

40:56-65

**LEGISLATIVE HISTORY CHECKLIST**  
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(Pedestrian Malls)

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**FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:**

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ASSEMBLY, No. 1122

STATE OF NEW JERSEY

INTRODUCED MAY 1, 1972

By Assemblyman WOODSON

Referred to Committee on Municipal Government

AN ACT authorizing municipalities to undertake, develop, construct, operate and finance, as local improvements, pedestrian malls, and supplementing chapter 56 of Title 40 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State  
2 of New Jersey:

3 1. a. The Legislature finds: (1) increases in population and  
4 automobile usage have created conditions of traffic congestion in  
5 business districts of New Jersey municipalities; (2) such conditions  
6 constitute a hazard to the safety of pedestrians and impede the  
7 movement of police and fire equipment, ambulances and like emer-  
8 gency vehicles; (3) streets in such districts that now accommodate  
9 both sidewalks and vehicular rights-of-way cannot be further  
10 widened without taking valuable buildings and improvements,  
11 thereby substantially impairing the primary function of such  
12 streets, that of being primarily pedestrian facilities, and impairing  
13 municipal ratables, the primary source of tax revenue; and (4)  
14 limitation on the use of such streets by private vehicles may be  
15 found by the governing body of any such municipality to be in the  
16 public interest of the municipality and State, to be of benefit to  
17 adjoining properties and to be essential to the effective use of such  
18 streets for street purposes.

19 b. It is the public policy of the State of New Jersey to permit  
20 the governing body of any municipality to protect the public welfare  
21 and health and the interests of the public in the safe and effective  
22 movement of persons and to preserve and enhance the function and  
23 appearance of the business districts of such municipalities by the  
24 adoption of pedestrian mall ordinances as in this act authorized.

25 2. As used in this act, "pedestrian mall" or "pedestrian mall  
26 improvement" means any local improvement designed to be used  
27 primarily for the movement, safety, convenience and enjoyment of

4 pedestrians, whether or not a part of a street is set apart for road-  
5 way for emergency vehicles, transit vehicles and private vehicles  
6 or any of them and a pedestrian mall improvement shall include  
7 but not be limited to pedestrian thoroughfares, perimeter parking,  
8 public seating, park areas, outdoor cafes, shelters, trees, flower  
9 plantings, sculptures, newsstands, telephone booths, traffic signs,  
10 kiosks, fire hydrants, street lighting, ornamental signs, ornamental  
11 lights, trash receptacles, display cases, marquees, awnings,  
12 canopies, overhead radiant heating fixtures, underground radiant  
13 heating pipes and devices, walls, bollards and chains and all such  
14 other fixtures, equipment, facilities and appurtenances which in the  
15 judgment of the governing body of a municipality will enhance the  
16 movement, safety, convenience and enjoyment of pedestrians and  
17 benefit the municipality and adjoining properties.

1 3. In addition to the works enumerated in R. S. 40:56-1 any mu-  
2 nicipality may undertake development and maintenance of a  
3 pedestrian mall as a local improvement in accordance with this act  
4 and the provisions of chapter 56 of Title 40 of the Revised Statutes  
5 (R. S. 40:56-1 et seq.).

1 4. A pedestrian mall ordinance may be adopted if the governing  
2 body of any municipality finds: (1) a street or part thereof is not  
3 a part of any State highway, is located primarily in a business  
4 district, is improved to its maximum feasible width with regard to  
5 adjoining buildings and improvements, (2) reasonably convenient  
6 alternate routes to other parts of the municipality and State exist  
7 for private vehicles, (3) continued unlimited use of the street or  
8 part thereof by private vehicles may constitute a hazard to the  
9 health and safety of pedestrians, (4) abutting properties can  
10 reasonably and adequately be provided with emergency vehicular  
11 services and receive and deliver merchandise and materials from  
12 other streets and alleys or by provisions for limited use of the  
13 streets by emergency vehicles and carriers of such merchandise and  
14 materials, and (5) it is in the best interests of the municipality and  
15 the public and of benefit to adjacent properties to use such street  
16 primarily for pedestrian purposes, and that pedestrian use is  
17 determined to be the highest and best use of such street or part  
18 thereof.

1 5. a. A pedestrian mall ordinance shall set forth the findings  
2 required by section 2, designate the streets or parts thereof to  
3 constitute a pedestrian mall, limit the use of the surface of such  
4 streets or parts thereof at all times or during such hours or days  
5 as the governing body shall determine to pedestrians and to such  
6 classes of emergency, public works, maintenance, service and

7 utility transportation vehicles as are defined in the ordinance and  
8 prohibit the use of such streets or parts thereof by other vehicles,  
9 and such further provisions as in this act required.

10 b. The ordinance shall not limit vehicular use of an intersecting  
11 street crossing a pedestrian mall street or part thereof, and the  
12 ordinance shall so provide.

13 c. If the governing body shall further find that a pedestrian mall  
14 street or part thereof is served by a transit utility engaged in mass  
15 transportation of persons within the municipality by bus or street  
16 railway, and that continued use of such street or part thereof by  
17 such transit utility will be of benefit to the municipality and the  
18 public and to adjacent property, it shall permit such transit utility  
19 to use such street or part thereof for such purposes to the same  
20 extent and subject to the same obligations and restrictions as are  
21 applicable to such transit utility in the use of other streets of the  
22 municipality.

23 d. If any property abutting upon such street or part thereof does  
24 not, at the time such ordinance is adopted, have access to some other  
25 street or alley for delivery of or receiving merchandise and ma-  
26 terials, the governing body shall provide in the ordinance for the  
27 issuance of a permit or permist to the owners or occupants of such  
28 property for the use of such street or part thereof for deliveries,  
29 or otherwise in the ordinance provide for deliveries, during such  
30 hours and days, which need not be ordinary business hours or days,  
31 as the governing body shall find to be reasonably adequate for such  
32 purpose and which will not interfere with the use of the street or  
33 part thereof by pedestrians and other authorized vehicles.

1 6. The governing body of any municipality may by resolution  
2 authorize the commencement of studies and the development of  
3 preliminary plans and specifications relating to the creation and  
4 maintenance of a pedestrian mall facility including, whenever  
5 possible, estimates of construction and maintenance and costs and  
6 estimates of potential gross benefit assessment.

1 7. Upon review of the reports and recommendations submitted,  
2 an ordinance may be adopted authorizing and directing the  
3 establishment and maintenance of a pedestrian mall facility. In  
4 addition to other requirements for the consideration and adoption  
5 of ordinances, at least 10 days prior to the date fixed for a public  
6 hearing thereon a copy of the proposed ordinance and notice of the  
7 date, time and place of the hearing shall be mailed to the owners  
8 and tenants of the lots or parcels of land abutting or directly  
9 affected by any proposed pedestrian mall proposed by the  
10 ordinance.

1 8. A pedestrian mall ordinance may provide that all costs of  
2 development, construction and acquisition relating to the creation  
3 of a pedestrian mall shall be financed and assessed to properties  
4 especially benefited thereby as provided generally by N. J. S.  
5 40:56-1 et seq. and the ordinance shall list and describe, by lot and  
6 block numbers and by street address, all properties to be assessed  
7 for such improvement.

1 9. If the governing body determines that the improvement will  
2 involve annual costs in addition to the initial cost of constructing  
3 and making the improvement, and that such annual costs relate to  
4 maintenance services peculiar to the mall facility and distinguished  
5 from maintenance services normally provided by the municipality  
6 outside of the mall facility, and will provide benefits primarily to  
7 adjacent, surroundings or neighboring property, rather than to  
8 the municipality as a whole, the ordinance may provide that the  
9 improvement and facilities thereof shall be operated and main-  
10 tained pursuant to the provisions of this act and the costs thereof  
11 assessed or taxed to benefited properties pursuant to the provisions  
12 of section 16 of this act. At any time after a pedestrian mall  
13 ordinance has been adopted or lands have been acquired or im-  
14 proved for a pedestrian mall, the governing body may upon such  
15 determination provide, by separate ordinance or by amendment to  
16 a pedestrian mall ordinance, that the improvement and facilities  
17 thereof shall be so operated and maintained and the costs so taxed  
18 and assessed to benefited properties. In any such case, such  
19 ordinance shall describe the properties to be assessed or taxed for  
20 such annual costs, which area may be given the name "(name of  
21 Pedestrian Mall) Improvement District."

1 10. Notwithstanding any contrary provision of law, ordinance,  
2 code or regulation governing standards and specifications for street  
3 and sidewalk construction, a pedestrian mall may be constructed of  
4 concrete, bricks, asphalt tiles, blocks, granite or such other ma-  
5 terials and such combinations of materials as the governing body  
6 of a municipality shall approve, and the governing body of a  
7 municipality may in its discretion narrow any roadway to be kept  
8 and maintained in connection with any pedestrian mall, may cause  
9 any street vaults to be reconstructed or removed, may construct  
10 crosswalks at any point within a block as well as at the ends of  
11 blocks, and may cause the roadway to curve and meander within  
12 the limits of the street regardless of the uniformity of width of the  
13 street or curve or absence of curve in the center line of such street  
14 to enhance the usefulness and appearance of a pedestrian mall.

1 11. Notwithstanding the improvement of any street as a pedes-  
2 trian mall, the municipality and its governing body shall retain its  
3 police powers and other rights and powers relating to the street or  
4 part thereof constituting the pedestrian mall, and no such action  
5 shall be interpreted or construed to be a vacation, in whole or in  
6 part, of any municipal street or part thereof, it being intended  
7 that the establishment of a pedestrian mall pursuant to this act is  
8 a matter of a regulation only. This act shall not prevent the  
9 governing body of any municipality, at any time subsequent to the  
10 adoption of a pedestrian mall ordinance, by ordinance, from  
11 abandoning the operation of the pedestrian mall, changing the  
12 extent of the pedestrian mall, supplementing or amending the  
13 description of the district to be specially assessed or taxed for  
14 annual costs of the pedestrian mall, or changing or repealing any  
15 limitations on the use of the pedestrian mall by private vehicles or  
16 any plan, rules or regulations adopted for the operation of a  
17 pedestrian mall.

1 12. Condemnation proceedings incidental to the development or  
2 maintenance of a pedestrian mall are authorized and shall be taken  
3 in accordance with the provisions of chapter 56 of Title 40 of the  
4 Revised Statutes (N. J. S. 40:56-1 et seq.). All procedures in-  
5 cidental to the development and maintenance of a pedestrian mall  
6 pursuant to this act including financing land acquisition and legal  
7 challenges and appeals not specifically prescribed hereunder shall  
8 be taken in accordance with other applicable provisions of said  
9 chapter 56 of Title 40.

1 13. a. Any pedestrian mall created pursuant to this act above,  
2 may be used, under the direction of the governing body, for any  
3 purpose or activity which will enhance the movement, safety, con-  
4 venience or enjoyment of pedestrians, including seating, display  
5 and sale of merchandise, exhibiting, advertising, public events, and  
6 any other use or activity which in the judgment of the governing  
7 body will enhance the movement, safety, convenience or enjoyment  
8 of pedestrians and any other use or activity permitted by any  
9 applicable pedestrian mall ordinance or other applicable law,  
10 ordinance or power.

11 b. Upon adoption of a pedestrian mall ordinance, the governing  
12 body may, from time to time, provide for the control and regula-  
13 tion of:

14 (1) The distribution and location of movable furniture, sculpture  
15 or pedestrian traffic control devices, landscaping and other  
16 facilities belonging to the pedestrian mall and not otherwise located  
17 or fixed by the plans and specifications;

18 (2) The uses to be permitted on the mall by occupants of abut-  
19 ting property, any transit or telephone utility, concessionaires,  
20 vendors and others to serve the convenience and enjoyment of  
21 pedestrians and the location of such uses ;

22 (3) The issuance of permits to conduct any special activity con-  
23 sistant with the broad purposes of the pedestrian mall.

24 (4) The operation of any lighting, heating or other facilities in  
25 the mall, replacing landscaping and maintaining the furniture and  
26 facilities in the mall.

1 14. Any movable furniture, structure, facility or appurtenance or  
2 activity located or permitted in connection with a pedestrian mall  
3 improvement shall not, by reason of such location or use, be deemed  
4 a nuisance or unlawful obstruction or condition notwithstanding  
5 any rule or regulation of principle of negligence law pertaining to  
6 the use of public streets and highways, and neither the municipality  
7 nor any user acting under permit shall be liable for any injury to  
8 person or property unless such furniture, structure, facility or use  
9 shall be negligently constructed, maintained or operated.

1 15. The mayor or other chief executive officer of the municipality  
2 may create and appoint an advisory board, consisting of seven or  
3 more persons, at least a majority of whom shall be owners or occu-  
4 pants of properties adjoining a pedestrian mall or their representa-  
5 tives, to advise the governing body in connection with the acquisi-  
6 tion, construction and improvement of a pedestrian mall, the  
7 making of a plan therefor and the operation and maintenance  
8 thereof and to meet and furnish recommendations or comments and  
9 requests of members of the public and of owners and occupants of  
10 adjoining property.

1 16. a. Concurrently with the submission of a plan for a pedestrian  
2 mall improvement, and annually thereafter, the mayor or other  
3 chief executive officer of the municipality shall, with the assistance  
4 of the advisory board, if any, report to the governing body an  
5 estimate of the cost of operating and maintaining and annually  
6 improving the pedestrian mall for the next fiscal year to be in-  
7 curred under the plan, and an estimate of changes in the amounts  
8 of such costs which would follow upon the adoption of any addition  
9 or amendment to the plan recommended to or under consideration  
10 by the governing body. Such estimate shall be reasonably itemized  
11 and shall include a summary of the categories of cost properly  
12 chargeable as follows :

13 (1) The amount of such costs to be charged against the general  
14 funds of the municipality, which shall be that amount which the  
15 municipality would pay from its general funds for street mainte-

16 nance and operations on a street of similar size and location but  
17 not improved as a pedestrian mall;

18 (2) The amount of costs to be charged and assessed against  
19 properties benefitted in the district in proportion to benefits which  
20 shall be the aggregate of costs of annual improvements to be made  
21 in the district during the ensuing year;

22 (3) The amount of costs, if any, to be specially taxed against  
23 properties in the district.

24 b. The governing body shall receive and consider such estimate  
25 and the items of cost after such notice and hearing before it or its  
26 appropriate committee as it shall deem necessary or expedient, and  
27 shall approve the same, with such amendments thereto as it shall  
28 find necessary, and the amounts of each item of cost estimated shall  
29 be deemed appropriated and expendable for and to operate, main-  
30 tain the pedestrian mall during the ensuing fiscal year.

31 c. Each year, when the governing body shall have acted on the  
32 estimate of costs for the ensuing year, the municipal assessor, shall  
33 prepare an assessment roll setting forth separately the amounts to  
34 be specially assessed against the benefitted and assessable prop-  
35 erties in the district as recorded and listed in connection with the  
36 procedures prescribed by this act for the adoption of the pedestrian  
37 mall ordinance in proportion to the benefits. Descriptions of such  
38 properties, and the names of the then current owners of such  
39 properties, so far as names are available, shall be included in each  
40 annual assessment roll. The assessment roll, when so prepared,  
41 shall be filed in the office of the municipal clerk and be there avail-  
42 able for inspection. The governing body shall annually meet to  
43 consider objections to the amounts of such special assessments at  
44 least 10 days after a notice of hearing has been published once in  
45 the official newspaper and mailed to the named owners of all tracts,  
46 parcels and lots of property proposed to be assessed. The notice  
47 shall set forth the time and place of meeting, and set forth the  
48 purpose of such meeting, but may refer to the assessment roll for  
49 further particulars. When the governing body shall have approved  
50 the amounts of the special assessments set forth therein, or as may  
51 be changed by it, the municipal clerk shall forthwith certify a copy  
52 of the assessment roll, with such changes, if any, to the county tax  
53 board.

54 d. For the purposes of this section "annual improvements"  
55 shall, with respect to pedestrian malls, mean and include any  
56 reconstruction, replacement or repair of trees and plantings,  
57 furniture, shelters and other facilities of a pedestrian mall, furnish-  
58 ing overhead or underground heating for snow removal or for en-



59 joyment of pedestrians, and any other local improvement which  
60 benefits properties within the districts. For the purpose of this act,  
61 "costs" shall, with respect to annual improvements to and opera-  
62 tion and maintenance of pedestrian malls, mean costs of annual  
63 improvements; fees of consultants employed by the governing body  
64 to assist in the planning of annual improvements; and all other  
65 costs incurred or to be incurred in connection with annual improve-  
66 ments to and operation and maintenance of pedestrian malls.

67 e. Moneys appropriated and collected on account of annual im-  
68 provement costs, and costs of operating and maintaining a  
69 pedestrian mall shall be credited to a special account. The govern-  
70 ing body is authorized to incur the annual costs of improving,  
71 operating and maintaining a pedestrian mall during any fiscal year,  
72 though not specifically provided for by line item or other category  
73 in an approved estimate for such fiscal year, if in its discretion it  
74 shall be deemed necessary to provide for such annual improvements  
75 or operation or maintenance prior to the succeeding fiscal year and  
76 so long as the total amount of the account as approved for that  
77 year is not exceeded by that expenditure. Any balances to the credit  
78 of the account established for a pedestrian mall and remaining  
79 unexpended at the end of the fiscal year shall be conserved and  
80 applied towards the financial requirements of the succeeding year.

1 17. The powers herewith granted are in addition to all powers  
2 under existing laws and municipality charters.

1 18. If any provision of this act or the application thereof to any  
2 person or circumstance is held invalid, such holding shall not affect  
3 other provisions or applications of the act and to this end the  
4 provisions of this act are severable.

1 19. This act shall take effect immediately.

FROM THE OFFICE OF THE GOVERNOR

AUGUST 17, 1972

FOR RELEASE:  
IMMEDIATE

Governor William T. Cahill today signed into law a bill authorizing municipalities to convert sections of streets in downtown business districts to pedestrian malls.

Assembly Bill 1122, sponsored by Assemblyman S. Howard Woodson, Jr., (D. Mercer), is designed to aid older cities in attracting shoppers back to the commercial centers.

In signing the bill, Governor Cahill paid tribute to the city of Trenton for its leadership in helping create the legislation. "I understand that the business and governmental community have jointly financed a proposal to convert a section of State Street into a pedestrian walkway to be known as the 'Trenton Commons.'

I have long felt that only through the uniting of the private and public sectors can our urban problems be solved. I congratulate the civic and governmental leaders of the City of Trenton for their foresight in the development of their proposal, and I wish them every success."

The legislation is permissive, allowing municipalities to adopt ordinance to create the pedestrian malls. It also provides that all costs of development, construction and acquisition relating to the creation of a pedestrian mall shall be financed and assessed to properties especially benefited by the development.

A provision authorizes the mayor or other chief executive of a municipality to appoint an advisory board, consisting of seven or more persons, at least a majority of whom shall be owners or occupiers of properties adjoining the mall, to advise the governing body in connection with the acquisition, construction, and improvement of a pedestrian mall.

The act takes effect immediately.

The Governor also signed into law today the following bills:

Senate Bill 10, sponsored by Senator Alfred N. Beadleston (R. Monmouth), which provides that the central registry required by the Local Lands and Building Law be maintained, in the case of a county, in the office of the clerk of the board of chosen freeholders.

Senate Bill 260, sponsored by Senator Alfred N. Beadleston (R. Monmouth), which corrects legislation which provides that copies of exempt firemen certificates shall be transmitted to the New Jersey Firemen's Association.

Senate Bill 417, sponsored by Senator James M. Turner (R. Salem), which extends the Compact of Regional Planning for the Delaware Valley Urban Area from December 31, 1972 to December 31, 1973.

Senate Bill 822, sponsored by Senator Joseph A. Maressa (D. Gloucester) which authorizes the Borough of Glassboro to make permanent the appointment of George C. Stewart to the police department.

Senate Bill 920, sponsored by Senator Joseph A. Lazzaro, (D. Passaic), which authorizes the City of Paterson to make permanent the appointment of Ronald J. Dahlhaus to the police department.

Assembly Bill 244, sponsored by Assemblyman Peter J. McDonough (R. Union) which permits County Community Colleges, County and State institutions to apply for funds to be used toward the establishment and operation of classes and programs of education for adults and out-of-school adults designed to provide such persons with the equivalent of a high school education.

Assembly Bill 751, sponsored by Assemblyman John F. Evers, (R. Passaic) which increases the maximum size of an account which a State chartered savings & loan association may accept from a savings member.

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