

Town of Rockport Coastal Waters & Harbor Ordinance 2018



A True Copy Attest

Adopted: June 8, 2004

Amended: June 12, 2007

Amended: June 10, 2008

*Linda M Greenlaw
Rockport Town Clerk*

Amended: November 3, 2009

Amended: June 12, 2012

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COASTAL WATERS AND HARBOR ORDINANCE

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Chapter 100 - Title, Purpose and Authority

101 - Title

This Ordinance shall be known and may be cited as the "Coastal Waters and Harbor Ordinance of the Town of Rockport".

102 - Purpose

The purpose of this Ordinance is to establish regulations for marine activities within the harbor and tidal waters of the Town of Rockport including the safety of mariners, the equitable and fair use of marine resources and an efficient framework for the administration of marine resources.

103 - Authority

This Ordinance is enacted pursuant to the authority granted by 30-A M.R.S.A. 3001, 38 M.R.S.A. 1, et seq. and Article VIII of the Maine Constitution.

104 - Repeal of Prior Ordinances

This Ordinance repeals and replaces the Rockport Marine Ordinance, Moorings Equipment Ordinance and Pier Dock and Bulkhead Ordinance.

Chapter 200 – Definitions

201 - Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used 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.

202 - Definitions

Bulkhead: A permanent solid structure or wall built along the shore to retain and protect the upland from wave and sea erosion

Commercial Pier: A pier from which the owner obtains a substantial portion of his/her income.

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Distress: A state of disability or a present or obviously imminent danger, which if unduly prolonged, could endanger life or property.

Emergency: A state of imminent or proximate danger to life or property in which time is of the essence.

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

Headway Speed: The minimum speed necessary to maintain steerage and control of the watercraft while the watercraft is moving.

Length Overall (LOA) The extreme length of a vessel measured from stem to stern and including bowsprits, boomkins, rudder posts, swim platforms, davits or other extensions from the hull.

Mean High Water (MHW) Mean High Water (MHW) A tidal Datum based on the average of all the high-water heights observed over the latest National Tidal Datum Epoch (currently 1983 – 2001). For the purposes of this Ordinance MHW is at an elevation to be calculated from data published by NOAA for Bench Mark D 18 in Rockland, Maine. For the year 2008, the elevation of Mean High Water relative to the NGVD 1929 datum is 5.12 ft.

Mean Low Water (MLW) A tidal Datum based on the average of all the low water heights observed over the latest National Tidal Datum Epoch (currently 1983 – 2001). For the purposes of this Ordinance MLW is at an elevation to be calculated from data published by NOAA for Bench Mark D 18 in Rockland, Maine. For the year 2008, the elevation of Mean Low Water relative to the NGVD 1929 datum is – 4.66 ft.

Mooring Location: Location of mooring tackle and swing area.

Mooring Tackle: Any appliance used by a craft for anchoring purposes and which appliance is not carried aboard such craft when underway as regular equipment.

Pier: A permanent platform-type structure contiguous to the shoreline and built perpendicular to the shoreline at an angle out over the water, supported by rigid pilings of wood, stone cribbing or other material. It is used for berthing, loading and unloading of vessels. No pier shall extend further than 150' beyond 'Mean High Water' or to 'Mean Low Water', whichever distance is shorter, as measured at the proposed pier location.

Common Pier: A pier which serves multiple residential owners. Common piers shall not exceed 10 feet in width.

Commercial Pier: A pier from which the owner obtains a substantial portion of his/her income. Commercial piers shall not exceed 12 ft. in width

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Residential Pier: A pier that serves a single residential owner. Residential piers shall not exceed 6 ft. in width.

Ramp: A structure used as a connector for access between a float and a pier, wharf or bulkhead

Riparian Owner: An owner of a parcel of land with at least 100' feet of shore frontage.

To Anchor: To secure a vessel to the bottom within a body of water by dropping an anchor or anchors or other ground tackle.

Vessel: Includes scows, dredges and crafts of all sizes all sizes powered by sail, machinery or hand.

Vessel - Commercial: A vessel used or engaged in any type of commercial venture

Wharf: A platform-type structure contiguous to the shoreland and built parallel to shore and over the water, supported by a rigid appropriate material used for the berthing, loading and unloading of vessels.

Chapter 300 – Marine Boundaries and Districts

301 - Harbor Channel - Rockport Harbor Channel is 50' wide and runs from the mouth of the Goose River to a point approximately 500 yards west of Lowell Rock Light (center line - latitude 44°09'46" N and longitude 69°03'36" W)

302 - Inner Harbor - An area northerly of a line beginning on the western shore at the center of the concrete pad of day beacon 5 (latitude 44°11'00.489" N and longitude 69°04'26.961" W) to the eastern shore at a point on the southwest corner of the granite pier at 41 Mechanic St. (latitude 44°11'01.953N and longitude 69°04'16.217" W) and extending north into the mouth of the Goose River.

303 - Middle Harbor - An area northerly of a line beginning at the western shore at the mouth of Ott Brook (latitude 44° 10'45.563" N and longitude 69° 04'28.550" W) to the ring in the rock at the southwestern corner of property located at 184 Beauchamp Point Road (latitude 44° 10'54.292" N and longitude 69° 04'12.567" W).

304 - Outer Harbor - An area northerly of a line beginning on the western shore at the southern outlet of Varnah Brook (latitude 44°09'27.192" N) and (longitude 69°04'51.866" W) to the eastern shore at a point identified as the Lowell Rock Day Board 2 Marker (Latitude 44°09'46.230" N and Longitude 69°03'36.849" W) and extending north to the southern edge of the Middle Harbor.

305 Rockport Coastal Area - All other coastal waters in Rockport not included in Inner, Middle or Outer Harbors.

Ed. Note: Delineations taken from the Gartley & Dorsky Harbor Plan

Chapter 400 - Harbormaster and Harbor Committee

401 Appointment and Legal Authority of the Harbormaster

401.1 The Harbormaster shall be appointed annually by the Select Board for a term of one year and may be reappointed annually by the Select Board.

401.2 The Harbormaster shall have no authority to carry a weapon and/or make arrests unless s/he or she has successfully completed the appropriate course at the Maine Criminal Justice Academy and received authorization by vote of the Select Board. Any law enforcement officer vested with the authority to carry a weapon and make arrests, specifically including police officers of the Town of Rockport, shall have the authority to enforce the provisions of this Ordinance on their own initiative, or upon specific request from the Harbormaster or Town Manager of the Town of Rockport.

402 - Duties and Responsibilities of the Harbormaster

402.1 The Harbormaster shall carry out the duties and regulations required by 38 M.R.S.A. § 1 et seq. and the rules and regulations of the Town of Rockport. The duties and responsibilities of the Harbormaster prescribed by law include, but are not limited to, the authority to enforce the statutes of the State of Maine relating to the operation of vessels in the Harbor and relating to the conducting of navigation in Rockport Harbor.

402.2. The Harbormaster shall enforce all federal, state and local laws, ordinances, codes, rules or regulations relating to the management and control of Rockport's harbor, coastline, floats, docks, piers, footbridge and other areas with input from the Harbor Committee, Town Manager and Select Board.

403 - Harbor Committee

403.1 Composition of the Harbor Committee: The Select Board shall appoint a Harbor Committee. The Harbor Committee shall consist of seven (7) members serving staggered terms of three (3) years. The composition of the Harbor Committee shall be representative of the varied interests using the Harbor.

403.2 Harbor Committee Responsibilities: The Harbor Committee shall be convened at the request of the Town Manager, Harbormaster, Chairman of the Harbor Committee, or Select Board, as the need may arise. The duties and responsibilities of the Harbor Committee shall include, but not be limited to, 1. recommending to the Select Board policies, regulations and procedures for the safe and orderly use of Rockport Harbor, 2. Recommending solutions to resolve problems that may arise during the year concerning the use of the harbor, 3. reviewing and commenting on the annual Harbormaster budget and 4. reviewing proposals for the

construction of piers, wharves, breakwaters, marine railways or bulkheads within the waters of Rockport.

403.3 - Harbor Committee By-Laws: The Harbor Committee shall maintain by-laws for the fair, orderly and efficient conduct of Harbor Committee business.

Chapter 500 – Mooring Location and Assignment

501 - Overview

The regulations in this section shall be interpreted in a manner consistent with the requirements of the U. S. Army Corps of Engineers for federal anchorages and with the requirements of 38 M.R.S.A. § 3, 7-A, 8 and 11.

502 - Assignment of Moorings

The Harbormaster shall assign and indicate only to owners of vessels the location that they may occupy for mooring purposes and shall change the location of those moorings from time to time when the crowded condition of the anchorage, the need to conform to 38 M.R.S.A. § 7-A or other conditions render the change desirable.

502.1. Riparian Owners: Consistent with the provisions of 38 M.R.S.A. § 3, the Harbormaster shall assign one (1) mooring site to each riparian owner, fronting the land of that riparian owner, who owns shore rights of at least one hundred feet (100') of shore frontage, so long as the assignment of such a mooring is practicable, will not encroach upon the channels established by The Harbor Committee and such riparian owner is the master or owner of the vessel. Such mooring site shall be either temporary or permanent, as requested by the riparian owner.

502.2. Use of Moorings: All mooring assignments shall be exclusively for the personal use of the applicant and used exclusively for the vessel listed on the mooring assignment. The Harbormaster shall be informed of changes to the vessel listed on the mooring assignment.

502.2.1. Leasing of Moorings: No leasing, subleasing, or assignment of moorings or mooring numbers shall be permitted except for rental moorings. Permission may be granted by the Harbormaster for a period not to exceed one season if the applicant is in good standing on the waiting list. See 38 M.R.S.A. § 3.

502.2.2. Rental & Service Moorings: No rental or service moorings can be assigned without specific U. S. Army Corps of Engineers approval.

502.3. Large Vessel Location Limitation: Vessels of forty feet (40' LOA) or greater will not be assigned a mooring location in the Inner Harbor.

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502.4. Abandoned Moorings: Any mooring location not occupied by the vessel registered to it during the permit year may be considered to be abandoned. The location may be reassigned by the Harbormaster after the Harbormaster has first given the registrant thirty (30) days advance written notice at his/her last known address, by certified mail, return receipt requested.

502.4.1. Abandoned mooring tackle shall be removed at the owner's expense.

502.4.2. These regulations with regard to abandoned mooring tackle may not apply, for one permit year, to a mooring whose owner has notified the Harbormaster in writing that such mooring will not be occupied due to prolonged absence from the area, illness or other extenuating circumstances, provided that the permit is renewed timely as required by these Regulations.

502.5. Record of Moorings: The Harbormaster shall maintain a written record of information on each mooring including, but not limited to, its assigned location, identifying number, vessel description and owner.

502.5.1 The Harbormaster shall maintain a chart of the Harbor showing all mooring location assignments.

502.5.2 Each mooring location will be assigned an identifying number, which must be marked in a legible fashion on the marker buoy with numerals with a minimum height of 3".

502.5.3 No mooring tackle may be placed, moved or removed without the written permission of the Harbormaster.

503 - Removal of Mooring Tackle

The Harbormaster shall have the authority to remove any mooring tackle that is in the channel or otherwise obstructs navigation, or that remains in violation of this ordinance, after all reasonable steps have been taken to give written notice to the owner. Such removal shall be at the expense of the owner and the Harbormaster shall have the authority to collect said expenses through court action if necessary.

504 - Inspection of Mooring Tackle

All moorings shall be inspected annually between January 1st and June 15th. Inspections shall be done by qualified individuals who must be approved by the Harbormaster. Inspectors shall annually provide proof of liability insurance in the amount of One Million Dollars (\$1,000,000) and diver certification. Inspection of moorings by the owner is not sufficient for registration purposes unless the owner is approved by the Harbormaster. Additional mooring inspections may be required by the Harbormaster. All new moorings must be inspected and a written report presented to the Harbormaster. The Harbormaster shall at all times have the right to inspect any mooring tackle if s/he reasonably believes such inspection is necessary to ensure compliance with this ordinance or the safety of the Harbor. The cost of inspection shall be borne by the owner of the mooring.

504.1. An inspection report shall be filed with the Harbormaster within seven (7) working days of notification by the Harbormaster requiring the inspection of a mooring. Otherwise, the report shall be filed prior to the next registration.

504.2. Upon completion of the inspection, a tag shall be issued by the Harbormaster and affixed to the current mooring gear indicating the mooring has been inspected and certified.

504.3. The report shall include proof of inspection, name of inspector, an itemized list of equipment, its condition and any other information requested by the Harbormaster. The report shall be designed and dated by the inspector.

504.4. Replacement of components is required if any block, mushroom anchor, link, shackle, staple or pennant shows 25% deterioration below the minimum standards of this ordinance.

505 - Precedence for Mooring Locations

The Harbormaster shall maintain a list of all vessel owners requesting mooring location assignment or reassignment to a new location. Taking into account space available, vessel size and swing room, the Harbormaster shall assign locations based on the following priorities:

505.1. Riparian owner's requests for location immediately adjacent to frontage.

505.2. Commercial vessel owners

505.3. Non-commercial vessel owners

505.4. Rental moorings

505.5. Vessel owners with multiple mooring locations

505.6. Non-rental guest moorings

506 – Special Exceptions to the Requirements of this Chapter

A Special Exception may be requested as follows: The applicant may obtain an application form from the Harbormaster. The applicant shall submit the completed form and any applicable fee to the Harbormaster. The Harbormaster shall schedule a meeting of the Harbor Committee to consider the application and shall provide notice to the public and/or affected harbor users, as may be appropriate.

A Special Exception may be recommended by the Harbor Committee and shall be submitted to the Select Board for consideration. Before recommending any Special Exception, the Harbor Committee may refer the application to the Harbormaster for an informational report concerning the

effect of the request on other commercial or recreational uses of the harbor, surrounding moorings and any other pertinent data. It is the responsibility of the applicant to provide sufficient information and documentation regarding the viability of the Special Exception in relation to the requirements of this Chapter, which the Committee shall forward to the Select Board along with any recommendations formed. The applicant shall be responsible for any and all costs associated with the Special Exception.

To form a recommendation for or against a proposed Special Exception under this Section the Harbor Committee shall make written findings with respect to:

506.1. Any adverse impact on other commercial or recreational use of the harbor, including, but not limited to, on the use of surrounding moorings, docks, natural environment, or navigable channels.

506.2. Any unreasonable demand for public services the proposed use would create, including, but not limited to, public access to Rockport Harbor, fire protection and police protection.

506.3 Whether or not the applicant has provided sufficient information and documentation regarding the viability of the Special Exception in relation to the requirements of this Chapter.

The Select Board shall consider the request after receiving the recommendation from the Harbor Commission and must make written findings on the above criteria before approving or denying the application.

Chapter 600 – Piers, Wharfs, Bulkheads and Floats

601 - Dimensional Standards for Piers, Wharfs, Bulkheads and Floats

601.1 Each lot shall be limited to one pier and/or wharf. No pier or wharf shall be located closer than 100' from an existing pier or wharf, as measured parallel to the shoreline from existing piers.

601.2 No pier or wharf shall extend further than 150' beyond 'Mean High Water' or to 'Mean Low Water', whichever distance is shorter, as measured at the proposed pier location.

601.3 No structure shall be built or placed on a pier, wharf or float except hoisting davits, which shall not extend more than 4 ft. above the deck.

601.4 Pier width shall not exceed 6' for private piers, 10' for common piers and 12' for commercial piers.

601.5 Pier height as measured at the top of the deck shall not exceed the following elevations.

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601.5.1 Inner Harbor – 6’ above mean high water

601.5.2 Middle Harbor and that portion of the Outer Harbor northerly of a line extending from the #5-day marker on the eastern shore to Mackerel Rock on the western shore – 8 ft above mean high water

601.5.3 Coastal waters and that portion of the Outer Harbor southerly of a line extending from the #5-day marker on the eastern shore to Mackerel Rock on the western shore – 10 ft above mean high water

601.6 No bulkhead shall extend beyond mean high water.

601.7 Floats and ramps may extend up to 50’ beyond a pier, wharf or shoreline.

601.8 Floats, moorings and chains shall be approved by the Harbormaster.

602 - Review Process for Piers, Wharfs, Bulkheads and Floats

602.1 Applications: Applicants for piers, wharfs and bulkheads shall follow the guidelines and application procedure for piers, wharfs and bulkheads prepared by the Rockport Planning Office

602.2 Harbor Committee Review for Piers, Wharfs and Bulkheads: The Harbor Committee, with input from the Harbormaster shall review and make recommendations to the Planning Board for all applications for piers, wharfs and bulkheads.

602.3 Harbor Committee Review for Floats: The Harbor Committee, with input from the Harbormaster, shall review and approve applications for floats attached to existing piers or wharfs.

602.4 Planning Board Review: The Planning Board shall receive recommendations from the Harbor Committee and review applications under the provisions of Section 1415.4 of the Rockport Land Use Ordinance.

602.5 Permits - No construction of a pier, wharf, bulkhead or float shall commence until the Rockport Planning Office has issued a permit.

Chapter 700 – General

701 - Fee Schedule

The Select Board shall, from time to time, adopt or amend a fee schedule for use of Rockport Harbor and coastal waters and associated Town facilities. The Harbor Committee shall make fee schedule recommendations to the Select Board. Fees shall be commensurate with the Town’s expense to provide the service or facility utilized.

The schedule of fees shall include billing dates and due dates for payment of fees in full or in part. Non-payment of fees shall result in the exclusion of the user from the harbor facility for which payment was required.

702 - Removal of Vessels

The Harbormaster is authorized to remove any vessel from any wharf in Rockport Harbor when s/he shall deem it necessary. The Harbormaster is also authorized to remove any vessel in violation of any ordinance or regulation of the Town of Rockport. In addition, the Harbormaster shall have the authority to remove vessels as set forth in 38 M.R.S.A. § 5.

703 - Obstruction of Other Vessels

703.1 The Harbormaster shall, upon complaint to her/him by the owner or master of any vessel, require the owner of the vessel that is obstructing the free movement or safe anchorage of the complainant vessel, to move the obstructing vessel to a position to be designated by the Harbormaster. In addition, the Harbormaster shall require the owner or master of any vessel anchoring within the harbor channel lines to move the vessel to an anchorage designated by the Harbormaster.

703.2 If the owner or master refuses to move the obstructing vessel when directed by the Harbormaster, then the Harbormaster shall take steps to remove the vessel in accordance with the provisions of 38 M.R.S.A. § 5.

704 - Obstruction of Navigation

704.1 No person shall place, in the Inner Harbor or main channel, buoys or other floating structures of any type so as to cause an obstruction or danger to navigation.

704.2 All moorings shall be so located or relocated so that the vessels secured thereto will not impede navigation within the harbor nor endanger other vessels moored therein. If the Harbormaster finds that any vessel is moored in a way that impedes navigation or endangers other vessels, the Harbormaster may require that the owner of the vessel take immediate steps to correct the problem. Any person ordered by the Harbormaster acting under this provision shall correct the problem within 24 hours. If the Harbormaster shall find an emergency requiring immediate action to prevent injury to life or damage to property, the Harbormaster may immediately remove the mooring and attached vessel. Any expense involved shall be borne by the owner of the mooring or vessel being removed.

705 - Lobster Traps

705.1 No lobster traps shall be set in the Inner Harbor, except between December 1 and April 1.

705.2 No lobster traps shall be set to interfere with any mooring or moored boat.

705.3 No lobster traps shall be set in the marked channel. The Harbormaster may move lobster traps out of the channel.

706 - Speeding

All types of watercraft, boats and vessels operating within Rockport Harbor shall maintain a speed of not more than five (5) knots. No watercraft shall be used or operated on Rockport Harbor so as to cause danger, annoyance, disturbance or inconvenience to the public. Any operation of a vessel in a manner violating this provision shall constitute a violation of this Ordinance. The Harbormaster may set up no wake zones as necessary.

707 - Commercial Fishing Float

707.1 The Commercial Fishing Float is intended solely for loading and unloading of commercial vessels and for the mooring of skiffs used by owners of commercial vessels.

707.2 No vessel may be left unattended on the Commercial Fishing Float for more than one-half hour. Commercial boat owners wishing to leave a skiff on the Commercial Fishing Float on a regular basis shall notify the Harbormaster and pay the required fee.

707.3 Skiffs tied to the Commercial Fishing Float shall be properly secured, bailed and positioned so that there is no interference with arriving and departing vessels.

707.4 No gear shall be stored on the Commercial Fishing Float for longer than one full tide.

707.5 Users of the Commercial Fishing Float must maintain the float in an orderly fashion.

708 - "E" Float

The "E" float is the designated space for recreational shore-based fishing, and its use for vessels is exclusively for loading and unloading of recreational vessels and commercial vessels not served by the Commercial Fishing Float. Time for loading and unloading shall be limited to 15 minutes between sunrise and sunset.

Chapter 800 – Penalties

800.1 The master or owner of any vessel or any other person who violates any of the provisions of this ordinance, 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.A. § 4452, which includes, but is not limited to 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.

800.2 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.A. § 281 - 285 shall be subject to the penalties set forth in state law.

800.3 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.A. § 4452; and that violator shall further be subject to an action by the Town of Rockport, in a court of competent jurisdiction, for injunctive relief in order to prevent or abate violations of this Ordinance.

Chapter 900 - Separability

900.1 If any section, subsection, sentence, clause or other portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

Chapter 1000 - Appeals

1000.1 In all cases a person aggrieved by a decision of the Harbormaster in her/his duties relating to the implementation and enforcement of this Ordinance shall commence her/his appeal within 30 days after the decision of the Harbormaster.

1000.2 An appeal must be submitted in writing to the Harbormaster. Upon receipt of the written appeal, the Harbormaster shall schedule a meeting of the Harbor Committee within 30 days, giving notice to all parties of the date, time and place of the meeting. The appellant and Harbormaster shall each have the opportunity to be heard and to present written and oral evidence.

1000.3 The Harbor Committee shall vote to form a recommendation on the appeal and shall refer the appeal to the Select Board for a decision. There shall be no appeal of a decision of the Select Board under this Ordinance.

APPENDIX C

HISTORY OF REVISIONS

REVISIONS – Proposed

Section 506 –

Section 701 -

REVISIONS – June 12, 2012

Section 202 – Definition of “Resident” changed to “Registered Voter.”

REVISIONS – November 3, 2009

Section 504 – Refinement of Mooring Inspection procedures.

REVISIONS – June 10, 2008

Section 202 – Added definition of a common pier

Section 601 - Added standards for common pier

REVISIONS – June 12, 2007

Section 504 – Inspection of Mooring Tackle: This section was added to clarify the inspection process for harbor moorings.

Section 504.2 – This section was added to acknowledge a tag will be attached to a mooring once an inspection has been completed.

Section 701 – Fee Schedule – This section was added to address winter boat storage fees.

ADOPTION OF ‘COASTAL WATERS AND HARBOR ORDINANCE’ – June 8, 2004

This new ordinance combined provisions of the Rockport Marine Ordinance; Moorings Equipment Ordinance; and the Pier, Dock, and Bulkhead Ordinance.