

SPECIAL IMPROVEMENT DISTRICT LEGISLATION

SID No. 1: Enabling Legislation

40:56-65. Legislative findings; public policy

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

b. The Legislature further finds: (1) that district management corporations may assist municipalities in promoting economic growth and employment within business districts; (2) that municipalities should be encouraged to create self-financing special improvement districts and designated district management corporations to execute self-help programs to enhance their local business climates; and (3) that municipalities should be given the broadest possible discretion in establishing by local ordinance the self-help programs most consistent with their local needs, goals and objectives.

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

L.1972, c. 134, s. 1, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 2, eff. Sept. 10, 1984.

40:56-66. Definitions

2. As used in this act:

a. "Pedestrian mall" or "pedestrian mall improvement" means any local improvement designed to be used primarily for the movement, safety, convenience and enjoyment of pedestrians, whether or not a part of a street is

set apart for roadway for emergency vehicles, transit vehicles and private vehicles or any of them, and a pedestrian mall improvement shall include but not be limited to pedestrian thoroughfares, perimeter parking, public seating, park areas, outdoor cafes, shelters, trees, flower plantings, sculpture, newsstands, telephone booths, traffic signs, kiosks, fire hydrants, street lighting, ornamental signs, ornamental lights, trash receptacles, display cases, marquees, awnings, canopies, overhead radiant heating fixtures, underground radiant heating pipes and devices, walls, bollards and chains and all such other fixtures, equipment, facilities and appurtenances which in the judgment of the governing body of a municipality will enhance the movement, safety, convenience and enjoyment of pedestrians and benefit the municipality and adjoining properties.

b. "Special improvement district" means an area within a municipality designated by municipal ordinance as an area in which a special assessment on property within the district shall be imposed for the purposes of promoting the economic and general welfare of the district and the municipality. The municipal ordinance may exempt residential properties, residential portions of mixed-use properties, and parcels with any number of residential units, or vacant properties located within the district from special assessment.

c. "District management corporation" means an entity created by municipal ordinance or incorporated pursuant to Title 15A of the New Jersey Statutes and designated by municipal ordinance to receive funds collected by a special assessment within a special improvement district, as authorized by this amendatory and supplementary act.

L.1972,c.134,s.2; amended 1984,c.151,s.3; 1995,c.170,s.1.

40:56-67. Pedestrian mall or special improvement district as local improvement

In addition to the works enumerated in R.S. 40:56-1, any municipality may undertake development and maintenance of a pedestrian mall, or provide for the creation and management of a special improvement district, as a local improvement in accordance with this act and the provisions of chapter 56 of Title 40 of the Revised Statutes (R.S. 40:56-1 et seq.).

L.1972, c. 134, s. 3, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 4, eff. Sept. 10, 1984.

40:56-68. Findings necessary for adoption of ordinance

a. A pedestrian mall ordinance may be adopted if the governing body of any municipality finds: (1) a street or part thereof is not a part of any State highway, is located primarily in a business district, is improved to its maximum feasible width with regard to adjoining buildings and improvements, (2) reasonably convenient alternate routes to other parts of the municipality and State exist for private vehicles, (3) continued unlimited use of the street or part thereof by private vehicles may constitute a hazard to the health and safety of pedestrians, (4)

abutting properties can reasonably and adequately be provided with emergency vehicular services and receive and deliver merchandise and materials from other streets and alleys or by provisions for limited use of the streets by emergency vehicles and carriers of such merchandise and materials, and (5) it is in the best interests of the municipality and the public and of benefit to adjacent properties to use such street primarily for pedestrian purposes, and that pedestrian use is determined to be the highest and best use of such street or part thereof.

b. A special improvement district ordinance may be adopted if the governing body of a municipality finds: (1) that an area within the municipality, as described by lot and block numbers and by street addresses in the enabling ordinance, would benefit from being designated as a special improvement district; (2) that a district management corporation would provide administrative and other services to benefit the businesses, employees, residents and consumers in the special improvement district; (3) that a special assessment shall be imposed and collected by the municipality with the regular property tax payment or payment in lieu of taxes or otherwise, and that all or a portion of these payments shall be transferred to the district management corporation to effectuate the purposes of this amendatory and supplementary act and to exercise the powers given to it by municipal ordinance; and (4) that it is in the best interests of the municipality and the public to create a special improvement district and to designate a district management corporation; except that no district management corporation shall be designated to receive any funds or to exercise any powers pursuant to the provisions of this amendatory and supplementary act, unless the board of directors of that corporation shall include at least one member of the governing body of the municipality.

L.1972, c. 134, s. 4, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 5, eff. Sept. 10, 1984.

40:56-69. Ordinance; provisions; limitations

a. A pedestrian mall ordinance shall set forth the findings required by section 4, designate the streets or parts thereof to constitute a pedestrian mall, limit the use of the surface of such streets or parts thereof at all times or during such hours or days as the governing body shall determine to pedestrians and to such classes of emergency, public works, maintenance, service and utility transportation vehicles as are defined in the ordinance and prohibit the use of such streets or parts thereof by other vehicles, and such further provisions as in this act required.

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

c. If the governing body shall further find that a pedestrian mall street or part thereof is served by a transit utility engaged in mass transportation of persons within the municipality by bus or street railway, and that continued use of such

street or part thereof by such transit utility will be of benefit to the municipality and the public and to adjacent property, it shall permit such transit utility to use such street or part thereof for such purposes to the same extent and subject to the same obligations and restrictions as are applicable to such transit utility in the use of other streets of the municipality.

d. If any property abutting upon such street or part thereof does not, at the time such ordinance is adopted, have access to some other street or alley for delivery of or receiving merchandise and materials, the governing body shall provide in the ordinance for the issuance of a permit or permits to the owners or occupants of such property for the use of such street or part thereof for deliveries, or otherwise in the ordinance provide for deliveries, during such hours and days, which need not be ordinary business hours or days, as the governing body shall find to be reasonably adequate for such purpose and which will not interfere with the use of the street or part thereof by pedestrians and other authorized vehicles.

L.1972, c. 134, s. 5, eff. Aug. 17, 1972.

40:56-70. Resolution of governing body of municipality; feasibility study

The governing body of any municipality may by resolution authorize the commencement of studies and the development of preliminary plans and specifications relating to the creation and maintenance of a pedestrian mall facility or special improvement district, including, whenever possible, estimates of construction and maintenance, and costs and estimates of potential gross benefit assessment.

In the case of a special improvement district, these studies and plans may include criteria to regulate the construction and alteration of facades of buildings and structures in a manner that promotes unified or compatible design.

L.1972, c. 134, s. 6, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 6, eff. Sept. 10, 1984.

40:56-71. Adoption of ordinances

Upon review of the reports and recommendations submitted, an ordinance may be adopted authorizing and directing the establishment and maintenance of a pedestrian mall facility or special improvement district. In addition to other requirements for the consideration and adoption of ordinances, at least 10 days prior to the date fixed for a public hearing thereon, a copy of the proposed ordinance and notice of the date, time and place of the hearing shall be mailed to the owners of the lots or parcels of land abutting or directly affected by any proposed pedestrian mall or included in the special improvement district proposed by the ordinance, as the case may be.

In the case of a special improvement district, the ordinance may include the requirement that construction or alteration of building and structure facades be subject to prior review and approval to assure compliance with design criteria

included in the ordinance. The design criteria shall be approved by the municipal planning board prior to inclusion in the ordinance. A municipal officer or agency shall be designated by ordinance to conduct the review and grant or deny approvals of proposed construction or alteration of facades. In lieu of that designation, the governing body may designate the district management corporation to conduct these reviews and grant or deny these approvals, but only if the governing body finds in the ordinance that the corporation is so constituted and organized as to be reasonably appropriate and qualified for this role. If the district management corporation is so designated, the ordinance may provide for the appeal of individual determinations of the corporation to the municipal planning board.

L. 1972, c. 134; amended by L. 1984, c. 151, s. 7; 1987, c. 248, s. 1.

40:56-71.1 Definitions relative to downtown business improvement zones.

As used in this act:

"Downtown business improvement zone" or "zone" means a zone designated by a municipality, by ordinance, pursuant to section 2 of P.L.1998, c.115 (C.40:56-71.2) in order to promote the economic revitalization of the municipality through the encouragement of business improvements within the downtown area.

"Downtown business improvement loan fund" or "fund" means that fund established pursuant to section 3 of P.L.1998, c.115 (C.40:56-71.3).

"Improvement" means the purchasing, leasing, condemning, or otherwise acquiring of land or other property, or an interest therein, in the downtown business improvement zone or as necessary for a right-of-way or other easement to or from the zone; the relocating and moving of persons displaced by the acquisition of land or property; the rehabilitation and redevelopment of land or property, including demolition, clearance, removal, relocation, renovation, alteration, construction, reconstruction, installation or repair of a building, street, highway, alley, service or other structure or improvement; the acquisition, construction, reconstruction, rehabilitation, or installation of parking and other public facilities and improvements, except buildings and facilities for the general conduct of government and schools; and the costs associated therewith including the costs of an appraisal, economic and environmental analyses or engineering, planning, design, architectural, surveying or other professional services necessary to effectuate the improvement.

40:56-71.2 "Downtown business improvement zone" designation.

2. With the exception of a municipality in which an urban enterprise zone has been designated, any municipality which has adopted or adopts an ordinance authorizing the establishment of a special improvement district pursuant to section 7 of P.L.1972, c.134 (C.40:56-71) may, by ordinance, designate all or any

portion of that district which contains primarily businesses providing retail goods and services as a "downtown business improvement zone."

Within 10 business days of the adoption of an ordinance pursuant to this section, the municipal clerk shall forward a copy of the ordinance to the Director of the Division of Local Government Services in the Department of Community Affairs.

L.1998,c.115,s.2.

40:56-71.3 Loan fund created.

3. There is created a non-lapsing downtown business improvement loan fund in the Department of Community Affairs, which shall be the repository for all moneys appropriated or otherwise made available to the fund. All moneys deposited in the fund shall be held in the fund and disbursed in the amounts necessary to fulfill the purposes of this act and subject to the requirements prescribed in this act. All moneys in the fund, or any portion thereof, may be invested and reinvested in legal obligations of the United States or of the State or of any political subdivision thereof. Any income from, interest on, or increment to moneys so invested or reinvested shall be included in the fund.

L.1998,c.115,s.3.

40:56-71.4 Loan purposes, application, requirements, review.

4. a. The downtown business improvement loan fund shall be used for the purpose of assisting municipalities that establish downtown business improvement zones in undertaking public improvements to the zones.

b. The municipality or district Management Corporation may submit a loan application to the Department of Community Affairs to borrow moneys from the fund to undertake a public improvement of the zone.

c. The loan application shall meet all of the requirements set forth in rules and regulations promulgated by the Commissioner of Community Affairs and shall include the following information:

(1) A description of the proposed improvement and how it relates to the special improvement district plan;

(2) An estimate of the total improvement costs;

(3) A statement of any other revenue sources to be used to finance the improvement;

(4) A statement of the time necessary to complete the improvement;

(5)A statement of the manner in which the proposed improvement furthers the purposes of the downtown business improvement zone ; and

(6)An analysis of the costs to be incurred and the benefits anticipated to be derived from the proposed public improvement.

d. In reviewing and approving applications for loans from the downtown business improvement loan fund, the Department of Community Affairs may require that the municipality or the district management corporation receiving the loan provide matching funds, in any percentage that may be deemed appropriate by the department, as a condition for the receipt of the loan.

40:56-71.5 Assessments to repay loan.

5. a. In any instance in which a municipality or a district management corporation receives a loan from the downtown business improvement loan fund, the governing body of the municipality shall establish assessments in the manner in which costs may be assessed pursuant to section 8 of P.L.1972, c.134 (C.40:56-72) within the special improvement district in which the downtown business improvement zone is located in an amount sufficient to produce revenues on an annual basis to repay the loan in accordance with the repayment schedule for the loan established by the Department of Community Affairs.

b. The Department of Community Affairs may, at any time, revoke the approval of an improvement or funding for an improvement if it finds that the payments made from the fund are not being used as required by P.L.1998, c.115 (C.40:56-71.1 et seq.).

L.1998,c.115,s.5.

40:56-71.6 Rules, regulations.

6.The Commissioner of Community Affairs shall promulgate, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) such rules and regulations as are necessary to implement the provisions of P.L.1998, c.115 (C.40:56-71.1 et seq.).

L.1998,c.115,s.6.

40:56-71.7 Study of effects.

7.The Department of Community Affairs shall conduct a study of the effects of P.L.1998, c.115 (C.40:56-71.1 et seq.), make a report of the study's findings and recommendations and submit the report to the Governor, President of the Senate and Speaker of the General Assembly no later than three years following the effective date of P.L.1998, c.115 (C.40:56-71.1 et seq.). In conducting the study

the Commissioner of Community Affairs shall seek input from the State Treasurer as well as from a member of the Senate and the General Assembly and a representative of Downtown New Jersey, all to be selected by the Commissioner.

40:56-72. Financing and assessment to properties especially benefited; list

A pedestrian mall or special improvement district ordinance may provide that all costs of development, construction and acquisition relating to the creation of a pedestrian mall or provision of improvements for a special improvement district, as the case may be, shall be financed and assessed to properties especially benefited thereby as provided generally by R.S. 40:56-1 et seq., and the ordinance shall list and describe, by lot and block numbers and by street addresses, all properties to be assessed for the pedestrian mall or special district improvements, as the case may be.

L.1972, c. 134, s. 8, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 8, eff. Sept. 10, 1984.

40:56-73. Operation and maintenance; assessment or taxation of costs to benefited properties; name as improvement district

If the governing body determines that the improvements will involve annual costs in addition to the initial cost of constructing and making the improvements, and that such annual costs relate to maintenance services peculiar to the mall facility or special improvement district, as the case may be, and distinguished from maintenance services normally provided by the municipality outside of the mall facility or special improvement district, as the case may be, and will provide benefits primarily, in the case of a pedestrian mall, to adjacent, surrounding or neighboring property, or in the case of a special improvement district, to property included in the district, rather than to the municipality as a whole, the ordinance may provide that the improvements and facilities thereof shall be operated and maintained pursuant to the provisions of this act and the costs thereof assessed or taxed to benefited properties or businesses pursuant to the provisions of section 16 of P.L.1972, c. 134 (C. 40:56-80) or section 19 of this amendatory and supplementary act. At any time after a pedestrian mall or special improvement district ordinance has been adopted or lands have been acquired or improved for a pedestrian mall or special improvement district, as the case may be, the governing body may upon such determination provide, by separate ordinance or by amendment to the ordinance, that the improvements and facilities thereof shall be so operated and maintained and the costs so taxed and assessed to benefited properties or businesses. In any such case, such ordinance shall describe the properties to be assessed or taxed, or in which any businesses may be contained which may be assessed or taxed, for such annual costs, which area may be given the name "(name of Pedestrian Mall) Improvement District" or "(name of Special Improvement District) Improvement District" .

L.1972, c. 134, s. 9, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 9, eff. Sept. 10, 1984.

40:56-74. Specifications for construction

Notwithstanding any contrary provision of law, ordinance, code or regulation governing standards and specifications for street and sidewalk construction, a pedestrian mall or any street or sidewalk included in a special improvement district may be constructed of concrete, bricks, asphalt tiles, blocks, granite or such other materials and such combinations of materials as the governing body of a municipality shall approve, and the governing body of a municipality may in its discretion narrow any roadway to be kept and maintained in connection with any pedestrian mall or special improvement district, may cause any street vaults to be reconstructed or removed, may construct crosswalks at any point within a block as well as at the ends of blocks, and may cause the roadway to curve and meander within the limits of the street, regardless of the uniformity of width of the street or curve or absence of curve in the center line of such street, to enhance the usefulness and appearance of a pedestrian mall or special improvement district.

L.1972, c. 134, s. 10, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 10, eff. Sept. 10, 1984.

40:56-75. Police powers and other rights and powers of municipality over pedestrian mall or special improvement district

Notwithstanding the improvement of any street as a pedestrian mall or incident to a special improvement district, the municipality and its governing body shall retain its police powers and other rights and powers relating to the street or part thereof constituting the pedestrian mall or included in a special improvement district, and no such action shall be interpreted or construed to be a vacation, in whole or in part, of any municipal street or part thereof, it being intended that the establishment of a pedestrian mall or special improvement district pursuant to this act, as the case may be, is a matter of a regulation only. This act shall not prevent the governing body of any municipality, at any time subsequent to the adoption of a pedestrian mall or special improvement district ordinance, by ordinance, from abandoning the operation of the pedestrian mall or special improvement district, changing the extent of the pedestrian mall or special improvement district, supplementing or amending the description of the district to be specially assessed or taxed for annual costs of the pedestrian mall or special improvement district, or changing or repealing any limitations on the use of the pedestrian mall or special improvement district streets by private vehicles or any plan, rules or regulations adopted for the operation of a pedestrian mall or special improvement district.

L.1972, c. 134, s. 11, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 11, eff. Sept. 10, 1984.

40:56-76. Condemnation; procedures incident to development and maintenance

Condemnation proceedings incidental to the development or maintenance of a pedestrian mall or special improvement district, as the case may be, are

authorized and shall be taken in accordance with the provisions of chapter 56 of Title 40 of the Revised Statutes. All procedures incidental to the development and maintenance of a pedestrian mall or special improvement district pursuant to this act, including financing land acquisition and legal challenges and appeals not specifically prescribed hereunder, shall be taken in accordance with other applicable provisions of said chapter 56 of Title 40.

L.1972, c. 134, s. 12, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 12, eff. Sept. 10, 1984.

40:56-77. Uses of mall or special improvement district; control and regulation

a. Any pedestrian mall created pursuant to this act above, or any property of a special improvement district may be used, under the direction of the governing body, for any purpose or activity which will enhance the movement, safety, convenience or enjoyment of pedestrians, including seating, display and sale of merchandise, exhibiting, advertising, public events, and any other use or activity which in the judgment of the governing body will enhance the movement, safety, convenience or enjoyment of pedestrians and any other use or activity permitted by any applicable pedestrian mall ordinance, a special improvement district or other applicable law, ordinance or power.

b. Upon adoption of a pedestrian mall or special improvement district ordinance, the governing body may, from time to time, provide for the control and regulation of:

(1) The distribution and location of movable furniture, sculpture or pedestrian traffic control devices, landscaping and other facilities belonging to the pedestrian mall or special improvement district, as the case may be, and not otherwise located or fixed by the plans and specifications;

(2) The uses to be permitted on the mall or special improvement district property by occupants of abutting property, any transit or telephone utility, concessionaires, vendors and others to serve the convenience and enjoyment of pedestrians and the location of such uses;

(3) The issuance of permits to conduct any special activity consistent with the broad purposes of the pedestrian mall or special improvement district;

(4) The operation of any lighting, heating or other facilities in the mall or on special improvement district property, replacing landscaping and maintaining the furniture and facilities in the mall or on special improvement district property.

L.1972, c. 134, s. 13, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 13, eff. Sept. 10, 1984.

40:56-78. Limitation on liability for injury to person or property due to movable structures, appurtenances, etc.

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

L.1972, c. 134, s. 14, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 14, eff. Sept. 10, 1984.

40:56-79. Advisory board; members; duties; district management corporation

The mayor or other chief executive officer of the municipality may create and appoint an advisory board, consisting of seven or more persons, at least a majority of whom shall be owners or occupants of properties adjoining a pedestrian mall or included in a special improvement district, as the case may be, or representatives of these owners or occupants, to advise the governing body in connection with the acquisition, construction and improvement of a pedestrian mall, or the acquisition and construction of improvements for a special improvement district, as the case may be, the making of a plan therefore and the operation and maintenance thereof and to meet and furnish recommendations or comments and requests of members of the public and of owners and occupants of property adjoining the pedestrian mall or included in the district, as the case may be. Upon designation of a district management corporation, in the case of a special improvement district, the corporation shall exercise the functions of an advisory board, and any other advisory board shall cease to function.

L.1972, c. 134, s. 15, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 15, eff. Sept. 10, 1984.

40:56-80. Annual report; costs of operation and maintenance and annual improvements; hearing on and approval of estimates; assessments; disposition of funds

a. Concurrently with the submission of a plan for a pedestrian mall improvement or special improvement district, and annually thereafter, the mayor or other chief executive officer of the municipality shall, with the assistance of the advisory board, if any, or district management corporation, if appropriate, report to the governing body an estimate of the cost of operating and maintaining and annually improving the pedestrian mall or special improvement district, as the case may be, for the next fiscal year, to be incurred under the plan, and an estimate of changes in the amounts of such costs which would follow upon the adoption of any addition or amendment to the plan recommended to or under

consideration by the governing body. Such estimate shall be reasonably itemized and shall include a summary of the categories of cost properly chargeable as follows:

(1) The amount of such costs to be charged against the general funds of the municipality, which shall be that amount which the municipality would pay from its general funds for street maintenance and operation on a street of similar size and location, but not improved as a pedestrian mall or included in a special improvement district, as the case may be;

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

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

b. The governing body shall receive and consider such estimate and the items of cost after such notice and hearing before it or its appropriate committee as it shall deem necessary or expedient, and shall approve the same, with such amendments thereto as it shall find necessary, and the amounts of each item of cost estimated shall be deemed appropriated and expendable to operate and maintain the pedestrian mall or special improvement district, as the case may be, during the ensuing fiscal year.

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

d. For the purpose of this section, "annual improvements" shall, with respect to

pedestrian malls or special improvement districts, mean and include any reconstruction, replacement or repair of trees and plantings, furniture, shelters and other facilities of a pedestrian mall or special improvement district, furnishing overhead or underground heating for snow removal or for enjoyment of pedestrians, and any other local improvement which benefits properties within the district. For the purpose of this act, "costs" shall, with respect to annual improvements to and operation and maintenance of pedestrian malls or special improvement districts, mean costs of annual improvements; fees of consultants employed by the governing body to assist in the planning of annual improvements; and all other costs incurred or to be incurred in connection with annual improvements to and operation and maintenance of pedestrian malls or special improvement districts, as the case may be.

e. Moneys appropriated and collected on account of annual improvement costs, and costs of operating and maintaining a pedestrian mall or special improvement district shall be credited to a special account. The governing body is authorized to incur the annual costs of improving, operating and maintaining a pedestrian mall or special improvement district, as the case may be, during any fiscal year, though not specifically provided for by line item or other category in an approved estimate for such fiscal year, if in its discretion it shall be deemed necessary to provide for such annual improvements or operation or maintenance prior to the succeeding fiscal year and so long as the total amount of the account as approved for that year is not exceeded by that expenditure. Any balances to the credit of the account and remaining unexpended at the end of the fiscal year shall be conserved and applied towards the financial requirements of the succeeding year.

L.1972, c. 134, s. 16, eff. Aug. 17, 1972. Amended by L.1984, c. 151, s. 16, eff. Sept. 10, 1984.

40:56-81. Additional powers

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

L.1972, c. 134, s. 17, eff. Aug. 17, 1972.

40:56-82. Severability

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

L.1972, c. 134, s. 18, eff. Aug. 17, 1972.

40:56-83. District management corporation; powers

a. In addition to the powers otherwise conferred pursuant to this amendatory and supplementary act, a district management corporation may exercise those of the powers listed herein as may be conferred upon it by ordinance. A district

management corporation incorporated pursuant to Title 15A of the New Jersey Statutes shall exercise its powers in a manner consistent with that title.

b. The district management corporation shall have all powers necessary and requisite to effectuate its purposes, including, but not limited to, the power to:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(2) Employ such persons as may be required, and fix and pay their compensation from funds available to the corporation;

(3) Apply for, accept, administer and comply with the requirements respecting an appropriation of funds or a gift, grant or donation of property or money;

(4) Make and execute agreements which may be necessary or convenient to the exercise of the powers and functions of the corporation, including contracts with any person, firm, corporation, governmental agency or other entity;

(5) Administer and manage its own funds and accounts and pay its own obligations;

(6) Borrow money from private lenders for periods not to exceed 180 days and from governmental entities for that or longer periods;

(7) Fund the improvement of the exterior appearance of properties in the district through grants or loans;

(8) Fund the rehabilitation of properties in the district;

(9) Accept, purchase, rehabilitate, sell, lease or manage property in the district;

(10) Enforce the conditions of any loan, grant, sale or lease made by the corporation;

(11) Provide security, sanitation and other services to the district, supplemental to those provided normally by the municipality;

(12) Undertake improvements designed to increase the safety or attractiveness of the district to businesses which may wish to locate there or to visitors to the district, including, but not limited to, litter cleanup and control, landscaping, parking areas and facilities, recreational and rest areas and facilities, and those improvements generally permitted for pedestrian malls under section 2 of P.L. 1972, c. 134 (C. 40:56-66), pursuant to pertinent regulations of the governing body;

(13) Publicize the district and the businesses included within the district boundaries;

(14) Recruit new businesses to fill vacancies in, and to balance the business mix of, the district;

(15) Organize special events in the district;

(16) Provide special parking arrangements for the district;

(17) Provide temporary decorative lighting in the district.

L.1984, c. 151, s. 17, eff. Sept. 10, 1984.

40:56-84. Annual budget; public hearing; amendment; adoption by municipal governing body

a. The district management corporation shall submit a detailed annual budget for approval by resolution of the municipal governing body. The budget shall be submitted with a report which explains how the budget contributes to goals and objectives for the special improvement district.

b. The budget shall be introduced, approved, amended and adopted by resolution passed by not less than a majority of the full membership of the governing body.

The procedure shall be as follows:

(1) Introduction and approval;

(2) Public advertising;

(3) Public hearing;

(4) Amendments and public hearings, if required;

(5) Adoption.

c. The budget shall be introduced in writing at a meeting of the governing body. Approval thereof shall constitute a first reading, which may be by title.

Upon the approval of the budget by the governing body, it shall fix the time and place for the holding of a public hearing upon the budget.

d. The budget shall be advertised after approval. The advertisement shall contain a copy of the budget and shall set forth the date, the time and place of the hearing. It shall be published at least 10 days prior to the date fixed therefore in a

newspaper published and circulating in the municipality, if there be one, and, if not, in a newspaper published in the county and circulating in the municipality.

e. No budget shall be adopted until a public hearing has been held thereon and all persons having an interest therein shall have been given an opportunity to present objections.

The hearing shall be held not less than 28 days after the approval of the budget.

f. The public hearing shall be held at the time and place specified in the advertisement thereof, but may be adjourned from time to time until the hearing is closed.

The budget, as advertised, shall be read at the public hearing, in full, or it may be read by its title, if:

(1) At least one week prior to the date of the hearing, a complete copy of the approved budget, as advertised:

(a) shall be posted in a public place where public notices are customarily posted in the principal municipal building of the municipality, but if there is no principal municipal building, then in that public place where notices are usually posted in the municipality; and

(b) is made available to each person requesting the same, during that week and during the public hearing; and

(2) The governing body shall, by resolution passed by not less than a majority of the full membership, determine that the budget shall be read by its title and declare that the conditions set forth in paragraph (1) have been met.

After closing the hearing, the governing body may adopt the budget by title, without amendments, or may approve amendments, as provided in subsection g. of this section, before adoption.

g. The governing body may amend the budget during or after the public hearing.

No amendment by the governing body shall be effective until taxpayers and all persons having an interest therein shall have been granted a public hearing thereon, if the amendment shall:

(1) Add a new item in an amount in excess of 1% of the total amount as stated in the approved budget; or

(2) Increase or decrease any item by more than 10%; or

(3) Increase the amount to be raised pursuant to section 16 of P.L.1972, c. 134 (C. 40:56-80) or section 19 of this amendatory and supplementary act by more than 5%, unless the same is made pursuant to an emergency temporary appropriation only.

Notice of hearing on an amendment shall be advertised at least three days before the date set thereof. The amendment shall be published in full in the same manner as an original publication and shall be read in full at the hearing and before adoption.

h. Final adoption shall be by resolution, adopted by a majority of the full membership of the governing body, and may be by title.

L.1984, c. 151, s. 18, eff. Sept. 10, 1984.

40:56-85. Annual licenses for business within special improvement district; fees; special account

a. In lieu of, or in addition to, funding pursuant to section 16 of P.L.1972, c. 134 (C. 40:56-80) of the activities of the district management corporation to be undertaken pursuant to this amendatory and supplementary act, the municipality may, by ordinance, require annual licenses for businesses operating in properties within the special improvement district, and establish fees for those licenses based on the assessment among these businesses of the aggregate amount of the annual budget of the district management corporation, approved pursuant to section 18 of this amendatory and supplementary act, which is not funded pursuant to section 16 of P.L.1972, c. 134. The ordinance may establish reasonable categories of businesses subject to licensing, and reasonable exemptions therefrom or abatements of the fees therefor. The assessments to businesses pursuant to this section shall be by floor area of licensable business space, or sales volume, or some other reasonable basis or combination of bases.

b. Moneys appropriated and collected on account of annual costs to be funded pursuant to subsection a. of this section shall be credited to a special account. Any balances to the credit of the account and remaining unexpended at the end of the fiscal year shall be conserved and applied toward the financial requirements of the succeeding year.

c. The ordinance shall provide for a reasonable appeal procedure for any administrative determination made under the provisions of this section.

L.1984, c. 151, s. 19, eff. Sept. 10, 1984.

40:56-86. Delegation of work by municipality; approval of work

The municipality may, by ordinance, delegate to the district management corporation the contracting of work to be done on any street or streets, or on other municipal property, included in the special improvement district. The

corporation shall be a "contracting unit" within the meaning of the "Local Public Contracts Law," P.L.1971, c. 198 (C. 40A:11-1 et seq.). The plans and specifications for the work to be contracted shall be approved by the municipal engineer prior to initiation of any action for the awarding of a contract under that act.

L.1984, c. 151, s. 20, eff. Sept. 10, 1984.

40:56-87. Inclusion of pedestrian mall or special improvement district in other improvement or rehabilitation district

Nothing contained in P.L.1972, c. 134 (C. 40:56-65 et seq.) or in this amendatory and supplementary act shall prohibit a municipality from including a pedestrian mall or special improvement district within the bounds of any area, district or zone established pursuant to law, which has as one of its purposes the encouragement of the construction of improvements or the rehabilitation of properties located within those bounds, or the inducement of private enterprises to locate within those bounds, whether by the provision of tax credits, exemptions or abatements, or by provision of special public financing arrangements. The provisions for the pedestrian mall or special improvement district shall be included within the plans for the area, district or zone so established, whether by integration into the original plans or by amendment.

L.1984, c. 151, s. 21, eff. Sept. 10, 1984.

40:56-88. District management corporation; annual audit

The district management corporation shall cause an annual audit of its books, accounts and financial transactions to be made and filed with the governing body of the municipality, and for that purpose the corporation shall employ a certified public accountant of New Jersey. The annual audit shall be completed and filed with the governing body within four months after the close of the fiscal year of the corporation, and a certified duplicate copy of the audit shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs within five days of the filing of the audit with the governing body of the municipality.

L.1984, c. 151, s. 22, eff. Sept. 10, 1984.

40:56-89. Annual report to municipal governing body

The district management corporation shall, within 30 days after the close of each fiscal year, make an annual report of its activities for the preceding fiscal year to the governing body of the municipality.

L.1984, c. 151, s. 23, eff. Sept. 10, 1984.