

## ORDINANCE NO. 2019-40

### ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY SUPPLEMENTING THE REVISED GENERAL ORDINANCES OF THE BOROUGH TO INSERT NEW CHAPTER 297: "COMMON CARRIER DROP BOXES" TO REGULATE THE PLACEMENT OF EXISTING AND FUTURE COMMON CARRIER DROP BOXES IN, NEAR, AND UPON PUBLIC STREETS, SIDEWALKS, AND ROADWAYS

**BE IT ORDAINED** by the Governing Body of the Borough of Red Bank that the Borough's Revised General Ordinances are hereby amended to insert new Chapter 446: "Common Carrier Drop Boxes" as follows:

#### **CHAPTER 297: COMMON CARRIER DROP BOXES.**

##### **§ 297-1 Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

###### **COMMON CARRIER**

Any person, organization, firm, or entity engaged in the business of picking-up, transmitting, carrying, or delivering documents, goods, packages, and/or parcels and offering said services to the general public, except that "common carrier" shall not include the United States Postal Service.

###### **DROP BOX**

Any machine, box, or other container placed, used and/or maintained by a common carrier for the purpose of collecting documents, goods, packages, and/or parcels for pick-up and/or delivery in connection with the common carrier's business.

###### **ROADWAY**

That portion of any street improved, designed or ordinarily used for vehicular traffic.

###### **SIDEWALK**

Any surface provided for the exclusive use of pedestrians, including the area between the curb of any street and the property line adjacent thereto, or if there is no curb, the area between the edge of the street and the property line adjacent thereto, and the sidewalk shall include the public right-of-way along such street or sidewalk.

###### **STREET**

All that area dedicated to public use for public street purposes and includes, but is not limited to, roadways, parkways, alleys and sidewalks.

##### **§ 297-2 Notification by Common Carriers.**

A. Any common carrier having a drop box which is already located or installed on any public sidewalk or public right-of way within the Borough of Red Bank on the effective date of this chapter shall, within 60 days of the effective date of this chapter, notify the Zoning Official, in writing, of the location and placement of each such drop box. Such notice shall include:

- (1) The precise location of each such drop box;
- (2) The name, address and telephone number of the common carrier; and
- (3) A certification by the common carrier that the location, installation and maintenance of such drop box conforms to, and will continue to conform to, the Borough Code of the Borough of Red Bank, and that said common carrier assumes the unconditional obligations for any legal liability occasioned by such installation and maintenance, and that said common carrier agrees to indemnify and hold harmless the Borough of Red Bank, its servants, agents and employees, for any and all claims arising out of

said common carrier's installation, use or maintenance of such drop box.

- B. Any common carrier having a drop box which is already located or installed on any public sidewalk or public right-of way within the Borough of Red Bank on the effective date of this chapter shall, within 60 days of the effective date of this chapter, apply to obtain a permit in accordance with the requirements and deadlines as set forth in the remaining sections of this chapter for any drop box or drop boxes such common carrier intends to continue operating.

**§ 297-3      Compliance and permit required.**

- A. It shall be unlawful for any common carrier to erect, place, maintain or operate a drop box on any public right-of-way within the Borough of Red Bank without first having obtained a permit from the Zoning Official. The permit shall specify the exact location of each such drop box. One permit may be issued to include any number of drop boxes and shall be signed by the applicant.
- B. An application for such permit shall be made in writing to the office of the Zoning Official of the Borough of Red Bank upon such form, as shall be provided, and shall contain the name and address of the applicant and the proposed specific location of said drop box or drop boxes and shall be signed by the applicant. The application must contain a certification by the common carrier that said common carrier assumes the unconditional obligations for any legal liability occasioned by such installation and maintenance, and that said common carrier agrees to indemnify and hold harmless the Borough of Red Bank, its servants, agents and employees, for any and all claims arising out of said distributor's installation, use or maintenance of such drop box. The application must also be accompanied by a color sketch or color drawing to scale, and specifications of the proposed drop box depicting compliance with the requirements for dimensions, color and lettering, and the application shall be signed by the applicant.
- C. If the applicant meets all the requirements of the provisions of this section, the permit shall be issued within 60 business days for an effective date of January 1.
- D. If the application is denied, the Zoning Official, within 30 business days and by regular mail, shall set forth in writing the reasons for the denial. For each requested location, the Zoning Official shall have an additional seven business days to act.
- E. Such denial by the Zoning Official may be appealed within 30 days to the Borough Council of the Borough of Red Bank, which shall render a decision within 60 days.

**§ 297-4      Conditions for permit; term; liability insurance.**

- A. Permits may be issued for the installation of a drop box or drop boxes, but such drop box or drop boxes and the installation, use or maintenance thereof shall be conditioned upon compliance with the provisions of this section.
- B. The application for a permit shall require the payment of an application fee of \$75 and an inspection fee of \$25 per drop box.
- C. The permit shall be valid for a period of one year, commencing January 1, and shall be renewable in January of the subsequent year. Permits shall be renewable pursuant to the procedure for original application.

**§ 297-5      Standards for maintenance and installation.**

Any drop box which in whole or in part rests upon or over any public sidewalk or public right-of-way shall comply with the following standards:

- A. No drop box shall exceed 60 inches in height, 24 inches in width or 20 inches in depth.

- B. The exterior of the drop box shall be in accordance with this chapter. No drop box shall be used for advertising signs or publicity purposes other than those dealing with the display, sale or purchase of the common carrier's offered services.
- C. Each drop box shall be maintained in a neat and clean condition and in good repair at all times.
- D. Each drop box shall be maintained to prevent the spillage of any documents, goods, packages, parcels, and/or any materials or supplies stored therein from being scattered about the area.
- E. Each drop box not located on an existing sidewalk or other hard surface area shall be placed on a precast concrete base. Installation, maintenance and removal of the base shall be the responsibility of the distributor.

**§ 297-6      Location and placement of drop boxes.**

Any drop box which in whole or in part rests upon or over any public sidewalk or public right-of-way shall be located in accordance with the following requirements:

- A. No drop box shall be used or maintained which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.
- B. No drop box shall be permitted to rest upon, in or over any public sidewalk, when such installation, use or maintenance:
  - (1) Endangers the safety of persons or property; or
  - (2) Unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle; or
  - (3) Unreasonably interferes with the ingress to or egress from any residence or place of business; or
  - (4) Unreasonably interferes with passengers boarding or exiting from buses at designated bus stops; or
  - (5) Unreasonably interferes with the use of traffic signs or signals, fire hydrants or mailboxes located or permitted at or near said location.
- C. Drop boxes shall be chained, bolted or otherwise secured so as to prevent their being blown or knocked down, or otherwise moved, onto or around the public right-of-way; provided, however, that no drop box shall be chained, bolted or otherwise secured to any traffic or street sign, signals, or poles without obtaining the permission of the Zoning Official.
- D. Drop boxes may be placed next to each other in groups at the same location, provided that no group of drop boxes shall extend for a distance of more than six feet along a curb, and provided, further, that there shall be a minimum of 20 feet between any such group of drop boxes and any other drop box or group of drop boxes.
- E. No drop box shall be placed, installed, used or maintained:
  - (1) Within six feet of any marked crosswalk or handicap curb ramp;
  - (2) Within 12 feet of a curb return of any unmarked crosswalk;
  - (3) Within 15 feet of any fire hydrant, fire or police call box, or other emergency communication facility;
  - (4) Within five feet of any driveway or apron;
  - (5) At any location whereby the clear space for the passageway of or for

pedestrians is reduced to less than six feet or would be reduced to six feet by drop box;

- (6) Within 10 feet of any standby or sprinkler connection or related safety or fire equipment;
- (7) Within five feet of any building, showroom or display window, unless written permission from the owner is secured and same is submitted with the application;
- (8) Within three feet of or on any public area improved with lawn, flowers, shrubs, trees or landscaping;
- (9) Within 300 feet of any other drop box operated by the same common carrier;
- (10) In front of a single-family or two-family residence;
- (11) To cause sight line obstruction at any intersection or driveway; or
- (12) No more than two drop boxes may be placed adjacent to each other at any location that complies with this chapter. After a drop box, or a pair of drop boxes, is permitted for a specific location, no additional drop boxes shall be placed less than 200 feet from the permitted drop box.

**§ 297-7 Enforcement.**

- A. If the Zoning Official or designee shall determine that a drop box does not comply with the provisions of this chapter, including the requirement to provide the notification required by § 297-2 of this chapter, then the Zoning Official or designee shall mail a written notice to the common carrier of such drop box, by certified mail, return receipt requested, stating the specific reasons why such drop box does not comply with the provisions of this chapter.
- B. If a common carrier fails to adjust, correct, register or otherwise cause such drop box to be brought into compliance with the provisions of this chapter within 10 days of the date the written notice of noncompliance is mailed by the Zoning Official or designee, then such common carrier shall be deemed to be in violation of this chapter.

**§ 297-8 Violations and penalties.**

- A. Any common carrier who, after written notice as set forth in § 297-7, fails to comply with the provisions of this chapter shall, upon conviction therefor in Municipal Court, be subject to a fine not to exceed \$1,000.00. Each day for which common carrier fails to comply with this chapter shall be a separate violation hereunder.
- B. If a common carrier is convicted of a violation of this chapter by the Municipal Court and if such common carrier thereafter refuses to remedy or correct the said violation within 20 days of the date of said conviction or, in the event of a direct appeal, within 20 days of the date upon which said conviction shall become final, then the Zoning Official or designee of the Borough of Red Bank shall be empowered to remove the drop box which was the basis for such conviction from the public sidewalk or public right-of-way. The Borough of Red Bank will store the drop box for a period not to exceed 30 days, during which period the owner can retrieve the drop box. After 30 days, the Borough of Red Bank will discard the drop box.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised

General Ordinances are ratified and remain in full force and effect.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that this Ordinance shall take effect immediately upon its passage and adoption according to law.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin		X			
Councilwoman Triggiano		X			
Councilman Ballard		X			
Councilman Yngstrom	Motion	X			
Councilman Ziprich	Second	X			
Councilwoman Horgan		X			

First Reading/Introduction: July 24, 2019

Public Hearing/Adoption: August 21, 2019

I hereby certify the above to be a true copy.

*Pamela Borghi*

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Pamela Borghi, Municipal Clerk