

Roque Bluffs Harbor Ordinance

Article I – Applicability, Authority, and General Provisions

1. **Title.** The title of this Ordinance shall be the Roque Bluffs Harbor Ordinance.
2. **Authority.** This Ordinance is adopted pursuant to the authority granted by Titles 12, 17, 30-A, and 38 of the Maine Revised Statutes, and the Constitution of Maine, Article VIII, Part 2, as may be amended.
3. **Applicability.** This Ordinance shall govern all marine activities on, within, and abutting all harbors and other tidal waters of the Town.
4. **Purpose.** Within the harbors and all other tidal waters of the Town, the purpose of this Ordinance is to regulate marine activities; to ensure vessel and maritime property safety; to promote availability and use of valuable public resources; and to create a fair and efficient administrative framework for said purposes.
5. **Effective Date.** This Ordinance shall be effective upon adoption by the Town’s legislative body.
6. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance, the provision imposing the greater restriction shall control.
7. **Validity and Severability.** Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be unconstitutional or invalid, such declaration shall not affect the validity of this Ordinance in whole or in part other than the part so specifically declared by the court to be unconstitutional or invalid.

Article II – Harbormaster & Harbor Committee

1. **Harbormaster Appointment**
 - A. **Appointment.** The Harbormaster shall be appointed by the Select Board and shall be subject to its control and supervision. The Harbormaster shall serve in that capacity until discharged by the Select Board or until resignation. The Select Board may, in consultation with the Harbormaster and if it deems necessary, appoint a Deputy

Harbormaster.

- B. **Compensation.** The Select Board shall set the compensation of the Harbormaster and the Deputy Harbormaster, if any.
- C. **Training.** Upon appointment, the Harbormaster and Deputy shall comply with the training provisions of 38 M.R.S. § 1-A, as may be amended. An incumbent Harbormaster shall attend the training program once every five (5) years for continuing education and training. The Town shall reimburse the Harbormaster and Deputy for their first State Harbormaster Association's Training course required under this subsection, and the Select Board may reimburse the Harbormaster and Deputy for any additional reasonable and necessary training costs approved in advance by the Select Board.

2. Harbormaster Authority

- A. **Enforcement Authority.** The Harbormaster shall have the authority to enforce this Ordinance, any regulations promulgated thereunder, and the rules and regulations of the statutes of the State of Maine relating to the operation of vessels, as contained in Title 38, Chapter 1, of the Maine Revised Statutes, as may be amended. The Harbormaster shall manage the floats, docks, ramps, moorings and landings that are owned by the Town and shall make recommendations regarding their operation, use and maintenance to the Harbor Committee. The Harbormaster may establish additional regulations, such as for noise, speed of boats, or the production of wakes.
- B. **Meeting Attendance.** The Harbormaster shall regularly attend Town Meetings and Harbor Committee meetings. The Harbormaster shall keep the Select Board fully informed of all the Harbormaster's activities, including without limitation problems encountered, solutions affected, and activities which have required the Harbormaster's special attention.
- C. **Firearm Carry Requirement.** The Harbormaster may not make arrests or carry a firearm unless the Harbormaster has successfully completed the training requirements prescribed in this Ordinance and in Title 25, § 2804-I, as may be amended, and been so authorized in writing by the Select Board. Any law enforcement officer vested with the authority to carry a weapon and make arrests has the authority to enforce this Ordinance, if so authorized by the Harbormaster or Select Board. The Harbormaster's failure to pass any required training may be grounds for termination of their position by the Select Board, after notice and hearing.

3. Harbor Committee Establishment and Duties

A. **Designation and Duties.** The Select Board, or a designated body of at least three (3) appointed members that shall serve staggered terms of up to (3) years, shall act as the Harbor Committee for the purpose of monitoring the custody and management of Town tidal waters and facilities, to oversee the plan and general operation of the tidal waters, to advise the Harbormaster on implementation of the provisions of this Ordinance, to administer the Harbor budget as approved, to make recommendations to the Select Board concerning the enhancement of harbor facilities for the long range benefit of users and any revisions to this Ordinance. The Harbormaster shall serve the Harbor Committee as an ex officio, non-voting member.

B. General Provisions

- i. **Meetings.** The chairperson, vice chairperson, or the Harbormaster may call meetings of the Harbor Committee. The Committee shall meet monthly, except when the Harbor Committee determines no meeting is required. The chairperson, vice chairperson, or the Harbormaster may call special meetings of the Harbor Committee if determined necessary.
- ii. **Roles.** A Chairperson and Vice Chairperson of the Harbor Committee shall be elected by the membership. A Secretary shall be elected and shall keep a record of all proceedings and provide them to the Selectboard in a timely manner. The Harbormaster may not serve as the Chairperson or Vice Chairperson.
- iii. **Quorum and Vote.** A majority of the voting members appointed to the Harbor Committee shall constitute a quorum. The Harbor Committee decisions shall be made by a majority vote of the members present and voting.

Article III – Establishment of Harbor Boundaries, Moorings, and Anchorage Areas

1. Mooring and Anchorage Area Designations

The following mooring and anchorage areas are established and designated as areas A, B, C, D, E, and F. Areas A through E are as shown on the official Harbor Plan, which is part of this Ordinance and found in Appendix A. Area F includes all other tidal waters outside of areas A through E.

2. Vessel Moorings.

Vessel Moorings may be located in mooring areas A, B, C, D, and E, upon approval of the Harbormaster. The mooring of anything other than a Vessel on a Vessel Mooring is prohibited, without approval of the Harbormaster, consistent with this Ordinance.

3. Anchorage Areas

There shall be no anchoring of vessels in Areas A, B, or C without approval of the Harbormaster. Anchorage is permitted in Areas D, E and F as shown on the official Harbor Plan on a seasonal basis for no more than three (3) consecutive days without prior Harbormaster approval. The Harbormaster may order any vessel to change position when, in the Harbormaster's sole and exclusive judgment, an anchored vessel obstructs the free movement or safe anchorage of that vessel, impedes navigation in the area or endangers other vessels.

4. Lobster Car / Float Moorings

No lobster cars or free-floating docks or floats shall be permanently moored anywhere in in Town waters. Lobster cars may be temporarily moored in area A, B, or C only upon prior approval of the Harbormaster. The mooring of anything other than a lobster car, dock, float or other structure approved by the Harbormaster on a lobster car/float mooring is prohibited. The mooring of a vessel on a lobster car/float mooring is prohibited.

5. Haul-offs

Haul-offs are allowed with adequate hardware and approval of the Harbormaster. If any part of the haul-off is on private property, written approval of the shorefront landowner where the haul-off is located shall also be required and must be provided to the Harbormaster. Owners are liable for their own haul-offs and/or any maintenance, damages, and removal associated with them.

Article IV – Mooring Permit and Specifications

1. Purpose and Authority

The Harbormaster shall have authority over the placement and maintenance of all moorings and mooring locations within Town tidal waters, consistent with the provisions of this

Ordinance and applicable State and Federal regulations.

2. Mooring Permit and Placement of Moorings

A Mooring Permit, or a renewal of an existing Mooring Permit, is required for the installation of a mooring within the waters of the Town and, unless otherwise approved by the Harbormaster, all moorings must be placed within designed Mooring Areas in accordance with the Permit and this Ordinance. All moorings located in any tidal waters of the Town shall require a Mooring Permit obtained or renewed no later than April 1st of every year, and said permit shall be valid through March 31st of the following year. All moorings not registered by April 1st each year shall be removed by the owner, and the mooring privilege shall be revoked. The Harbormaster may extend the deadlines herein for good cause shown.

3. Mooring Inspection

Starting January 1, 2026, or upon installation, all moorings shall be inspected every three (3) years by the Harbormaster or an inspector approved by the Harbormaster that is a certified diver. It is the mooring owner's responsibility to arrange for timely inspections, take any necessary action noted in the inspection, and submit documentation of the inspection to the Harbormaster. The inspection shall determine if the mooring meets the mooring specification of this Ordinance and the mooring permit and is otherwise safe. A mooring that requires further action according to an inspection shall not be used until the action is completed, to the satisfaction of the inspector or Harbormaster. Any mooring requiring inspections by the Harbormaster are subject to inspection fees to be established by the Select Board. (See the current schedule of fees attached as Appendix B to this Ordinance.) If moorings are not safe or payment is not made, the Harbormaster will have the authority to deem the mooring "unsafe for use" and no vessel, lobster car, dock, float or other structure will be allowed to attach until issues are resolved to the Harbormaster's satisfaction. The Harbormaster may at any time, for good cause, require a mooring to be inspected by the Harbormaster.

4. Mooring Application Process

- A. Any person or entity desiring a Mooring Permit or Mooring Permit renewal, shall submit an application to the Harbormaster on an application form(s) for this purpose that is consistent with the terms of this Ordinance and designed by the Harbormaster or their designee. The application shall specify the specifications of the mooring, including the requested size and type of the vessel to utilize the mooring, and the designated use of the mooring.

- B. An application shall be accompanied by fees established by the Select Board, with the advice of the Harbormaster and Harbor Committee. A schedule of the current fees shall be included as Appendix B to this Ordinance.
- C. Upon receipt of an application, the Harbormaster may approve the application, put the applicant on a waiting list, deny the application, or request the applicant submit additional information, or refer the application to other Town boards or commissions for comment and information. Additional documentation requested may relate to any matter bearing on the promotion of order, safety, and use for the general public in the tidal waters of the Town.
- D. Issuance of mooring permits and assignments of mooring placements shall be granted on a first-come-first-served basis to a maximum of forty (40) permitted moorings. When the number of qualified applications exceeds the number of available mooring spaces in a requested mooring area, the Harbormaster shall maintain a waiting list of all applicants for that mooring area who have not been assigned a mooring permit and post it in the Town Office. As space in a given mooring area becomes available, assignments of mooring areas shall be made from the waiting list in accordance with the terms of 38 M.R.S. § 7 A(2), as may be amended from time to time, on the basis of the date of the applicant's request, and according to the following priorities:
 - i. Mooring permit renewal or vessel change.
 - ii. Shorefront landowner with request for a first mooring, with location adjacent to the owner's shorefront property where, to the Harbormaster's sole and exclusive judgment, it is safe to do so and does not interfere with other moorings or navigation.
 - iii. Resident commercial fisherman.
 - iv. Other Taxpayers of the Town of Roque Bluffs, including shorefront landowners requesting additional moorings.
 - v. Non-resident commercial fisherman.
 - vi. All others.

To remain on the waiting list, applicants must update their information annually prior to April 1st and pay the annual application fee. If an applicant refuses a mooring when one is offered, they may either choose to be dropped from the list or go to the bottom of the list.

In general, mooring permit holders will be limited to the same approximate size and type of vessel permitted for the specific mooring assignment unless, in the sole and exclusive judgment of the Harbormaster, a change can be made without adversely affecting existing mooring and navigational conditions and adjoining mooring permit holders.

- E. An application may be denied if the Harbormaster determines there are no available moorings assignments in the tidal waters, the assignment would detract from the order in the tidal waters or harbors, the assignment would jeopardize the safety and use of the tidal waters and harbors of the general public, or the assignment is otherwise inconsistent with this Ordinance.
- F. The Harbormaster shall make the decision to approve or deny the application within thirty (30) days of receipt of the application or, if applicable, additional requested information. An application that is not approved within this period shall be deemed to have been denied. The approval or denial of an application may be appealed pursuant to the appeal procedures of this Ordinance.
- G. Any moorings lawfully in place as of April 1, 2025, shall submit an application for a Mooring Permit by January 1, 2026. Preexisting moorings shall be given priority over applications for new mooring permits.
- H. All Mooring Permits shall be assigned a maximum vessel size and draft that may use the mooring. The mooring may be used for a smaller vessel size or draft but may not, without prior written approval of the Harbormaster, be used for a vessel of greater size or draft.
- I. Failure to comply with the annual renewal procedure for any reason, including, but not limited to non-deliverability of any notice or application, shall constitute an abandonment of the mooring assignment, the Town will take possession and the Harbormaster may remove the mooring at the expense of the mooring owner plus a fee of \$100 to be paid to the Town.

5. **Mooring Specifications**

- A. The Harbormaster shall specify on the mooring permit the location of the mooring, the minimum size, type and scope of the mooring and the maximum size, draft, and type of boat moored thereon, whether for the initial placement or relocation of the mooring. The Harbormaster must be present whenever a mooring is emplaced or removed. Owners of moorings are responsible for ensuring each mooring is in a safe condition, in a proper location, and meets the following specifications at all times:

- i. Moorings shall consist of granite block, stone or anchor of sufficient weight while in the water to hold the vessel for which they are to be used. Concrete mooring blocks which are commercially manufactured and warranted for the purpose of mooring may be used. Hand-mixed concrete blocks, old engine blocks and other miscellaneous weighted objects are not acceptable as mooring anchors.
- ii. Boat and/or mooring owners may be liable for any damage caused by faulty, inadequate, or improperly placed moorings.
- iii. Moorings shall be labeled as directed by the Harbormaster. The labels shall be of adequate size and color to be read easily. They shall be placed on a floatable and visible trawl balloon or mooring buoy attached to the mooring anchor. Metal balls shall not be used as mooring buoys.
- iv. Shackles may be used to connect the mooring chain to the mooring staple, but must be inspected annually by the Harbormaster or an approved inspector. Fees for an inspection by the Harbormaster shall be paid in full by the owner by day of inspection.
- v. Mooring pennant length shall be based on the length of the vessel and what the Harbormaster deems correct fitment.
- vi. Pole moorings are not permitted.

6. Types of Mooring Permits Uses, Transfer of Mooring Permits, and Temporary Mooring Permits

- A. **Types of Mooring Permit Uses.** Each Mooring Permit application shall specify one of the following types of mooring permit uses.
 - i. **General Purposes Mooring Permit.**
This is the category for a mooring used for any purpose other than the other purposes specifically noted in this section.
 - ii. **Commercial Fishing Purposes Mooring Permit**
This is for moorings used exclusively for vessels engaged in commercial fishing, within the meaning of 7 M.R.S. § 3-A, as may be amended.
 - iii. **Law Enforcement Mooring Permits**
A mooring permit may be issued by any federal, State or local law enforcement

agency authorized by law to enforce marine resources laws, to maintain public order, to prosecute offenders and/or to make arrests for crimes; provided, however, that except as provided below regarding the statutory allocation system, all provisions of this ordinance shall be complied with by such law enforcement agency and provided further that any such approved mooring permit shall be used solely by such law enforcement agency for such law enforcement purpose. Law enforcement mooring permits shall not be counted for purposes of the allocation system set forth in 38 M.R.S.A. § 7-A, as may be amended.

iv. **Lobster Car / Float Mooring Permit**

A mooring permit may be issued for a lobster car, dock, float, or other structure approved in advance by the Harbormaster provided that the applicant is (A) the current owner of the shore rights to a "parcel of land" as that term is defined in 38 M.R.S.A. § 11(2), as may be amended, and demonstrates the practical necessity for a lobster car/float mooring; or (B) the current holder of a valid Town mooring permit. Any structure approved by the Harbormaster on a lobster car/float mooring shall be limited in size to 600 square feet. Lobster car / float mooring permits shall not be counted for purposes of the allocation system set forth in 38 M.R.S. § 7-A, as may be amended from time to time

B. **Moorings Uses Prohibited.** The followings mooring uses are prohibited:

- i. Houseboats.
- ii. Derelict vessels.

C. **Transfer of Mooring Permit**

The sale, lease, rental, transfer or assignment of a mooring permit is prohibited in all mooring areas unless it is a transfer of a mooring permit used for commercial fishing purposes. A mooring permit used for commercial fishing purposes may only be transferred as follows: (1) at the request or death of the assignee; (2) to a member of the assignee's family; and (3) if the mooring assignment will continue to be used for commercial fishing purposes. For the purposes of this section, "member of the assignee's family" means an assignee's parent, child or sibling, by birth or by adoption, including a relation of the half blood, or an assignee's spouse. The Harbormaster shall be notified of transfers for commercial fishing purposes within thirty (30) days of the transfer. The use of a mooring permit by anyone other than the mooring permit holder is prohibited in all mooring areas in Roque Bluffs except as provided herein for Temporary Mooring Permits.

D. **Temporary Mooring Assignment and Placement**

When, in the sole discretion of the Harbormaster, it is determined that extenuating

circumstances exist so as to necessitate the temporary use of another person's mooring, permission may be granted by the Harbormaster for the use of that mooring temporarily. A mooring holder shall not charge another for any temporary use of that mooring allowed under this Ordinance. The use of a temporary mooring may not exceed thirty (30) days. A temporary mooring permit shall not be issued more than two (2) consecutive times for the same vessel and/or lobster car/float and shall not be issued to any person, vessel or lobster car/float more than two (2) times in one year, with the one year time period measured from April 1st of the year of issuance to March 31st of the following year.

E. Change of Use

The Harbormaster shall be promptly notified of a proposed change of use of a mooring. The change shall not be permitted until the Harbormaster approves it upon determining the change of use is not inconsistent with this Ordinance. Use of a mooring is nontransferable except as otherwise provided in this Ordinance.

F. Change of Location

All moorings shall be subject to change in location, at the Owner's expense, if the Harbormaster determines such change to be in the best interest of the Town, the safety of Town waters, or required to comply with this Ordinance.

Article V – Enforcement & Appeals

1. Enforcement

- A. The Harbormaster, or their designee, shall enforce all provisions of this Ordinance and Title 38, §§ 1-2, and 281-285, or any rule or regulation promulgated pursuant thereto.
- B. No person shall refuse to obey any lawful order of the Harbormaster with reference to the operation, navigation, movement, relocation, or disposal of any vessel owned or occupied by said person within the tidal waters of the Town.
- C. No person shall assault, intimidate, or in any other manner willfully obstruct, intimidate, or hinder the Harbormaster in the lawful performance of their duties.
- D. Upon notice and a hearing presided over by the Chairman of the Harbor Committee, the Harbormaster may revoke the mooring permit of any person who fails to promptly correct any violation of this Ordinance or who refuses to obey any lawful order of the

Harbormaster with reference to moorings.

- E. The master or owner of any vessel or holder of any mooring permit or any other person who violates or knowingly assists the violation of any of the provisions of this Ordinance or the above-referenced provisions of Title 38, for which a specific penalty is not set forth herein, or for which a specific penalty is not otherwise provided by the laws of the State of Maine, shall be subject to the monetary penalties set forth in 30-A M.R.S. § 4452, as amended, which includes, without limitation, a minimum penalty for a specific violation in the amount of \$100 and a maximum penalty for a specific violation in the amount of \$2,500. Violations of this Ordinance, which also constitute violations of State laws with regard to speed restrictions, reckless operation of a vessel or operation of a vessel under the influence of drugs or liquor, as, set forth in 38 M.R.S. §§ 281-285, as may be amended, shall be subject to the penalties set forth in State law. In addition to the monetary penalties set forth herein, a violator of this Ordinance shall also be subject to an order of abatement of the violation as set forth in 30-A M.R.S. § 4452, as may be amended, and that violator shall further be subject to an action by the Town, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violations of this Ordinance.
- F. Upon reasonable notice to the owner, unless advanced notice is not safe and immediate removal is required, the Harbormaster shall remove all abandoned moorings and may bill the owner for costs.
- G. The Harbormaster shall remove any abandoned vessels and may bill the owner for costs.

2. Appeals

Any persons aggrieved directly or indirectly by a decision, order, rule or act, or the failure to act of the Harbormaster may appeal said decision, order, rule, act, or failure to act to the Select Board. Such appeal must be in writing and filed within fourteen (14) days of said decision, order, rule, act, or the failure to act, and must state with specificity, the decision, order, rule, act, or failure to act, and state the reasons for appeal. This Select Board may hear an untimely appeal for good cause shown. The Select Board will review the Harbormaster's decision, order, rule or act, or failure to act de novo, and, upon hearing the appeal on its own record, the Select Board may affirm, modify, or set aside the decision, order, rule, act, or failure to act, only if such is not supported by any facts, or is clearly contrary to the intent and specific provisions of this Ordinance. The Select Board shall issue a written notice of its decision to the appellant, specifying the reasons for the decision, within fourteen (14) days of the decision, unless this timeline is extended by the appellant.

An appeal from the decision of the Select Board may be taken by the aggrieved party or parties to the Maine Superior Court within thirty (30) days of the decision, in accordance with the Maine Rules of Civil Procedure.

Unless the Harbormaster's action being appealed is revoked by the Select Board or a court of competent jurisdiction, such decision shall remain in full force and be forthwith complied with by the person during the pendency of any appeal.

Article VI– Definitions

All words not herein shall carry their customary and usual meaning. Words used in the present tense shall include the future. Words in the singular shall include the plural and vice versa. The word “shall” is used to include the mandatory and the word “may” is used to indicate the permissive.

Abandoned Mooring: A mooring in Town tidal waters that is unregistered (i.e. has an expired permit), unmarked, or unused an entire year may be considered abandoned and may be removed.

Abandoned Vessel: Any vessel which is determined by the Harbormaster to constitute a hazard to navigation, or which is sinking or already sunk, or which is stranded on any property without the permission of the owner of the property, or which the Harbormaster determines has been given up by its master or owner with the intent to never again claim a right or interest in it.

Anchor: The device used to secure a vessel to the bottom of a body of water.

Anchorage: An area of a harbor or tidal waters set aside for the temporary anchoring of vessels.

Anchoring: To secure a vessel to the bottom within a body of water by dropping an anchor(s) or other ground tackle, which is carried aboard a vessel when underway as regular equipment.

Commercial Fisherman: A person who derives a majority of their annual income from lobstering, fishing, or clamming, or any other marine fishery and who has obtained all necessary permits, licenses, and approvals.

Commercial Mooring: Any mooring used to hold boats or floats awaiting service from a marine related business or used on a permanent basis to hold boats or floats belonging to a marine related business provided such boats or floats are actively used for specific activities related to their business. Commercial moorings require Army Corps of Engineers approval.

Derelict Vessel: A watercraft of any kind that is unseaworthy or in badly deteriorated condition or which is likely to sink or cause damage to docks, floats or other vessels or which may become a hazard to navigation.

Dinghy: A punt, skiff, tender or similar watercraft, powered or unpowered, used solely as transportation to or from a watercraft on a mooring.

Dock: The slip or waterway extending between two piers or projecting wharves cut into the land for the reception of vessels.

Float: Any floating structure normally used as a point of transfer for passengers and goods and/or for mooring purposes.

Harbor: A designated area of tidal waters.

Harbormaster: An official appointed pursuant to this Ordinance.

House Boats: The use and occupancy of a raft, hull, barge or vessel designed primarily to be occupied as living quarters and providing living, sleeping, cooking and/or sanitary facilities, whether temporary or permanently.

Haul-Off: A mooring or tether system attached to a mooring for a dinghy or watercraft which allows the dinghy or watercraft to be hauled to and from a mooring block or anchor to the shore by a system of lines secured at the shore. Also known as an out-haul.

Mooring: An appliance, used by a vessel, for anchoring purposes, providing a permanent, adequate means of securing a vessel to the bottom in an anchorage, and which cannot be carried aboard such vessel, when such vessel is underway, as regular equipment.

Mooring Assignment: A specific location on, in and under the waters governed by this Ordinance, selected by the Harbormaster, for placement of mooring gear and tackle to allow a vessel to be secured to that location through the use of a mooring.

Mooring Permit: A permit issued pursuant to this Ordinance that entitles the holder to install and use a mooring subject to certain specifications and restrictions.

Pier: A platform type structure contiguous with the shoreline and built there from over the water, supported by piles and used for the berthing, loading and unloading of vessels.

Resident: Any person who occupies a dwelling within the Town of Roque Bluffs for more than 183 days in a calendar year.

Nonresident: All persons not residents or taxpayers of this municipality are classified as nonresidents.

Shorefront Owner: An owner of a parcel of land which borders the tidal waters of this Town.

Tidal Waters: Bodies of water within a state's territorial waters, subject to the ebb and flow of ordinary tides, whether navigable or not, including, but not limited to, harbors, coves, sounds, channels, inlets, estuaries, and rivers.

Town: The Town of Roque Bluffs.

Vessel: Vessel shall include boats of all sizes propelled by said machinery or hand, scows, dredges, shellfish cars, and craft of any kind.

Appendix B: Schedule of Fees

- The annual fee charged for a mooring to residents or taxpayers in the Town of Roque Bluffs shall be \$50.
- The annual fee charged for a mooring to all others shall be \$150 if a permit is granted.
- The fee for the Harbormaster to remove a mooring is \$100.

All fees are payable to the Town of Roque Bluffs.