



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~~  
5 ~~controlled access roadway or the exit or entrance ramps thereto [for the~~  
6 ~~purpose either of soliciting a ride, employment, or business from the occupant~~  
7 ~~of any vehicle or of watching or guarding any vehicle while parked or about to~~  
8 ~~be parked on a street or highway].~~

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

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

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

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

28 \_\_\_\_\_ (3) Is otherwise identified as not suitable for pedestrian use by the  
29 City Traffic Engineer based on identifiable safety standards.

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

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

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

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

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

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

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

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