

**BOROUGH OF HIGHLAND PARK
ORDINANCE NO. 22-2064**

AN ORDINANCE ESTABLISHING A PEDESTRIAN MALL ON SO. 3RD AVENUE
PURSUANT TO N.J.S.A. 40:56-65 ET SEQ. IN THE BOROUGH OF HIGHLAND PARK,
COUNTY OF MIDDLESEX, NEW JERSEY

WHEREAS, the Mayor and Borough Council desire to establish a Pedestrian Mall on a portion of So. 3rd Avenue at the signalized intersection of NJ Route 27 (Raritan Avenue) to a point approximately 150 feet south of the intersection to create a much-needed permanent public gathering space downtown; and

WHEREAS, the adopted 2021 Downtown Redevelopment Plan for Tracts A-D identifies So. 3rd Avenue as the preferred location for such a public space; and

WHEREAS, N.J.S.A. 40:56-65 authorizes the governing body of a municipality to limit the use of streets by private vehicles when such limitation is found 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; and

WHEREAS, N.J.S.A. 40:56-65 further provides that the governing body of a municipality may adopt an ordinance in order to protect the public welfare and health and 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 a municipality; and

WHEREAS, pursuant to N.J.S.A. 40:56-66, 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, 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, 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 the municipality will enhance the movement, safety, convenience and enjoyment of pedestrians and benefit the municipalities and adjoining properties; and

WHEREAS, in accordance with N.J.S.A. 40:56-68(a), the Borough Council finds that: (1) So. 3rd Avenue is not a part of any State highway, is located primarily in a business district, and 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 So. 3rd Avenue 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 a street primarily for pedestrian purposes, and that pedestrian use is determined to be the highest and best use of such street or part thereof; and

WHEREAS, in December 2021, CME Associates prepared a Traffic Evaluation Report for the Establishment of Permanent Closures on So. 3rd Avenue at NJ Route 27 (Raritan Avenue) and No. 4th Avenue at NJ Route 27 (Raritan Avenue) that found that the proposed permanent roadway closures can be implemented with continued efficient travel along the surrounding roadway network without adverse traffic impacts; and

WHEREAS, the Borough Council of the Borough of Highland Park finds it in the best interests of the Borough to establish a Pedestrian Mall as herein described.

NOW, THEREFORE BE IT ORDAINED by the Borough Council of the Borough of Highland Park, County of Middlesex, State of New Jersey, as follows:

1. Pursuant to N.J.S.A. 40:56-68a, the findings set forth in the Whereas clauses above are hereby incorporated into this Ordinance.
2. Pursuant to the findings set forth above and formal approval from the New Jersey Department of Transportation, the portion of So. 3rd Avenue at the signalized intersection of NJ Route 27 (Raritan Avenue) to a point approximately 150 feet south of the intersection as depicted in a plan on file with the Borough Clerk and is hereby designated as a Pedestrian Mall pursuant to N.J.S.A. 40:56-65 et seq.
3. The use of the surface of the above-described portions of So. 3rd Avenue shall be limited at all times to pedestrians and also emergency, public works and other maintenance and services vehicles as required.
4. Under the direction of the Borough Council, the Pedestrian Mall may be used for any purpose or activity that will enhance the movement, safety, convenience, or enjoyment of pedestrians as authorized by N.J.S.A. 40:56-77.
5. The Borough Administrator or his or her designee shall provide for the control and regulation of the issuance of permits to conduct any special activities or operations consistent with the broad purpose of the Mall as well as the regulation of a limited amount of local vehicular traffic in order to allow for deliveries to be used directly or indirectly by a business and/or residence along the Pedestrian Mall during such hours and days which will not interfere with the use of the Pedestrian Mall by pedestrians and other authorized vehicles in accordance with the requirements of N.J.S.A. 40:56-69d.
6. As more specifically set forth in N.J.S.A. 40:56-75, the Borough shall retain its police and other rights and powers relating to the street constituting the pedestrian mall. 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 is a matter of a regulation only. This ordinance shall not prevent the

Borough from abandoning the operation of the pedestrian mall, changing the extent of the pedestrian mall, supplementing or amending the description to be specially assessed or taxed for annual costs of the pedestrian mall, or changing or repealing any limitations on the use of the pedestrian mall streets by private vehicles or any plan, rules or regulations adopted for the operation of a pedestrian mall.

7. The Borough Clerk shall publish this ordinance in the manner required by N.J.S.A. 40:49-2, except that after same has been introduced and passed on first reading, as required by N.J.S.A. 40:56-71, the Borough Clerk shall at least ten (10) days prior to the time fixed for final passage, mail a copy of this ordinance, together with a notice of the introduction thereof and the date, time and place when this ordinance shall be considered for final passage to the owners of the lots or parcels of land abutting or directly affected by the proposed pedestrian mall.
8. SEVERABILITY. If any paragraph, section, subsection, sentence, sentence clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision of such holding shall not affect the validity of the remaining paragraphs or sections hereof.
9. INCONSISTENCY. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.
10. EFFECTIVE DATE. This ordinance shall take effect upon final passage and publication according to law and upon formal approval from the NJ Department of Transportation.

Introduced at the meeting on November 22, 2022

Adopted:

Attest:

Approved:

Jennifer Santiago
Borough Clerk

Gayle Brill-Mittler
Mayor