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1 [under-the-influence-hit-man/article_f81311e6-b1d9-5354-93a2-
2 bc8ab84bcfc5.html](https://www.nbcwashington.com/news/local/under-the-influence-hit-man/article_f81311e6-b1d9-5354-93a2-bc8ab84bcfc5.html));

3 • On May 17, 2013, NBC News 4, Washington D.C., reported that a
4 pedestrian was struck and killed by a van in Wheaton, Maryland while
5 standing in a median ([https://www.nbcwashington.com/news/local/Woman-Hit-
6 By-Truck-207724131.html](https://www.nbcwashington.com/news/local/Woman-Hit-By-Truck-207724131.html))

7 • On May 16, 2017 KSPR News 33, Springfield, Missouri, reported that
8 a panhandler was struck by vehicle and injured while standing in a median
9 ([https://www.kspr.com/content/news/Panhandler-struck-by-car-returns-to-
10 Springfield-intersection-422567784.html](https://www.kspr.com/content/news/Panhandler-struck-by-car-returns-to-Springfield-intersection-422567784.html));

11 • On June 20, 2017, NBC News 4, Washington D.C., reported that a
12 pedestrian was struck and killed by an SUV in Germantown Maryland while
13 standing in a median ([https://www.nbcwashington.com/news/local/Man-
14 Fatally-Struck-by-Car-in-Germantown-429681653.html](https://www.nbcwashington.com/news/local/Man-Fatally-Struck-by-Car-in-Germantown-429681653.html));

15 • On August 11, 2017, the Charlotte Observer, Charlotte, North
16 Carolina, reported that a panhandler was struck and killed by a vehicle near a
17 median (<https://www.charlotteobserver.com/news/local/article166646317.html>);

18 • On September 2, 2018, WTOP News, Prince George County,
19 Maryland, reported that a pedestrian was killed after being struck by a vehicle
20 while walking along the shoulder of a roadway access ramp
21 ([https://wtop.com/prince-georges-county/2018/09/pedestrian-struck-killed-on-
22 greenbelt-md-ramp/](https://wtop.com/prince-georges-county/2018/09/pedestrian-struck-killed-on-greenbelt-md-ramp/));

23 • On October 18, 2018, the Trussville "Patch" publication, Trussville,
24 Alabama, reported that a landscape worker was struck and killed by a vehicle
25 while working in the median ([https://patch.com/alabama/trussville/fatal-
26 accident-center-point-parkway-investigation-ongoing](https://patch.com/alabama/trussville/fatal-accident-center-point-parkway-investigation-ongoing));

27 • On November 15, 2018, CP24 News, Toronto, Canada, reported that a
28 19-year-old student was struck and killed by a vehicle while in a median
29 ([https://www.cp24.com/news/police-19-year-old-student-struck-and-killed-by-
30 vehicle-in-oshawa-1.4178190](https://www.cp24.com/news/police-19-year-old-student-struck-and-killed-by-vehicle-in-oshawa-1.4178190));

31 • On November 30, 2018, the Denver Post reported that a pedestrian
32 was hospitalized after being struck by vehicle while standing in a median

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1 [\(https://www.denverpost.com/2018/11/30/federal-traffic-westminster-pedestrian-auto-crash/\)](https://www.denverpost.com/2018/11/30/federal-traffic-westminster-pedestrian-auto-crash/);

3 • On December 10, 2018, NBC 10 News, Rhode Island, reported that a
4 5-year-old girl was killed, and her mother and 2-month-old sister were
5 hospitalized after being struck by a vehicle while in a median
6 [\(https://turnto10.com/news/local/car-strikes-pedestrians-killing-5-year-old-girl\)](https://turnto10.com/news/local/car-strikes-pedestrians-killing-5-year-old-girl/);

8 • On December 29, 2018, CBS 5 News, Phoenix, Arizona, reported a
9 pedestrian fatality resulting when a woman was struck by a vehicle while
10 standing within a street median in Phoenix
11 [\(\[https://www.azfamily.com/news/woman-struck-killed-in-hit-and-run-crash-in-phoenix/article_14c06ac0-0b73-11e9-a982-c73abfed6eb4.html\]\(https://www.azfamily.com/news/woman-struck-killed-in-hit-and-run-crash-in-phoenix/article_14c06ac0-0b73-11e9-a982-c73abfed6eb4.html\)\)](https://www.azfamily.com/news/woman-struck-killed-in-hit-and-run-crash-in-phoenix/article_14c06ac0-0b73-11e9-a982-c73abfed6eb4.html);

13 • On December 29, 2018, WPRI 12 News, Providence, Rhode Island,
14 reported that a pedestrian was seriously injured after being struck by a vehicle
15 while standing in a median (<https://www.wpri.com/news/local-news/providence/homeless-woman-recovering-in-hospital-after-being-struck-in-providence/1679372246>);

18 • On January 25, 2019, the Times of San Diego reported that a
19 pedestrian was struck by a vehicle and killed along a free-way onramp
20 [\(https://timesofsandiego.com/crime/2019/01/25/pedestrian-struck-killed-on-i-805-ramp-during-evening-commute/\)](https://timesofsandiego.com/crime/2019/01/25/pedestrian-struck-killed-on-i-805-ramp-during-evening-commute/);

22 • On May 29, 2019, the “Journal & Topics” newspaper, Des Plaines,
23 Illinois, reported that a pedestrian was injured while standing in the median
24 when a vehicle struck a traffic signal causing it to fall into the median
25 [\(https://www.journal-topics.com/articles/accident-in-des-plaines-sends-pedestrian-to-hospital/\)](https://www.journal-topics.com/articles/accident-in-des-plaines-sends-pedestrian-to-hospital/); and

27 WHEREAS, except for pedestrian refuge islands that are designed to
28 facilitate safe road crossings, no median is likely to be completely safe for
29 occupancy by pedestrians and occupancy of any median by any pedestrian,
30 other than for official maintenance, construction, or utility purposes, is
31 strongly discouraged; and

32 WHEREAS, notwithstanding that occupancy of any median by pedestrians
33 is discouraged, the Pedestrian Safety Ordinance attempts to identify and

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1 prohibit the use by pedestrians of only those medians that pose risks to
2 pedestrian safety due to their narrowness, to their presence in high-speed,
3 high-intensity roadways, or to their surface characteristics that may present
4 trip hazards or visual obstructions; and

5 WHEREAS, although the Pedestrian Safety Ordinance is presently under a
6 stay of enforcement pending the outcome of a lawsuit challenging certain
7 aspects of the law, the amendments proposed herein will make certain non-
8 substantive clarifications within the Ordinance in anticipation of its potential
9 enforcement at some point in the future.

10 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF
11 ALBUQUERQUE:

12 SECTION 1: Amending Chapter 8, Article 2, Part 1, Section 2 – the
13 “Definitions” section of the Traffic Code to add the following definitions in
14 alphabetical order, and otherwise leaving existing definitions unchanged:

15 “Landscaped Area – the area located within a public way where natural
16 ground covers such as decorative gravel, wood chips or boulders, and living
17 vegetative materials such as trees, grasses, vines, shrubs or flowers have
18 been installed. Landscaped Area does not include concrete, brick or other
19 equivalent hard surface.

20 Median- the area of raised land that separates opposing lanes of traffic on
21 divided roadways.

22 Travel Lane – the portion of the roadway dedicated to the movement of
23 motor vehicles traveling from one destination to another where a motor
24 vehicle may not remain stationary indefinitely without eventually obstructing
25 the free flow of traffic, and not including shoulders, bicycle lanes, or on-street
26 parking.”

27 SECTION 2: Amending Chapter 8, Article 2, Part 7, Section 2 of the Traffic
28 Code as follows:

29 “§ 8-2-7-2 OCCUPYING ROADWAYS, CERTAIN MEDIANS AND ROADSIDE
30 AREAS PROHIBITED; CERTAIN PEDESTRIAN INTERACTIONS WITH
31 VEHICLES PROHIBITED.

32 (A) It is unlawful for any person to stand in any travel lane of a
33 street, highway, or controlled access roadway or in any travel lane of the exit

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1 or entrance ramps thereto;

2 (B) It is unlawful for any person to access, use, occupy,
3 congregate or assemble within six feet of a travel lane of an entrance or exit
4 ramp to Interstate 25, Interstate 40, or to Paseo del Norte at Coors Boulevard
5 NW, Second Street NW, Jefferson Street NW, or Interstate 25, except on a
6 grade separated sidewalk or designated pedestrian way, unless reasonably
7 necessary because of an emergency situation where such area provides the
8 only opportunity for refuge from vehicle traffic or other safety hazard;

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

16 (1) Any portion of a median that is less than six feet in
17 width, and located within a roadway with a posted speed limit of 30 miles per
18 hour or faster or located within 25 feet of an intersection with such a roadway;
19 or

20 (2) Is the landscaped area of the median as defined by this
21 Traffic Code; or

22 (3) Is otherwise identified by signage as not suitable for
23 pedestrian use by the City Traffic Engineer based on identifiable safety
24 standards, including but not limited to an unsuitable gradient or other
25 objectively unsuitable features.

26 (D) It is unlawful for any pedestrian to engage in any physical
27 interaction or exchange with the driver or occupants of any vehicle within a
28 travel lane unless reasonably required because of an emergency situation. For
29 purposes of this section, a "physical interaction or exchange" is conduct by
30 which a pedestrian intentionally makes physical contact with a vehicle in a
31 travel lane or with any of its occupants, either directly or with an object.

32 (E) It is unlawful for any occupant of a motor vehicle within any
33 travel lane or intersection to engage in any physical interaction or exchange

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1 with a pedestrian unless reasonably required because of an emergency
2 situation. For purposes of this section, a “physical interaction or exchange” is
3 conduct by which an occupant of a motor vehicle in a travel lane intentionally
4 makes physical contact with a pedestrian, either directly or with an object.

5 (F) Nothing herein shall be construed as preventing maintenance
6 or construction activities within medians or roadside areas by public agencies
7 or agents thereof, entering or exiting a bus or other form of public transit at
8 authorized pick up and drop off locations, or as preventing physical
9 interactions or exchanges between pedestrians and occupants of vehicles
10 where the vehicle is lawfully stopped or pulled over outside of a travel lane, or
11 parked at a location where on-street parking is permitted.”

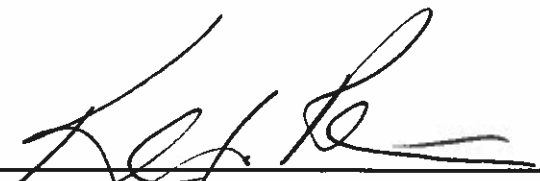
12 SECTION 3. SEVERABILITY CLAUSE. If any section, paragraph, sentence,
13 clause, word or phrase of this ordinance is for any reason held to be invalid or
14 unenforceable by any court of competent jurisdiction, such decision shall not
15 affect the validity of the remaining provisions of this ordinance.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

19 SECTION 4. COMPILATION. The ordinance amendment prescribed by
20 SECTIONS 1, and 2 shall amend, be incorporated in and made part of the
21 Revised ordinances of Albuquerque, New Mexico, 1994.

22 SECTION 5. EFFECTIVE DATE. This ordinance shall take effect five days
23 after publication by title and general summary.
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1 PASSED AND ADOPTED THIS 17th DAY OF June, 2019
2 BY A VOTE OF: 8 FOR 1 AGAINST.

3
4 **Against: Peña**

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7 
8 _____
9 **Klarissa J. Peña, President**
10 **City Council**

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12
13 APPROVED THIS _____ DAY OF _____, 2019

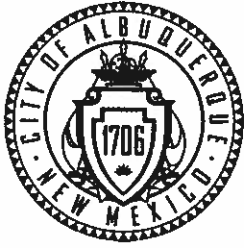
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17 **Bill No. F/S O-19-66**

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21 _____
22 **Timothy M. Keller, Mayor**
23 **City of Albuquerque**

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25
26 **ATTEST:**

27 
28 _____
29 **Katy Duhigg, City Clerk**

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City of Albuquerque

Office of the City Clerk

Timothy M. Keller, Mayor

Katy Duhigg, City Clerk

Interoffice Memorandum

July 10, 2019

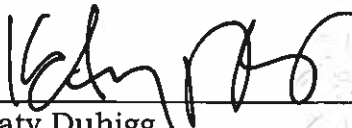
To: CITY COUNCIL

From: Camille Cordova, City Clerk Executive Assistant

Subject: BILL NO. F/S O-19-66; ENACTMENT NO. O-2019-017

I hereby certify that on July 8, 2019, the Office of the City Clerk received Bill No. F/S O-19-66 as signed by the president of the City Council, Klarissa J. Pena. Enactment No. O-2019-017 was passed at the June 17, 2019 City Council meeting. Mayor Keller 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-19-66.

Sincerely,



Katy Duhigg
City Clerk