

## ORDINANCE NO. 2019-42

### ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY SUPPLEMENTING THE BOROUGH'S REVISED GENERAL ORDINANCES TO INSERT NEW CHAPTER 302: "CONSTRUCTION CRANES" TO REGULATE THE OPERATION AND USE OF CRANES WITHIN THE BOROUGH

**WHEREAS**, the Governing Body of the Borough of Red Bank (the "Borough") deems it necessary for the Borough to have a comprehensive construction ordinance, inclusive of construction cranes; and

**WHEREAS**, with the now-rising real estate market and recently increased activity within the Borough's Planning and Zoning Department, the Governing Body believes that the licensing of crane operators is becoming a matter of public safety; and

**WHEREAS**, any construction cranes to be utilized within the Borough will be operating in a densely populated environment, often in close proximity to residential units, office spaces, and pedestrians, thus underscoring the need for professional crane operators who adhere to the highest standards of safety; and

**WHEREAS**, the Governing Body of the Borough wishes to enact legislation which will regulate the registration of any cranes and the use of any cranes within the Borough; and

**WHEREAS**, the Governing Body of the Borough has determined that adopting this new Ordinance would be in the best interest of the Borough and will advance the safety of its residents and benefit the public welfare:

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Red Bank, County of Monmouth, State of New Jersey, that the Borough's Revised General Ordinances is amended to include new Chapter 302: "Construction Cranes" as follows:

#### **CHAPTER 302: CONSTRUCTION CRANES.**

##### **§ 302-1 Definitions.**

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

##### **BOARD**

The Crane Operators License Advisory Board established pursuant to N.J.S.A. 45:26-3.

##### **CERTIFICATION**

Certification from the National Commission for the Certification of Crane Operators or any other organization found by the Borough's Planning and Zoning Department to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies.

##### **COMMISSIONER**

The Commissioner of Labor.

##### **CRANE**

A power-operated hoisting machine used in construction, demolition or excavation work that has a power-operated winch, load line and boom moving laterally by the rotation of the machine on a carrier and has a manufacturer-rated lifting capacity of 10 tons or more. It shall not include a forklift, digger derrick truck, aircraft, bucket truck, knuckle boom, trolley boom or any vehicle or machine not having a power-operated winch and load line.

##### **CRANE SITE**

The location where the crane shall be stored, placed or operated from.

**OPERATOR**

An individual engaged in the operation of a crane.

**OWNER**

The person with ownership rights in the crane.

**PERSON**

Any individual, corporation, limited liability company, partnership, or other legal entity.

**§ 302-2      Permit required.**

- a. No person shall operate a construction crane within the Borough without having first applied for and obtained a construction crane permit required by this chapter, provided that compliance with §§ 302-3, 302-4 and 302-6 may be satisfied by proof satisfactory to the Borough Engineer of registration with the New Jersey Department of Labor and compliance with all statutes and regulations regarding the licensing and operation of cranes within the State of New Jersey.
- b. The permit will be maintained by the operator and/or owner at all times at the crane site. A copy of the permit shall be produced at the crane site upon demand.

**§ 302-3      Application for permit.**

- a. An application to operate a crane shall be made to the Borough's Planning and Zoning Department on forms provided for that purpose. The applicant must provide evidence of and state, at minimum:
  1. The names and addresses of the owner(s) of the crane;
  2. The names and addresses of the operator(s) of the crane;
  3. A copy of valid licenses issued the New Jersey Department of Labor reflecting the ownership and operation of said crane;
  4. A copy of the operator's certification from one of the following organizations:
    - (A) National Commission for the Certification of Crane Operators (NCCCO);
    - (B) Operating Engineers Certification Program (OECP);
    - (C) Crane Institute of America Certification; and/or
    - (D) As otherwise provided by this chapter.
  5. Proof that the operator submits to a random drug testing program;
  6. The crane's lift capacity;
  7. Proof of most recent and current proof of inspection;
  8. Engineer-certified geotechnical plan for crane site, unless the crane site shall be in/on a body of water;
  9. If the crane site is on public property, a Borough right-of-way, or property owned by someone other than the crane operator or someone who has contracted with the crane operator for the crane's use, then the applicant must provide written proof of permission to utilize the crane site;
  10. Construction permit;
  11. Certificate of continuing occupancy;
  12. New Jersey crane license;
  13. Current medical examiner's card;
  14. Proof of completion of signal person qualification or certification course;
  15. All other permits required by state and federal law; and
  16. Proof of insurance conforming to that which is required by § 302-7.
- b. A permit must be issued a minimum of five days before any operator, owner, contractor, other person or company initiates the use of a crane within the Borough of Red Bank. In emergent situations, in the discretion of the Construction Official,

this requirement may be waived if the operator meets the balance of the requirements of this chapter.

- c. If the applicant seeks to extend and/or renew a permit issued pursuant to this chapter, the applicant must seek extension or renewal before the expiration of the existing permit. The applicant shall certify that no changes have occurred since the filing of the initial permit application and remit payment of the fee established by § 302-6. If changes have since occurred, without compliance with § 302-8, then the Borough may deny said application for extension and/or renewal.

**§ 302-4      Appeal.**

In the event that any applicant for a permit shall have been refused a permit, said person shall have the right and privilege to appeal from such refusal to grant a permit to the Borough Council, or its designee; provided, however, that not less than five days' written notice of such appeal shall have been served upon the Borough Clerk, either in person or by registered mail, return receipt requested, and a date of hearing before the Borough Council or its designee shall be fixed no later than 30 days after the receipt of said notice of appeal. Thereupon, the Borough Council or its designee shall notify said person of the place, date and time of hearing.

**§ 302-5      Term of permit.**

Each permit issued pursuant to this chapter shall be valid for a period of 30 days and may be extended and/or renewed, provided that compliance with §§ 302-3 and 302-8 continue to be met. The applicant must seek approval for permitting in accordance with § 302-3(a).

**§ 302-6      Application Fee.**

The application fee for a construction crane permit is \$100. The fee for any renewal and/or extension of an existing permit is \$50.

**§ 302-7      Insurance Requirements.**

In addition to the information required to be provided pursuant to § 302-3, the applicant shall provide proof of general liability insurance naming the Borough as an additional insured in the amount of \$10,000,000.

**§ 302-8      Continuing Obligation.**

Each applicant for each permit issued pursuant to this chapter has a continuing obligation to update all information submitted with the applicant's application, pursuant to § 302-3, during the pendency of the application procedure and while the permit is valid.

**§ 302-9      Registration Required.**

- a. No person shall operate a crane within the Borough without first having registered the same as required by this chapter and as required under all state and/or federal statutes and regulations regarding the same.
- b. No person shall operate a crane within, on or over a public right-of-way, other publicly owned property or the private property of a person other than the owner of the crane or a person who has contracted for the use of or operation of such crane unless and until:
  1. The Borough has granted its permission and all other necessary

permits have been obtained; and

2. The owner has granted his/her/its express written permission.

**§ 302-10 Licensure of Crane Operators.**

- a. Licensure of operators pursuant to N.J.S.A. 45:26-7. No person shall engage in the operation of a crane, offer him/herself for employment as an operator or otherwise act, attempt to act, present or represent himself as a crane operator unless licensed as such under the provisions of N.J.S.A. 45:26.1, *et seq.*
- b. An operator's license shall be valid only in conjunction with a current certification and only in the specialty or specialties for which the crane operator is certified. The specialties are lattice boom crawler crane (LBC), lattice boom truck crane (LBT), telescopic boom cranes (TLL, swing cab, and TSS, fixed cab), tower cranes and overhead cranes.
- c. To be eligible for a license as an operator in the Borough of Red Bank, an applicant shall fulfill the following requirements:
  1. Be at least 18 years of age;
  2. Receive certification from the National Commission for the Certification of Crane Operators or any other organization found by the Borough's Planning and Zoning Department to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies;
  3. Have at least 1,000 hours of crane -related experience; and
  4. Maintain a current medical examiner's certification card.

**§ 302-11 Notification of Accident or Safety Issue Required.**

It shall be the duty of each operator, owner or person employing such operator and/or owner to immediately report to the Borough's Planning and Zoning Department any and all accidents or safety issues regarding the operating, assembly, and disassembly or jumping of a crane.

**§ 302-12 Safety Equipment Required.**

- a. All crane equipment shall be kept in safe working condition at all times by the owner and licensee.
- b. If any safety or operational aid used or required to be used in connection with the operation of a crane is not working properly, the operator of such crane shall immediately shut down the crane until the required safety or operational aid is repaired or replaced and the crane is restored to proper working order.

**§ 302-13 Administration; Enforcement.**

- a. The Borough's Planning and Zoning Department may issue rules and regulations for the administration of the provisions of this chapter.

b. The provisions of this chapter shall be enforced by the Borough's Planning and Zoning Department.

**§ 302-14 Violations and Penalties.**

a. Any person who violates any provision of this chapter is a disorderly person and is liable for a fine not to exceed \$500 and/or imprisonment for a period not to exceed 10 days. Each day a violation continues shall constitute a separate violation. In addition, violations of this chapter will result in an immediate shutdown of the crane site.

b. Any person or company who employs an unlicensed person as an operator or who permits or directs an unlicensed person to operate a crane shall be subject to a fine of not less than \$2,000 and not more than \$20,000 for each violation. Each day of illegal operation shall constitute a separate and distinct offense.

**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	Motion	X			
Councilwoman Triggiano		X			
Councilman Ballard		X			
Councilman Yngstrom		X			
Councilman Zipprich	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