



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

O-2017-028

**CITY OF ALBUQUERQUE
CITY COUNCIL**

INTEROFFICE MEMORANDUM

TO: Richard J. Berry, Mayor

FROM: Jon K. Zaman, Director of Council Services

Jon 11/14/17

SUBJECT: Transmittal of Legislation

Transmitted herewith is Bill No. F/S O-17-51 Amending The Traffic Code And The Municipal Ordinance Relating To Pedestrian Safety And Vehicle/Pedestrian Conflicts (Jones), which was passed at the Council meeting of November 6, 2017 by a vote of 8 FOR AND 0 AGAINST.

Excused: Peña

In accordance with the provisions of the City Charter, your action is respectfully requested.

JKZ:mh
Attachment

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ALBUQUERQUE 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.

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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 6th 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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20 _____
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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