



Date: September 28, 2017
To: Patrick H. West, City Manager *P.H.W.*
From: *CB* Craig A. Beck, Director of Public Works
For: Mayor and Members of the City Council
Subject: **Median Access at Major Intersections**

The City Council recently requested that staff report back regarding the feasibility, opportunities, and constraints, both legal and practical, to limiting median access near major intersections to improve safety for pedestrians and drivers, including how other jurisdictions manage this safety concern. The City Council also requested that staff review the City's collision history at major intersections due to pedestrians on medians. This memorandum responds to these requests.

Discussion:

Consideration of pedestrians loitering within medians has been considered by cities throughout the Country. Several cities have passed ordinances with various restrictions. The Long Beach Municipal Code (LBMC), Chapter 9.35 currently prohibits solicitation at certain locations such as bus stops, City-owned parking facilities, and outdoor dining areas, but does not necessarily apply to medians. A few examples of restrictions placed at other cities include:

Sacramento, Yuba City, Citrus Heights, California (2014, 2014, 2010)

City ordinance makes it illegal for panhandlers to ask for food or money within 35 feet of an automated teller machine, 50 feet of a mass transit stop, 100 to 200 feet from any intersection with a stop light or stop sign, and on any traffic median. Existence of any signal, stop sign or yield sign, or any other sign regulating the flow of traffic at any intersection prohibits panhandling. Violation is a misdemeanor; fines are not defined.

Laguna Woods, California (2013)

City ordinance prohibits solicitation within 10 feet of an automated teller machine, bank, and public bus stop. It also prohibits solicitation in public roads and medians, within enclosed parking structures, and in open parking lots after dark. Under the ordinance, first-time violators will be fined \$100; second and third-time violators within the same year will be fined \$200 and \$500, respectively.

Merced, California (2013)

City ordinance states it is a misdemeanor to use the medians for anything other than a place to wait while crossing the street. Misdemeanor fines could range from \$150-\$1,000. The ordinance applies to specific medians on certain streets, as identified by City Council.

Santa Cruz, California (2013)

City ordinance prohibits the use of all medians for solicitation of money, prostitution, consumption of alcohol, or other activity not related to crossing the street. Under the ordinance, first-time violators are issued a citation; a second violation within six months will result in a misdemeanor.

Colorado Springs, Colorado (2017)

City ordinance bans median panhandling along streets with a speed limit of 30 mph or higher, and/or medians with a diameter of less than four feet of flat space. Violators are cited and face a \$50 fine and probation. City places signs on medians where the ordinance is enforced.

Madison, Wisconsin (2017)

City ordinance prohibits pedestrians from staying on a median or within 200 feet of an intersection for longer than two signal cycles. City is required to issue a warning for first offense, on the second, individuals will be escorted to the nearest legal standing location.

Houston, Texas (2017)

City ordinance prohibits homeless camps/tents and panhandling on medians and sidewalks. City ordinance defines impeding traffic to rendering the use of a roadway unreasonably difficult or dangerous. The misdemeanor fine will not exceed \$500.

Phoenix, Arizona (2014)

City ordinance outlaws standing on medians and have signs posted warning of trespassing. Violators will receive a warning, followed by a \$250 civil fine. It is considered a criminal misdemeanor on the third offense.

As a result of implementing these and similar ordinances, many cities have faced opposition and litigation by residents and civil rights groups. In several cases (Maine, Massachusetts, and Indiana) federal and state courts have found such ordinances unconstitutional. Solicitation laws are subject to strict scrutiny by the courts, whom have stated that regulation on this issue must meet set criteria or have an evaluation to justify being implemented. When panhandling or solicitation regulations are considered, courts have not accepted a city's assertion that activities are "unsafe" without supporting facts, especially to justify a citywide ban. Ordinances that were overturned by the courts, typically have not appropriately provided justification and proof of safety concerns. Moreover, once such ordinances are enacted, cities must consistently enforce them against all groups. In a recent Maine case, a federal court found that laws that prohibit standing in, but not merely passing through, roadways or medians must be evenly enforced.

Public Works staff have reviewed several street median locations. It appears that some of these medians are not appropriate for loitering and cannot safely accommodate a walkway due to insufficient width, traffic speed, the amount of traffic, and lack of accessibility. Collision information is difficult to obtain, and summaries do not identify a pedestrian's exact location at the time of a collision (median, crosswalk, middle of the roadway, etc.).

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However, many studies have shown the risk of fatality drastically increases in vehicle vs. pedestrian accidents when the impact speed is over 30 mph. The fatality risk increases between 3.5 and 5.5 times from 30 mph to 40 mph, respectively. The risk of pedestrians being killed at 30 mph is relatively low, nearly half of all pedestrians (47 percent) struck at 30 mph sustain serious injury, and one in five (20 percent) lead to fatalities. Even worse, at 40 mph, 79 percent of struck pedestrians sustain serious injury and 45 percent lead to fatalities.

Next Steps:

Public Works staff are in the process of preparing a Systemic Safety Analysis Report and a Vision Zero Action Plan that will evaluate a number of safety risk factors citywide. In that analysis and Vision Zero study, staff will include a section on pedestrian safety within medians. If justified by data, the Public Works Department may recommend that median access restriction be created where medians are narrower than four feet or located on certain streets with speed limits of 35 mph or higher.

If there are any questions regarding this matter, please contact Abraham Bandegan, Assistant City Traffic Engineer, at (562) 570-6665.

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