activities within medians or roadside areas by public agencies or  
25 agents thereof.]”

26 **SECTION 2. SIGN PROGRAM.** The Director of the Department of  
27 Municipal Development, in cooperation with the Albuquerque Police  
28 Department and the City Traffic Engineer, shall develop a signage program  
29 that posts notice of the limitations prescribed by this ordinance within priority  
30 locations based on enforcement needs and physical conditions, and based on  
31 budget availability.

32 **SECTION 3. SEVERABILITY CLAUSE.** If any section, paragraph,  
33 sentence, clause, word or phrase of this ordinance is for any reason held to be

1 invalid or unenforceable by any court of competent jurisdiction, such decision  
2 shall not affect the validity of the remaining provisions of this ordinance. The  
3 Council hereby declares that it would have passed this ordinance and each  
4 section, paragraph, sentence, clause, word or phrase thereof irrespective of  
5 any provisions being declared unconstitutional or otherwise invalid.

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

9 SECTION 5. EFFECTIVE DATE. This ordinance shall take effect five days  
10 after publication by title and general summary.

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