

**CITY OF ALBUQUERQUE  
CITY COUNCIL**

**INTEROFFICE MEMORANDUM**

**TO: Timothy M. Keller, Mayor**

**FROM: Chris Melendrez, Director of Council Services**

*with letter 1/14/22*

**SUBJECT: Transmittal of Legislation**

Transmitted herewith is Bill No. O-22-44 Amending Chapter 8, Article 2, Part 7 Of The Traffic Code, Relating To Pedestrian Safety In Medians And Pedestrian-Vehicle Interactions (Bassan, Benton, by request), which was passed at the Council meeting of November 21, 2022 by a vote of 7 FOR AND 2 AGAINST.

**For: Bassan, Benton, Davis, Grout, Jones, Lewis, Sanchez**

**Against: Fiebelkorn, Peña**

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



- 1 • In February 2020, a man standing in a median was struck and killed  
2 by a car driving in reverse in Milwaukee, Wisconsin  
3 (<https://www.youtube.com/watch?v=J-ZIEcJBwiw>);
- 4 • In August 2020 a man was struck and killed while standing on a  
5 median in Las Vegas, Nevada  
6 (<https://news3lv.com/news/local/pedestrian-dies-after-crash-near-las-vegas-boulevard-and-lake-mead>);
- 7  
8 • In April 2021, five women suffered injuries when they were struck by  
9 a car while standing on a median in Randolph County, Missouri  
10 ([https://www.komu.com/news/midmissourinews/5-women-hurt-in-pedestrian-crash-in-randolph-county/article\\_1df84d36-a6af-11eb-b021-cb8752cf5942.html](https://www.komu.com/news/midmissourinews/5-women-hurt-in-pedestrian-crash-in-randolph-county/article_1df84d36-a6af-11eb-b021-cb8752cf5942.html));
- 11  
12  
13 • In May 2021, a pedestrian was struck and killed while standing on a  
14 median in Memphis, Tennessee  
15 (<https://wreg.com/news/homeless-man-killed-at-kirby-parkway-385-driver-says-someone-inside-his-car-caused-the-crash>);
- 16  
17 • In September 2021, a man standing on a median in Berkeley,  
18 California, was killed in a hit-and-run crash  
19 (<https://www.berkeleyside.org/2021/09/15/hit-run-crash-killed-man-berkeley-median-adeline-street-police-look-driver>);
- 20  
21 • In November 2021, a man standing on a median in Park City, Utah  
22 died when a car drove up onto the median  
23 (<https://kutv.com/news/local/identity-released-of-pedestrian-killed-in-chain-reaction-car-crash>);
- 24  
25 • In November 2021, a man selling flowers on a median in Harris  
26 County, Texas was struck and killed after two cars in the roadway  
27 collided  
28 (<https://abc13.com/man-hit-and-killed-selling-flowers-airline-drive-pedestrian/11280308>);
- 29  
30 • In November 2021, a man standing on a median in Kimball Junction,  
31 Utah was struck and killed in a multi-car collision  
32 (<https://www.parkrecord.com/news/summit-county/pedestrian-dead-after-multi-vehicle-car-crash-in-kimball-junction>);
- 33

- 1 • In December 2021, a man standing on a median in Medford, Oregon  
2 was killed in a hit-and-run crash  
3 ([https://www.fox26medford.com/medford-police-investigate-fatal-hit-  
5 and-run-crash](https://www.fox26medford.com/medford-police-investigate-fatal-hit-<br/>4 and-run-crash));
- 5 • In January 2022, a pedestrian standing on a median in Santa Cruz,  
6 California was killed by a passing car  
7 ([https://www.santacruzsentinel.com/2022/01/10/letter-panhandling-  
9 accidents-waiting-to-happen](https://www.santacruzsentinel.com/2022/01/10/letter-panhandling-<br/>8 accidents-waiting-to-happen));
- 9 • In March 2022, two pedestrians were struck, and one killed, in a  
10 median in Forsyth County, Georgia  
11 ([https://www.fox5atlanta.com/news/1-pedestrian-dead-1-injured-after-  
13 vehicle-crash-in-forsyth-county](https://www.fox5atlanta.com/news/1-pedestrian-dead-1-injured-after-<br/>12 vehicle-crash-in-forsyth-county));
- 13 • In April 2022, a man standing in a center median in Brooklyn, New  
14 York was killed by a van from the New York Police Department  
15 ([https://nypost.com/2022/04/08/nypd-van-fatally-strikes-man-in-  
17 brooklyn-cops](https://nypost.com/2022/04/08/nypd-van-fatally-strikes-man-in-<br/>16 brooklyn-cops));
- 17 • In April 2022, a man standing in Springfield, Virginia was struck and  
18 killed while standing in a median  
19 ([https://www.ffxnow.com/2022/04/07/springfield-man-dies-after-three-  
21 vehicle-crash-the-fifth-pedestrian-killed-this-year](https://www.ffxnow.com/2022/04/07/springfield-man-dies-after-three-<br/>20 vehicle-crash-the-fifth-pedestrian-killed-this-year); and

21 WHEREAS, these deaths and injuries occur, in part, because roadway  
22 medians are not designed for use by pedestrians; instead, they are designed  
23 for the purposes of channelizing traffic, promoting roadway safety by  
24 separating opposing lanes of traffic, and enhancing community aesthetics  
25 through landscape and artistic features; and

26 WHEREAS, many existing roadway configurations in the City cannot safely  
27 accommodate the presence of pedestrians within a median; and

28 WHEREAS, the City has a compelling interest in adopting laws that help  
29 promote safety and prevent deaths and injuries resulting from the presence of  
30 pedestrians in narrow medians not designed for pedestrian use; and

31 WHEREAS, Albuquerque has adopted a multi-prong approach to  
32 addressing pedestrian safety concerns through Vision Zero, a multi-national  
33 traffic safety project that aims to achieve a system with no pedestrian fatalities

1 or serious injuries involving road traffic. Through Vision Zero, Albuquerque  
2 has begun implementing road improvements; conducting road safety  
3 assessments; adopting road designs that encourage and accommodate  
4 pedestrian and bicycle use; improving crosswalk safety; and decreasing the  
5 speed limit throughout downtown, among other initiatives; and

6 WHEREAS, Albuquerque seeks, in addition to these measures designed to  
7 address general pedestrian safety concerns, to prevent further unnecessary  
8 deaths and injuries resulting from the pedestrian occupation of medians; and

9 WHEREAS, notwithstanding that occupancy of any median by pedestrians  
10 presents a traffic safety risk, this amended ordinance attempts to identify and  
11 prohibit the use of only those medians that pose risks to pedestrian safety due  
12 to their narrowness and their presence in high-speed, high-intensity  
13 roadways; and

14 WHEREAS, because the ordinance only prohibits the occupation of narrow  
15 medians in high-speed, high-intensity roadways, it leaves available a  
16 substantial portion of the City's medians for expressive conduct, and in many  
17 instances bans pedestrians from occupying only a portion of a median, while  
18 permitting expressive conduct to take place in the wider sections of the  
19 median; and

20 WHEREAS, the City expects that the Albuquerque Police Department and  
21 the Albuquerque Community Safety Department will enforce the provisions of  
22 this ordinance in a fair and unbiased way, regardless of the reason any  
23 individual is engaging in proscribed activities.

24 BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
25 ALBUQUERQUE:

26 SECTION 1: Amending Chapter 8, Article 1, Part 1, Section 2 to add the  
27 following definitions in alphabetical order, and otherwise leaving existing  
28 definitions unchanged:

29 "Flat – An area having a grade of eight percent or less throughout."

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

32 "§ 8-2-7-2 OCCUPYING ROADWAYS, CERTAIN MEDIANS PROHIBITED.

33 (A) It is unlawful for any person to stand in any travel lane of a street,

1 highway, or controlled access roadway or in any travel lane of the exit of  
2 entrance ramps thereto, or to otherwise enter a travel lane of a street,  
3 highway, or controlled access roadway or in any travel lane of the exit of  
4 entrance ramps thereto, except for the purpose of legally crossing;

5 (B) It is unlawful for any person to access, use, occupy, congregate or  
6 assemble on any median that is located on any roadway with a posted speed  
7 limit of 30 miles per hour or greater and that does not possess a flat area of at  
8 least four feet (4') in diameter.

9 (C) Nothing herein shall be construed as preventing maintenance, repair  
10 or construction activities within medians or roadside areas by public agencies  
11 or agents thereof, including law enforcement officers engaged in the  
12 performance of their official duties, entering or exiting a bus or other form of  
13 public transit at authorized pick up and drop off locations, or as preventing  
14 physical interactions or exchanges between pedestrians and occupants of  
15 vehicles where the vehicle is lawfully stopped or pulled over outside of a  
16 travel lane, or parked at a location where on-street parking is permitted.

17 (D) A person who violates this provision shall be guilty of a petty  
18 misdemeanor and is subject to a fine of up to \$100; provided, however, that:

19 (1) When appropriate, the Albuquerque Community Safety  
20 Department shall respond to a report of a person violating this provision; and

21 (2) The penalties set forth in 12-1-99 shall apply for a violation of  
22 this section; provided, however, that a law enforcement officer shall first verify  
23 that a written warning has been issued, otherwise, the officer shall issue a  
24 Criminal Trespass Notification to a person for violating this section prior to  
25 the issuing of a citation or conducting an arrest. However, in the event of an  
26 immediate danger, a verbal warning prior to a citation or arrest is permitted.

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

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

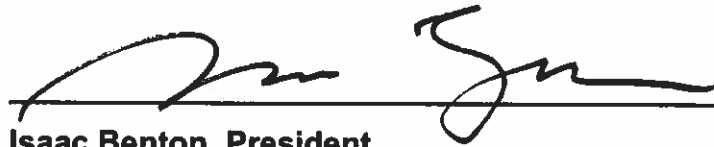
4       **SECTION 5. EFFECTIVE DATE.** This ordinance shall take effect five days  
5       **after publication by title and general summary.**

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1 PASSED AND ADOPTED THIS 21<sup>st</sup> DAY OF November, 2022  
2 BY A VOTE OF: 7 FOR 2 AGAINST.

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4 For: Bassan, Benton, Davis, Grout, Jones, Lewis, Sanchez  
5 Against: Fiebelkorn, Peña  
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10 \_\_\_\_\_  
11 Isaac Benton, President  
12 City Council  
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14  
15 APPROVED THIS 28 DAY OF December, 2022  
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18 Bill No. O-22-44  
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22 \_\_\_\_\_  
23 Timothy M. Keller, Mayor  
24 City of Albuquerque  
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26  
27 ATTEST:

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29 \_\_\_\_\_  
30 Ethan Watson, City Clerk  
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