

ORDINANCE NO. 17-\_\_\_\_\_

AN ORDINANCE ADOPTING SECTION 112 (USE OF MEDIANS) OF ARTICLE 18 (PEDESTRIANS' RIGHTS AND DUTIES, DRIVERS TO EXERCISE DUE CARE) AND AMENDING SECTION 312 (OFFICIAL TRAFFIC CONTROL RECORDS) OF PART 3 (ADMINISTRATION) OF ARTICLE 1 (ADMINISTRATION AND ENFORCEMENT) BOTH OF CHAPTER 10 (MOTOR VEHICLES AND TRAFFIC) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO PEDESTRIAN USE OF NARROW OR DOMED MEDIANS ON HIGHER VOLUME AND HIGHER SPEED ROADWAYS, AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

WHEREAS, City Council is committed to protecting the health, safety and welfare of pedestrians and drivers in the City, and ensuring the free flow of traffic within the City; and

WHEREAS, the primary purpose of roadway medians is to enhance the safety of and free flow of traffic on roadways by separating opposing lanes of vehicular traffic, channeling traffic for turning purposes, calming traffic, and, in some cases, providing a temporary refuge for pedestrians crossing busy and/or wide roadways; and

WHEREAS, certain medians within the City are not designed or suitable for pedestrian use because of their narrowness or contour; and

WHEREAS, persons are occupying medians within the City that are not designed or suitable for pedestrian use; and

WHEREAS, use of such medians on higher volume and higher speed roadways poses a safety hazard to the user and passing motor vehicles and can inhibit the free flow of traffic; and

WHEREAS, City Council finds it is in the best interests of the public health, safety, and welfare to adopt this new section of the City Code and to amend the City Code, in order to restrict pedestrian use of narrow or domed medians located on higher volume and higher speed roadways within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. A new Section 112 (Use of Medians) of Article 18 (Pedestrians' Rights and Duties, Drivers to Exercise Due Care) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, is created to read as follows:

**10.18.112: USE OF MEDIANS**

A. It shall be unlawful for any person to access, use, occupy, congregate or assemble on or about any median that has been posted with a sign pursuant to this section prohibiting such access, use or occupancy.

B. Determination and Signage:

1. The Traffic Engineer may prohibit pedestrian access to or use or occupancy of any median that is not designed or suitable for pedestrian use, by erecting and posting a sign on such median prohibiting such access, use or occupancy.
2. Signage must be reasonably posted to provide notice but is not required to be visible from every position on the median.

C. Definitions. For purposes of this section:

1. "Median that is not designed or suitable for pedestrian use" shall mean any median that is located on any higher speed and higher volume roadway within the City and that does not possess a flat area of at least four (4) feet in diameter.
2. "Flat" shall mean having a grade of eight (8) percent or less throughout.
3. "Higher speed roadway" shall mean a roadway with a posted speed limit of thirty (30) miles per hour or greater.
4. "Higher volume roadway" shall mean a roadway classified as a Freeway, Expressway, Parkway, Principal Arterial, or Minor Arterial on the Colorado Springs Major Thoroughfare Plan.

5. "Median" shall mean the area between two roadways of a divided street or highway measured from the edge of the traveled way to the edge of the traveled way including areas between traffic lanes for control of vehicular movements. Such an area may be physically defined by curbing, landscaping, or other physical obstacles to the area's use by vehicles or by traffic control markings (also known as a painted median).

D. Affirmative Defenses. It is an affirmative defense to a violation of this section that a person:

1. Obtained a permit or license from the City to access the median.
2. Was authorized by the City or State to access the median for maintenance or repair purposes.
3. Was a local, State or Federal law enforcement officer engaged in the performance of their official duties.

E. Strict Liability. A violation of this section is entirely strict liability in nature. No culpability or mens rea of any type or degree shall be required for a violation of this section.

Section 2. Any person convicted of violating Section 112 (Use of Medians) of Article 18 (Pedestrians' Rights and Duties, Drivers to Exercise Due Care) of Chapter 10 (Motor Vehicles and Traffic) shall be punished as provided in Section 201 (General Penalty) of Article 1 (Administration) of Chapter 1 (Administration, Personnel, and Finance) of the Code of the City of Colorado Springs 2001, as amended.

Section 3. Section 312 (Official Traffic Control Records) of Part 3 (Administration) of Article 1 (Administration and Enforcement) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, is amended to read as follows:

**10.1.312: OFFICIAL TRAFFIC CONTROL RECORDS:**

\* \* \*

B. \* \* \*

10. Medians that are not designed or suitable for pedestrian use pursuant to section 10.18.112 of this chapter.

\* \* \*

Section 4. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 5. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this \_\_\_\_ day of \_\_\_\_\_, 2017.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Council President

**Mayor's Action:**

- Approved on \_\_\_\_\_.
- Disapproved on \_\_\_\_\_, based on the following objections:

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\_\_\_\_\_  
Mayor

**Council Action After Disapproval:**

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_.
- Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk