WANTED

By The East Hampton Town Trustees

LARGEST CHOWDER CLAM

28th Annual Largest Clam Contest
tentatively scheduled
for September 2019

Beginning at noon at the Trustee's Office on the corner of Bluff Road and Atlantic Avenue in Amagansett.
SPECIAL EVENTS
CLAM CHOWDER CONTEST

Winners of last years 2018 largest clam contest

Overall Winner: Napeague Harbor
Edward Hoff Jr. — 2lbs. 4.8oz.

Three Mile Hbr:	CLINT BENNETT	1lb. 8.0oz.
Accabonac Hbr:	WILLIAM SOLIMENO	1lb. 7.0oz.
Lake Montauk:	CLINT BENNETT	1bs. 6.4oz.

Juniors

Three Mile Hbr:	ELLIS RATTRAY	1lb 4.3oz
Napeague Hbr:	HAILEY LAGARENNE	1lb. 10oz.
Lake Montauk:	TYLER PERSAN	10.7oz.
Accabonac Hbr:	PATRICK O'DONNELL	6.0oz.

Clam Chowder Contest Winners:
Red — SPENCER GUPTILL

Contact Information:

Shellfish Hotline
Local: (631) 324-6393
DEC: (631) 444-0480

East Hampton Town Trustees
P.O. Box 7073
Amagansett N.Y. 11930
Phone: (631) 267-8688

East Hampton Town Clerk
159 Pantigo Rd.
East Hampton N.Y. 11937
Phone: (631) 324-4142

East Hampton Harbormasters
Phone: (631) 537-6863

East Hampton Town
Shellfish Hatchery
Phone: (631) 668-4601

East Hampton Town Natural
Resources Dept.
300 Pantigo Place, suite 107
East Hampton N.Y. 11937
Phone# (631) 324-0496

East Hampton Town Shellfish Ordinance 2019

This Booklet Contains:

- A message from the East Hampton Town Trustees
- The East Hampton Town Code chapter governing shellfish
- Maps of open and closed shellfishing waters within the harbors of the Town of East Hampton, and information associated with them
- A shellfish gauge diagram
- Local marine flora and fauna images and identification
    - Target Harvest Species
    - Additional Species
    - Shellfish Predators
- Contact information

East Hampton Town Trustees

Francis Bock, Clerk
Bill Taylor, Deputy Clerk
Rick Drew, Deputy Clerk
Dell Cullum
Brian Byrnes
Jim Grimes
Susan McGraw-Keber
Susan Vorpahl
John Aldred

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Lori Miller-Carr
Arlene Tesar

East Hampton Town Board

Town Supervisor
Peter Van Scoyoc

Councilpersons
Sylvia Overby
Kathee Burke-Gonzalez
Jeffrey Bragman
David Lys

East Hampton Town Shellfish Hatchery

Director
John "Barley" Dunne

Bay Management Specialist
Adam Younes

Environmental Aide
Ashley Oliver

Prepared by the East Hampton Town Shellfish Hatchery in cooperation with the East Hampton Town Trustees for the New York State Dept. of State with funds provided under Title 11 of the Environmental Protection Fund. Original research, design and production by Bob Masin. Research and support by Bill Taylor. Rev. by Mark Abramson 2006-2016. Rev. by Kate Rossi-Snook 2017.

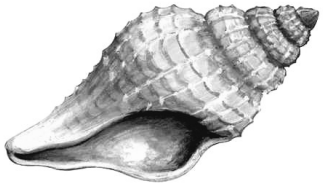
Notes

Shellfish Predator Identification

(Not to scale)

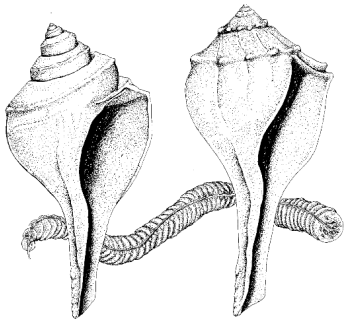
Common Sea Star
(*Asterias forbesi*)

Atlantic Oyster Drill
(*Urosalpinx cinerea*)

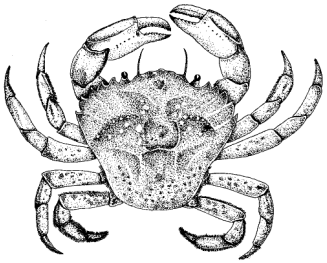


LEFT: Channeled Whelk, Conch
(*Busycon canalculatum)*

RIGHT: Knobbed Whelk, Conch
(*Busycon carica)*



Green Crab
(*Carcinus maenas)*



Asian Shore Crab
(*Hemigrapsus sanguineus*)

Lady Crab
(*Ovalipes ocellatus)*

Blue Claw Crab
(*Callinectes sapidus*)

see Target Harvest Species
Identification on previous page

A message from the East Hampton Town Trustees

"In the early times the Indians lived in what is now known as the Town of East Hampton. They depended on both the sea and the land for their food supply. When the early settlers arrived, the Indians taught them how to survive on both the sea and the land. A basic food was the shellfish in our local waters – clams, mussels, steamers, oysters and scallops. Our means of harvesting are still the same today as in the early days. The Trustees' mandate is to ensure that the shellfish in our Town waters will always be available to harvest by the public.

Jim McCaffrey, Trustee 1991-2005

This guide is dedicated to the memory of the late James McCaffrey who was a Town Trustee for more than 14 years, the eternal steward of Georgica Pond, a friend to local fishermen, a student of the workings of harbors and bays, and a knower of all things shellfish. He is sorely missed.

This pamphlet contains the rules and regulations adopted by East Hampton Town and the Town Trustee's for local waters. All shellfishers should be aware there may be additional rules and regulations of other agencies. For example, New York State Department of Environmental Conservation (DEC) requires scallops to measure two and one quarter inches and show an annual growth ring. In addition they require one to obtain a separate license for the collection of lobsters. Shellfishers should contact the NYS DEC (631-444-0475) for further information.

Shellfish
Chapter 213

§ 213-1. Title
§ 213-1.5. Legislative Intent
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§ 213-3. Authority
§ 213-4. Applicability
§ 213-5. Definitions
§ 213-6. Who shall be entitled to take Shellfish
§ 213-7. Personal and commercial Permits
§ 213-8. Special Permits
§ 213-9. Voiding or revocation of permit
§ 213-10. General restrictions
§ 213-11. Blue claw crabs
§ 213-12. Escallops
§ 213-13. Hard clams
§ 213-14. Lobsters
§ 213-15. Oysters
§ 213-16. Soft clams
§ 213-17. Other shellfish
§ 213-18. Special authority
§ 213-19. Penalties for offenses
§ 213-20. Enforcement
§ 213-21. Amendment
§ 213-22. Severability
§ 213-23. Effective date

§ 213-1. Title

[HISTORY: Adopted by the Town Board of the Town of East Hampton 5-20-1994 by L.L. No. 4-1994. Amendments noted where applicable.]

This chapter of the East Hampton Town Code shall be known and may be cited as the "Town of East Hampton Shellfish Law."

§ 213-1.5. Legislative intent

A. The title to and right to manage the taking of shellfish in town waters in Montauk, including but not limited to Lake Montauk, is vested in the Town of East Hampton and the Town Board; the title to and right to manage the taking of shellfish in all other town waters is vested in the Trustees.

A note on *notata** vs white clams

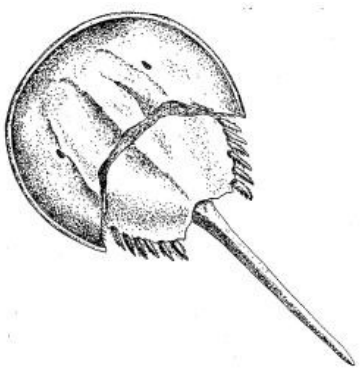
The technical name for the native Hard Clam is *Mercenaria mercenaria.* The "red clams" you see while clamming on our seed grounds are a natural variety of the Hard Clam, *Mercenaria mercenaria notata*. The red marking is created by a recessive gene, similar to blue-eyed humans or albinos. The Shellfish Hatchery selects and spawns these "red clams" in order to retain the natural marking in the offspring that are reared, allowing better assessment of the success of seedings. These clams also grow faster than the pure white ones which means they can reach a larger size within one season; the larger the shellfish are when they are seeded, the more likely they are to survive.

So have no fear, there is nothing unnatural about the red clams!
Keep on digging!

Additional Species Identification

(Not to scale)

Horseshoe Crab
(*Limulus polyphemus*)

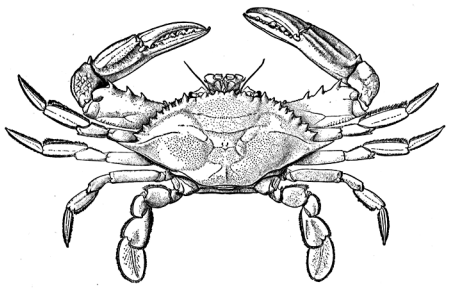


Eelgrass
(*Zostra marina*)

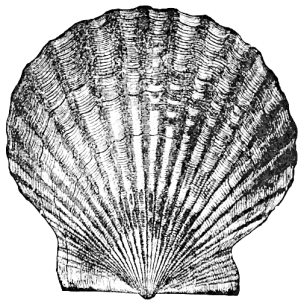
Target Harvest Species Identification

(Not to scale)

Blue Claw Crab
(*Callinectes sapidus*)

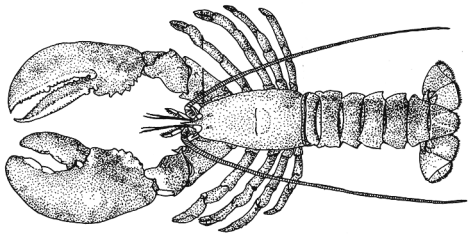


Bay Scallop, Escallop
(*Argopecten irradians irradians*)

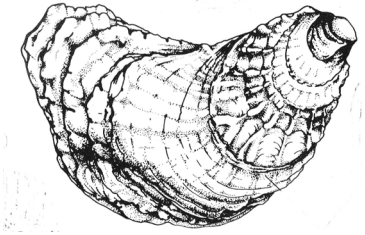


Hard Clam, Quahog
(*Mercenaria mercenaria, notata**)

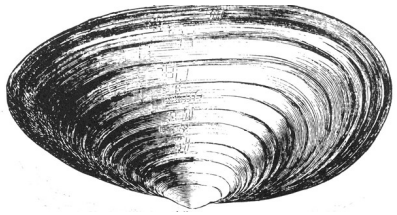
Lobster
(*Homarus americanus*)



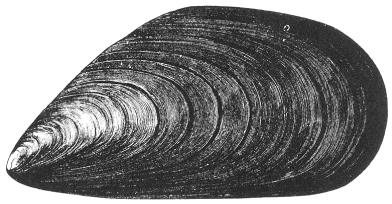
Oyster
(*Crassostrea virginica*)



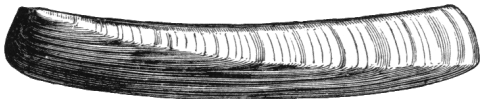
Soft Clam, Softshell, Steamer
(*Mya arenaria*)



Blue Mussel
(*Mytilus edulis*)



Razor Clam
(*Ensis directus*)



B. The purpose of this chapter is to set forth the rights and responsibilities of the Town Board in managing the taking of shellfish in town waters in Montauk, including but not limited to Lake Montauk, and the rights and responsibilities of the Trustees in managing the taking of shellfish from all other town waters.

C. The Trustees and the Town Board have agreed upon the adoption of the following law in an effort to provide uniform regulations for all such areas within the township.

D. Nothing in this local law shall preclude the Town Board and the Town Trustees from working together on a town-wide shellfish management plan.

§ 213-2. Purposes

This chapter is adopted for the purpose of regulating and controlling the taking of shellfish and shellfish predators from the waters and lands under waters in the Town of East Hampton in order to ensure the propagation of shellfish, to protect the public health and welfare, to promote the economic well-being of those who rely upon town waters for their livelihoods and to provide food and recreation for the residents of East Hampton.

§ 213-3. Authority

This chapter is adopted as a local law pursuant to the authority of Article IX of the New York State Constitution; § 10 of the New York Statute of Local Governments; and Article 2, § 10, of the New York Municipal Home Rule Law.

§ 213-4. Applicability

The Trustees and the Town Board each have ownership of and/or authority over certain waters and lands under water within the boundaries of the Town of East Hampton. The provisions of this local law shall apply to all town waters, as hereinafter defined.

§ 213-5. Definitions

For the purpose of this local law, the following terms shall have the meanings indicated:

BEAM TRAWL -- A trawl with netting spread by a spar or beam.

BLUE CLAW CRABS -- *Callinectes sapidus.*

BUSHEL -- That amount of unopened shellfish which will fill a bag, with string drawn, said bag to be a standard size bushel bag to be sold by the East Hampton Town Trustees and stamped with the wording "East Hampton Town Trustees" on the bag or fill to the level top of such other container as the Trustees may designate, by resolution duly adopted and posted with the Town Clerk, as part of a special shellfishing zone or season. Where the limit on shellfish taken is a "bushel" or more pursuant to this chapter, all permittees must use the standard size bushel bag or container to contain such shellfish as are in his or her possession. Failure to do so shall constitute a violation of this law.

CHILD -- A person under the age of 12 years.

COMMERCIAL PERMITTEE -- A person who has an East Hampton Town commercial permit as prescribed by § 213-7B of this law.

COMMERCIAL PURPOSES -- The taking of shellfish for any use or purpose other than for food consumption by the person so taking or by such person's immediate family or household.

CONCHS -- Channeled whelks (*Busycon canaliculatum*.) and knobbed whelks (*Busycon carica*).

CRABS -- All crabs other than blue claw crabs.

DESIGNATED AREA -- A portion of town waters in which the Trustees, or the Town Board for town waters in Montauk, including but not limited to Lake Montauk, by resolution, have varied the limitations regarding the taking of shellfish as provided in § 213-18. [Amended 8-21-1997 by L.L. No. 28-1997]

GUEST-- A person of any age who is not a resident of the Town of East Hampton.

OTTER TRAWL -- A trawl with netting spread by water action upon boards or doors.

PECK -- Eight quarts by volume.

RESIDENT -- A person who has a principal place of abode and domicile in and who actually resides within the Town of East Hampton.

SHELLFISH -- Blue crabs, conchs, crabs, escallops, hard clams, lobsters, mussels of all kinds, oysters, periwinkles, razor clams, shrimp, skimmers and soft clams.

SHELLFISH PREDATORS -- Oyster drills and starfish.

SHELLFISH TAGS -- Waterproof labels to be attached to bushel bags or other authorized containers, identifying the name of the shellfish harvester, the harvest date, the harvest area, the type and quantity of shellfish and such other information as may be required.

TAXPAYER -- A person who owns real property in the Town of East Hampton, as shown on the town's assessment rolls, but who is not a resident, as defined herein.

TOWN -- The Town of East Hampton located within the County of Suffolk, State of New York.

TOWN BOARD -- The duly elected and constituted legislative body of the Town of East Hampton exercising such powers and discharging such duties as have been or may be conferred or imposed upon it by law.

Please email information to jdunne@ehamptonny.gov or mail to Shellfish Hatchery 159 Pantigo Rd. East Hampton, NY 11937

Information to include:

- **Date of harvest**
- **Location of harvest**
- **Amount of Time Spent**
- **Harvest Method (Treading, scratch raking, etc.)**
- **# Harvested (Oysters/Clams/Scallops, etc.)**
- **Breakdown of Sizes (necks, cherrys chowders, etc.)**
- ***Notata* vs White**
- **Bottom Type (rocky, shell covered, sandy, muddy, etc.)**

The more information the better!

We need your feedback!

The East Hampton Town Shellfish Hatchery is collecting harvest information

Our harbors can change year to year; your harvest information can help us keep track of which areas should or should not be seeded, leading to better shellfish survival and more harvest for you!

We will not divulge your secret spot (in fact, if we learn of a productive area we may augment your harvest by seeding there in the future)! Your personal information will be kept confidential.

Participate and be entered to win a Shellfish Hatchery hat and t-shirt

winner to be awarded at the Town Trustees' Largest Clam Contest

TOWN WATERS -- All waters and land below mean high water in any harbor, bay, pond, lake, creek or river in the Town of East Hampton, including but not limited to Wainscott Pond, Georgica Pond, Lily Pond, Hook Pond, Fresh Pond, Alewive Brook, Northwest Creek, Little Northwest Creek, Three Mile Harbor, Hog Creek, Accabonac Harbor, Napeague Harbor, Lake Montauk and that portion of Northwest Harbor in the Town of East Hampton from the southerly boundary of Shelter Island Town and the easterly boundary of Southampton Town.

TRAWL -- A net which is towed or dragged through the water column, capturing fish by straining the water, but shall not include a seine which is used to encircle fish.

TRUSTEES -- The Trustees of the Freeholders and Commonalty of the Town of East Hampton, a duly elected and constituted corporate body politic of the Town of East Hampton exercising such powers and discharging such duties as have been or may be conferred or imposed upon them by law, both colonial and current.

UNCERTIFIED WATERS -- Waters which have been periodically examined for sanitary conditions and which do not meet the minimum standard set by any federal agency regulating the interstate shipment of shellfish.

§ 213-6. Who shall be entitled to take shellfish.

A. No person shall take shellfish or shellfish predators unless such person:

(1) Is a resident or taxpayer;
(2) Has obtained a permit as prescribed in § 213-7 of this law; and
(3) Has obtained all necessary permits for such activities.

B. Notwithstanding the above, a child **or guest** of any permittee may take shellfish or shellfish predators without a permit, provided that he or she is accompanied by the permittee for all purposes hereunder, and the child **or guest** and permittee together shall be deemed one permittee for the purposes of this chapter.

§ 213-7. Personal and commercial permits.

A. Eligibility. Any person 12 years or over who is a resident or taxpayer may obtain a permit for taking shellfish or shellfish predators by making an application therefor as set forth in this section and paying the appropriate fee for the permit applied for.

B. Types of permits; fees.

(1) There shall be two types of annual permits:

(a) **A personal (noncommercial) permit** shall entitle the holder thereof to take shellfish or shellfish predators for the sole use of the individual permit holder and his family.
(b) **A commercial permit** shall entitle the holder to take shellfish or shellfish predators for use by others.

(2) Each of the two types created hereby shall be valid for the period commencing April 1 and ending March 31 of the following year or as otherwise provided herein.
(3) The Town Board may, by resolution, set and from time to time adjust the fee to be paid for each type of permit.

C. One permit. No person shall hold both a commercial and personal permit at any one time.

D. Senior citizens free permit. Persons of the age of 65 years or over shall be exempt from paying a fee for a personal permit, except the cost of a shellfish gauge, but such persons shall not shellfish without first obtaining such permit therefore.

E . Application; information required

(1) An application for a personal or commercial permit shall be submitted to the Town Clerk, in writing, in the form prescribed by the Trustees' Clerk, and shall include but not be limited to:

(a) The applicant's name.
(b) The applicant's residence address with street and number, if any.
(c) The applicant's age, sex, height and color of eyes and hair.
(d) For personal permits the applicant's domicile address outside of the Town of East Hampton with street and number, if any. For commercial permits the applicant's domicile shall be shown to be within the Town of East Hampton.
(e) A description of the applicant's real property owned in the Town of East Hampton with street and number, if any, and with Tax Map number.

(2) Each applicant for a personal permit shall submit to the Town Clerk for inspection **one** of the following:

(a) A valid New York State driver's license or vehicle registration in the name of the applicant, setting forth an address located within the boundaries of the Town of East Hampton;

(b) A validated tax receipt stub for the current year for any taxable property located within the boundaries of the Town of East Hampton;

(c) A valid voter registration card indicating place of residence as being within the boundaries of the Town of East Hampton; or

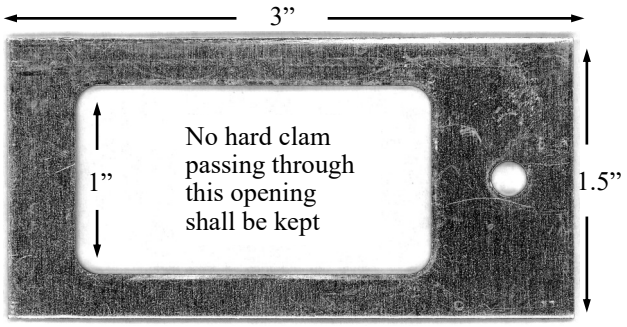
(d) A copy of a lease of property within the Town of East Hampton, the term of which shall be a minimum of one year. Said personal permit shall expire with the expiration of the lease or March 31, whichever is earlier.

Shellfish bags are available from the Town Trustees office located at 267 Bluff Road in Amagansett 631-267-8688

Cost: $1.00 per bag for non-commercial permittees
$0.75 per bag for commercial permittees

Shellfish Gauge

No oyster measuring less than 3" shall be kept



All undersized shellfish should be returned to the water unharmed.

Shellfish gauges are available from the Town Clerks office located at Town Hall 159 Pantigo Rd in East Hampton

Cost: $1.50

Shellfish Hotline:
Town – 631-324-6393
NYS DEC – 631-444-0480

Eelgrass Sanctuary

Eelgrass (*Zostera marina*) is the most important sea bottom habitat plant in our coastal waters. It has been decreasing in abundance throughout the Peconic Estuary over the past 30 years and some say its demise was tied to the brown tide which first visited our waters in 1984. Eelgrass is showing signs of coming back in a few of our local harbors and tidal creeks but we are still losing more each year than we are gaining. The largest eelgrass bed in a Town Trustee water body occurs along the east side of Napeague Harbor. The Town Trustees have made that bed a sanctuary for eelgrass recovery, which has been marked with orange buoys. Shellfishing within the sanctuary has been temporarily prohibited. The Trustees will determine on an annual basis whether to continue the prohibition.

(e) In the case of an applicant for a personal permit who is unable to produce items (a), (b), (c), or (d) above, the Town Clerk may require the applicant to be identified as a resident or taxpayer of the Town of East Hampton by a resident known to the Town Clerk. The name of the resident identifying the applicant shall be noted on the application.

(3) Each applicant for a commercial permit shall submit to the Town Clerk for inspection **all** of the following:

(a) A valid New York State driver's license, vehicle registration in the name of the applicant or a valid New York non-driver's identification card, setting forth an address located within the boundaries of the Town of East Hampton;

(b) A validated tax receipt stub for the current year for any taxable property located within the boundaries of the Town of East Hampton or a copy of a lease of property within East Hampton Town, the term of which shall be a minimum of one year. Said commercial permit shall expire with the expiration of the lease or March 31, which ever is earlier;

(c) A valid voter registration card indicating applicant's place of residence as being within the boundaries of the Town of East Hampton or an affidavit by applicant that he or she is not a registered voter in any jurisdiction and that he or she is a resident of the Town of East Hampton; and

(d) A valid New York State shellfish digger's permit.

(e) In the case of an applicant for a commercial permit who is unable to produce items (a), (b), (c) and/or (d), above the Town Clerk shall refer the applicant to the Shellfish Permit Review Board which shall provide the applicant and residents of the Town of East Hampton with the opportunity to present evidence regarding applicant's residence and New York State permit status. The Shellfish Permit Review Board shall consist of the Town Attorney, the senior member of the Town's Marine Patrol and a Town Trustee.

F. Form of permit; non-transferability; evidence of permit

(1) Permits shall be on the form prescribed by the Trustees and contain the matters set forth in Subsection E(1)(a), (b) and (c) above. The original application shall be filed in the Town Clerk's office and the permit shall be issued by the East Hampton Town Clerk.

(2) Permits shall be nontransferable.

(3) Any person engaged in taking shellfish or shellfish predators from town lands under water shall locate his permit and shellfish gauge so that they shall be immediately available to any enforcing officer. Failure to do so shall be presumptive evidence that such person does not possess a shellfish permit.

G. Expiration. All permits, commercial, personal and special, shall expire on the date indicated on the permit unless sooner revoked in accordance with § 213-9.

§ 213-8. Special permits

A. The Trustees are authorized to issue special permits which will entitle the holders thereof to take shellfish from a designated area as set forth in § 213-18, upon such terms and conditions as the Trustees shall determine.

B. An application for a special permit shall be submitted to the Trustees, in writing, in the form prescribed by the Trustees' Clerk, and shall include but not be limited to:

(1) Proof that the applicant is the holder of a valid personal or commercial shellfish permit issued pursuant to § 213-7.

(2) A statement, sworn to by the applicant under penalty of perjury, that the applicant has not been convicted of a violation of this chapter (or of former Chapter 125) within one year prior to the application therefore.

C. All special permits shall be made available to all members of the eligible class of permit holders on an equal basis.

D. In the event that there shall be a limited number of special permits available, such permits shall be issued in accordance with a system designed to ensure a fair and reasonable opportunity for members of the eligible class to obtain the same (e.g., first-come-first-served, lottery, etc.).

E. Copies of all such special permits shall be forwarded to the offices of the Town Clerk and Harbormaster upon issuance.

§ 213-9. Voiding or revocation of permit

A. All permits issued pursuant to this law, and the privilege of taking shellfish, shall:

(1) Become void if the holder thereof ceases to be a resident or taxpayer of the Town of East Hampton.

(2) Except as set forth in Subsection C below, be revoked in the discretion of the court for a period not to exceed six months from the date of conviction of a violation of this law.

(3) Automatically be revoked for a period of six months from the date of conviction of a commercial permittee of a violation of § 213-10A, M or O.

(4) Automatically be revoked for a period of six months from the date of conviction of a second violation of this law within a period of 12 months from the date of the first violation.

(5) Automatically be revoked for a period of 12 months from the date of conviction of a third violation of this law within a period of 18 months from the date of the first violation.

(x) Accabonac Harbor

(a) All that area of East Harbor (located in the southernmost portion of Accabonac Harbor) lying south of a line extending northwesterly from the southernmost point of the southernmost bulkhead located on the property at 73 Louse Point Road, to an orange marker on the opposite western shoreline.

(b) During the period May 1st through November 30th (both dates inclusive) all that area of Accabonac Harbor and East Harbor lying south of a line extending easterly from the northeasternmost point of land at the Merrill Lake Sanctuary to the westernmost point of land at Sage Island (local name) and continuing southeasterly along the northern shoreline of Sage Island (an orange marker is located at the northernmost point of said island) to its easternmost point, heading easterly to the foot of the dirt launch area at Gerard Point (local landmark) and all the area west of a line extending southerly from the southernmost point of land at Gerard Point (located at the northern side of the entrance of Accabonac Harbor) to the northernmost point of land at Louse Point (located at the southern side of the entrance to Accabonac Harbor).

(c) All that area of Accabonac Harbor, Pussy's Pond and an unnamed cove, including tributaries, lying west of a line heading north from an orange marker on the southern shore to an orange marker on the opposite northern shoreline. Said unnamed cove lies southerly of the Merrill Lake Sanctuary and northerly of Harbor Lane and Shipyard Lane (local landmarks in Springs).

(d) During the period January 1st through December 31st, all that area of the northernmost portion of Accabonac Harbor, including tributaries, lying north of a line extending westerly from the westernmost point of land of the property at 128 Gerard Drive to an orange marker on the opposite western shoreline.

(e) During the period May 1st through November 30th, both dates inclusive, all that area of Accabonac Harbor lying west of a line extending southwesterly from the westernmost point of land of the property at 128 Gerard Drive to an orange marker located on the opposite western shoreline, and south of the line described in clause (c) of this subparagraph.

(xi) Georgica Pond: All that area of Georgica Pond, a brackish embayment and its tributaries, including any inlet when open to the Atlantic Ocean.

(v) Hog Creek

(a) During the period May 1st through November 30th (both dates inclusive), all that area of Hog Creek, including tributaries, lying easterly of a line extending southeasterly from the flagpole (located near the east side of the entrance to Hog Creek) on the property of the Clearwater Beach Property Owners Association, Inc. (local landmarks, local name) to the western end of the dock serving the residence at No. 152 Water Hole Road (local landmark, local name).

(b) During the period May 15th through October 15th (both dates inclusive), all that area of Hog Creek lying within the perimeter of the Lionhead Beach Association marina and within 35 feet of the bulkhead along the shoreline of the Lionhead Beach Association property. Said property is located at the easterly end of Bay Inlet Road (local names, local landmarks).

(c) All that area of Hog Creek lying south of a line extending easterly from the highest point of the white center peak of the residence located at 59 Isle of Wight Road to the red brick chimney on the north facing side of the residence located at 50 Fenmarsh Road on the opposite shoreline.

(d) During the period May 1st through November 30th (both dates inclusive), all that area of Hog Creek lying north of a line extending easterly from the highest point of the white center peak of the residence located at 59 Isle of Wight Road to the red brick chimney on the north facing side of the residence located at 50 Fenmarsh Road on the opposite shoreline, and lying south of a line extending easterly from the highest point of the center peak of the grey residence located at 99 Isle of Wight Road to the northerly corner of the whitish-grey, hexagon shaped residence located at 120 Fenmarsh Road on the opposite shoreline.

(vi) Fresh Pond: All that area of Fresh Pond, including tributaries and the entrance "canal."
Special Note: Fresh Pond is a tributary of Napeague Bay.

(vii) Napeague Bay: During the period May 15th through October 15th (both dates inclusive), all that area of the Devon Yacht Club Boat Basin (local name), located on the southern side of Napeague Bay.

(viii) Northwest Harbor

(a) All that area of Alewife Pond, including entrance channel and all that area of Northwest Harbor, within 50 yards in all directions from the inlet of Alewife Pond.

(b) During the period May 1st through December 14th, both dates inclusive, all that area of Northwest Harbor within a 200 yard radius from the western point of the spit of land on the southerly side of the entrance to the old Mile Hill Marina (local name), including the old Mile Hill Marina and the unnamed creek located immediately south of the old marina, which are all located southerly of Mile Hill Road.

(ix) Northwest Creek

(a) During the period January 1st through December 31st, both dates inclusive, all that area of Northwest Creek and its tributaries lying south of a line extending between two orange markers located approximately 750 yards south of the inlet into Northwest Creek.

(b) During the period May 1st through December 14th, both dates inclusive, all that area of Northwest Creek lying south of a line extending east from the northernmost tip of land, exposed at mean high water, on the western side of the inlet connecting the creek into Northwest Harbor to the opposite shoreline, and northerly of the line described in clause (a), of this subparagraph.

(c) In the absence of the painted markers, all of Northwest Creek is uncertified.

B. At the time it revokes a permit, the court shall remove the permit from the holder and deliver the same to the Town Clerk with the date of conviction and the length of any revocation imposed hereunder. The Town Clerk shall not restore a revoked permit or issue a new permit during the period of revocation.

§ 213-10. General restrictions

A. No person shall take shellfish between the hours of sunset and sunrise. This subsection shall not apply to the taking of blue claw crabs, crabs, lobsters, shrimp or shellfish predators.

B. No person shall take shellfish (except escallops) by the use of a dredge, scrape or other device propelled or operated in any manner other than by hand power.

C. Any person taking shellfish of any kind by means of or with the aid of any device or implement commonly used in the art or practice of scuba diving or by means of or with the aid of any device designed to permit submergence beneath the surface of the water beyond normal human capability shall:

(1) Not locate his buoy within 400 feet of another buoy being used by another scuba diver. There can be no more than two divers under one buoy.

(2) Not locate his buoy in such a manner to unreasonably interfere with the shellfishing of persons not using scuba techniques if they are already located in an area (except for escallops, a scuba diver may not set his buoy in the direct line of an active dredge).

D. No person shall take any particular types, sizes, quantities or species of shellfish in violation of any provision of this chapter.

E. No person shall take any particular types, sizes, quantities or species of shellfish which have been restricted by resolution duly adopted by the Trustees or the Town Board for town waters in Montauk, including but not limited to Lake Montauk, pursuant to § 213-18. [Amended 8-21-1997 by L.L. No. 28-1997]

F. No person shall dump or cause to be dumped or deposited any garbage, rubbish, sewage or fish carcasses in town waters.

G. No person shall use beam or otter trawls in town waters.

H. No person shall return any starfish or other shellfish predators to town waters, including, without limitation, uncertified waters. [Amended 2-17-1995 by L.L. No. 2-1995]

I. No person who does not have a shellfish permit shall have in his possession any forks, tongs, rake, dredge or scrape in town waters.

J. Children shall be deemed to be one person with the permittee for all purposes hereunder.

K. No commercial permittee shall open shellfish on the grounds where taken or on town waters.

L. Shellfish gauge. The town may require all persons obtaining a shellfish permit to purchase a gauge or measuring device (shellfish gauge) to be used to measure shellfish to ensure that those specimens not meeting a minimum size displayed on the gauge be returned promptly to town waters. No person shall take any shellfish having a size limit stated in this chapter that may be determined by said gauge unless he shall have on or in the immediate vicinity of his person such required gauge, and any person requested to do so by any policeman, bay constable or other authorized enforcement officer shall produce and display such gauge for such officer.

M. No person shall take shellfish from uncertified waters, except as follows: blue claw crabs, crabs, lobsters and shrimp may be taken from uncertified waters. In addition, shellfish predators may be taken from uncertified waters. [Amended 2-17-1995 by L.L. No. 2-1995]

N. No person shall take shellfish from waters which have been closed pursuant to § 213-18.

O. No person shall willfully injure, tamper with or remove any monument, stake, buoy, rack, apparatus, posting or boundary marker of any kind placed by the Trustees or the Town Board (as to Lake Montauk) for the purpose of growing shellfish or delineating and/or locating designated areas, uncertified waters or restricted or closed areas.

P. No person shall possess shellfish for commercial purposes unless they are enclosed in a bushel bag or other authorized container with a complete and accurate shellfish tag attached.

§ 213-11. Blue claw crabs

A. No person shall take female blue claw crabs bearing eggs visible thereon nor offer for sale or possess the same in the Town of East Hampton.

B. A commercial permittee shall have no limit on the number of blue claw crabs he may take per day.

C. All other permittees may take up to 50 crabs per day.

D. No person shall take blue claw crabs measuring less than five inches point to point (across the carapace), and all such crabs shall be returned immediately to the waters of the place where taken.

§ 213-12. Escallops

A. Escallops may be taken with a dredge or scrape having an opening at the mouth not to exceed 36 inches in width. Such dredge may be towed by a boat operated by mechanical power or other means, provided that such dredge or scrape is brought aboard by hand power without the use of a mechanical device.

(iii) Oyster Pond: All that area of Oyster Pond and tributaries.

Note: All reference points, except local landmarks and local names, in Montauk Lake (Montauk Harbor) in the Town of East Hampton are taken from National Oceanic Atmospheric Administration Nautical Chart No. 13205, 25th Ed., dated January 12, 1980.

(iv) Three Mile Harbor

(a) During the period May 1st through November 30th (both dates inclusive), all that area of Three Mile Harbor within a 500 foot radius in all directions of the entrance to the East Hampton Point Marina (located on the eastern shoreline at 295 Three Mile Harbor Road) and extending across the entrance into the Maidstone Harbor/Maidstone Marina Boat Basin, locally known as Duck Creek, located approximately 50 feet north of the East Hampton Point Marina.

(b) All that area of the Maidstone Harbor/Maidstone Marina Boat Basin, locally known as Duck Creek, lying east of a line extending northerly from the landward end of the northern wave break wall of the East Hampton Point Marina, including the entrance leading into the harbor.

(c) During the period from May 1st through November 30th (both dates inclusive), all that area of Three Mile Harbor within a 500 foot radius in all directions of the entrance to Shagwong Marina (local name), located on the eastern shoreline of Three Mile Harbor Road.

(d) During the period from May 1st through November 30th (both dates inclusive), all that area of Three Mile Harbor and tributaries lying southeast of a line extending northeasterly from the northeasternmost point of land on the peninsula located at the western side of the entrance into "Head of the Harbor" (local name), at the southern end of Three Mile Harbor and continuing to the western terminus of Breeze Hill Road, and lying north of a line extending northeasterly from the northernmost corner of the residence located at 5 South Pond Road on the western shoreline, to the northern side of the entrance of an unnamed creek on the opposite eastern shoreline (the entrance to this creek is located approximately 350 feet northwest of the entrance to Gardiner's Marina).

(e) All that area of "Head of the Harbor" (local name) at the southern end of Three Mile Harbor, lying south of a line extending northeasterly from the northernmost corner of the residence located at 5 South Pond Road on the western shoreline, to the northern side of entrance of an unnamed creek on the opposite eastern shoreline (the entrance to this creek is located approximately 350 feet northwest of the entrance to Gardiner's Marina).

(f) All that area of Hands Creek, including tributaries, lying west of a line extending northerly from an orange marker located on the southern side of the Hands Creek entrance channel to the opposite shoreline; and, during the period May 1st through November 30th, both dates inclusive, all that area within a 500 foot radius in all directions of the entrance to Hands Creek.

(g) During the period May 15th through October 15th (both dates inclusive), all that area of Three Mile Harbor lying southeast of a line extending southwesterly from the northeasternmost point of land at the entrance of the cove harboring the Sunset Cove Marina (local name) to the opposite shoreline serving the inlet.

(h) During the period May 15th through October 15th (both dates inclusive), all that area of Three Mile Harbor lying southerly of a line extending westerly from Harborview Lane (local name) and continuing to the opposite shoreline on Sedge Island (local name, local landmark) and easterly of a line extending northerly from the northwesternmost point of the bulkhead serving the Town of East Hampton, Town Dock (local name) and parking area, to the southern most end of Sedge Island on the opposite shoreline.

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CHAPTER I. FISH AND WILDLIFE
SUBCHAPTER F. MARINE FISHERIES
PART 41. SANITARY CONDITION OF SHELLFISH LANDS

41.3 Shellfish lands in Suffolk County

The following shellfish lands in Suffolk County are in such sanitary condition that shellfish thereon **shall not** be taken for use as food, and **such lands are designated as uncertified areas**:

(5) Town of East Hampton

(i) Sag Harbor

(a) All that area, including tributaries, lying westerly of a line extending northwesterly along the breakwater located at the entrance to Sag Harbor (local landmark) and thence continuing northerly from the northern end of the breakwater to the northeasternmost extremity of the timber bulkhead protecting the shoreline adjacent to 28 East Harbor Drive, North Haven (local landmark); and easterly of the westernmost portions of the fixed bridge connecting North Haven Peninsula and Sag Harbor (local landmark).

Note: All reference points in Sag Harbor in the Town of East Hampton taken from N.O.A.A. Nautical Chart No. 12358 dated July 9, 2011, except as indicated as "local landmarks." N.O.A.A. charts are available from N.O.A.A.

(ii) Montauk Lake (Montauk Harbor)

(a) All that area lying south of a line extending easterly from the flashing red light on the jetty on the western side of the entrance to Montauk Harbor (Lake Montauk) to the flashing green light on the jetty on the eastern side of the entrance to said harbor; and all that area, including tributaries, northerly of the causeway to Star Island and a line extending easterly from the flag tower at the U.S. Coast Guard Station on Star Island to the southernmost extremity of the dock serving Deep Water Seafood, Inc. (local landmark) and located on the eastern shore of Montauk Harbor (Lake Montauk).

(b) During the period April 1st through December 14th (both dates inclusive), all that area of Montauk Lake and tributaries lying southerly of a line extending easterly from the highest point of the stone chimney (serving the Rispoli residence, 80 Old West Lake Drive) to the northwestern end of northernmost wooden jetty extending from the shoreline at Bridgeford Colony (local landmarks, local names).

(c) During the period May 15th through October 15th (both dates inclusive), all that area of Montauk Harbor (Montauk Lake) lying south of a line extending easterly from the flag tower at the U.S. Coast Guard Station on Star Island to the southernmost extremity of the dock serving Deep Water Seafood, Inc. (local name, local landmark), on the western shore and northwest of a line extending northeasterly from the white flagpole located on the shoreline of the P. Kalikow residence (local name), off Star Island Drive, to a white flagpole at 395 East Lake Drive on the opposite shoreline (local landmark).

(d) During the period May 15th through October 15th (both dates inclusive), all that area of Montauk Harbor (Montauk Lake) at the Montauk Lake Marina & Club (local name, local landmark) lying east of a line extending southeasterly from a point 100 yards northwesterly of the main fixed dock to the southwesternmost end of that same fixed dock, continuing southeasterly along the fixed T-dock to its southeasternmost end and continuing in an easterly direction, 100 yards southeast of the innermost end of the floating T-dock.

B. Only bay escallops having an annual growth line may be taken. Bay escallops which do not meet the requirements of this section shall be returned immediately to the waters where taken.*

C. Escallops may be taken during the period from the second Monday of November to March 31, both inclusive, in each year. Bay escallops shall not be taken on Sunday by use of a dredge or other mechanical device operated by power.

**NYS DEC has a minimum collection size of two and 1/4 inches*

D. A commercial permittee may take five bushels of escallops per day. Two or more of such persons holding commercial permits and occupying the same boat while taking escallops may take in the aggregate not more than 10 bushels in one day. Two or more persons, only one of whom holds a commercial permit and occupying the same boat while taking escallops, may take in the aggregate not more than five bushels in one day.

E. All other permittees may take one bushel of escallops per day. Three or more noncommercial permittees occupying the same boat may not take more than three bushels of escallops in the aggregate per day.

§ 213-13. Hard clams

A. Hard clams measuring less than one inch in thickness shall be returned immediately to the waters of the place where taken.

B. A commercial permittee may take three bushels of hard clams per day.

C. All other permittees may take 100 hard clams per day.

§ 213-14. Lobsters

A. No person shall take female lobsters bearing eggs visible thereon nor offer for sale or possess the same in the Town of East Hampton.

B. No person shall take lobsters measuring less than three and 3/4 inches in length or greater than five and 1/4 inches, and all such lobsters shall be returned immediately to the waters of the place where taken. All measurements are from the rear end of the eye socket along a line parallel to the center line of the body shell (carapace) to the rear end of the body shell (carapace). *

C. A commercial permittee shall have no limit on the number of lobsters he may take per day.

E. All other permittees may take six lobsters per day.

** NYS DEC requires a photo license for collecting lobsters, State allows collection of carapace length between three and 3/8 inches and five and 1/4 inches.*

§ 213-15. Oysters

A. No person shall take seed oysters without written permission of the Trustees. For the purposes of this law, seed oysters are oysters less than three inches in length.

B. A commercial permittee may take three bushels of oysters per day. *Former Subsection B, prohibiting the taking of oysters between May 1 and August 31, was repealed 11-2-2001 by L.L. 28-2001. This local law also redesignated former Subsections C and D as B and C, respectively.*

C. All other permittees may take one peck of oysters per day.

§ 213-16. Soft clams

A. No person shall take soft clams measuring less than 1 and 1/2 inches in length, and all such soft clams shall be returned immediately to the waters of the place where taken.

B. No person shall take soft clams between May 1 and August 31, both inclusive, in each year.

C. A commercial permittee may take three bushels of soft clams per day.

D. All other permittees may take one peck of soft clams per day.

§ 213-17. Other shellfish

A. Except in such designated areas as have been established by the Trustees or the Town Board for town waters in Montauk, including but not limited to Lake Montauk, pursuant to § 213-18 of this chapter, there shall be no limit on the size of other shellfish which may be taken and there shall be no season in which taking other shellfish is prohibited. [Amended 8-21-1997 by L.L. No. 28-1997]

B. A commercial permittee shall have no limit on the quantity of other shellfish he may take.

C. All other permittees may take one peck of other shellfish per day.

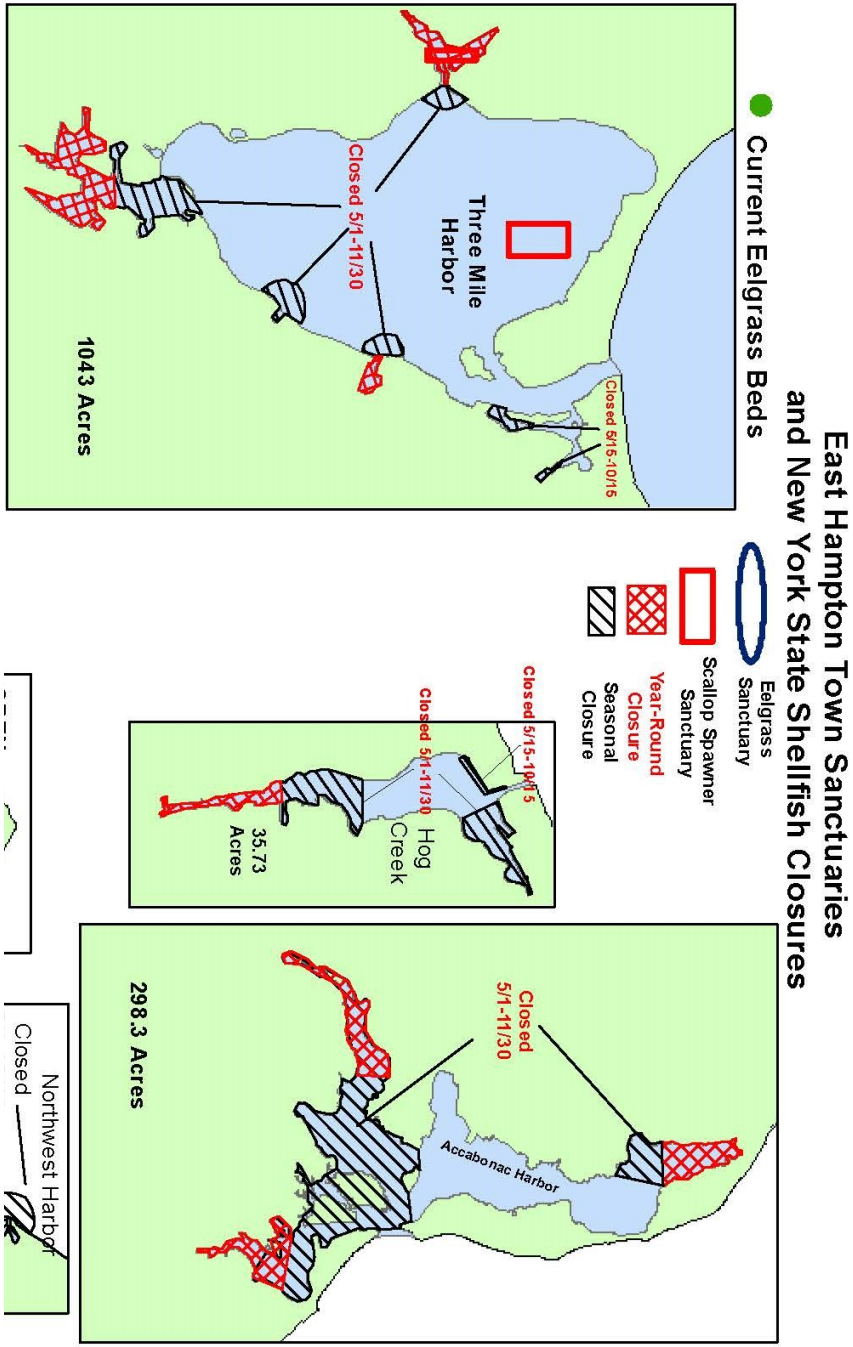
§ 213-18. Special authority

A. The Trustees or the Town Board for town waters in Montauk, including but not limited to Lake Montauk, are authorized to vary the limitations set forth in this chapter regarding the methods, equipment, seasons for taking, sizes and quantities of shellfish or shellfish predators which may be taken in such designated areas as they shall specify by resolution duly adopted, published in their official newspaper, forwarded to the Town Clerk and posted on the official notice board in Town Hall. Such resolution shall set forth: [Amended 8-21-1997 by L.L. No. 28-1997]

(1) The reason for such action.

(2) The location of the designated area.

(3) The new limitations which apply within such designated area.



(4) The calendar date on which the resolution expires.

(5) A statement that all other provisions of this chapter remain in effect within such designated area.

B. Such designated area shall be properly delineated and posted so as to give the public notice of the applicable limitations.

C. The Town Board may from time to time, in its discretion, close any portion of town lands under water against taking of shellfish for such period, not to exceed 21 days, as it deems necessary for the conservation, protection, growth and transplanting of shellfish. The closure of any town lands under water (except Lake Montauk) for a period exceeding 21 days may be accomplished only with the consent of the Trustees, after the Trustees have held a public hearing, notice of which shall be posted and published in the official town newspaper. The closure of any lands under water in Lake Montauk for a period exceeding 21 days may be accomplished by the Town Board only after it has held a public hearing, notice of which shall be posted and published in the official town newspaper.

D. The methods, equipment, sizes, quantities and seasonal limitations set forth in this chapter shall not apply to any relay or research operations conducted by or on behalf of the Town Board or the Trustees.

E. The Trustees or the Town Board for town waters in Montauk, including but not limited to Lake Montauk, may from time to time, at their discretion, designate landing areas where all shellfish must be unloaded if they determine that such action is necessary for efficient enforcement of this law.

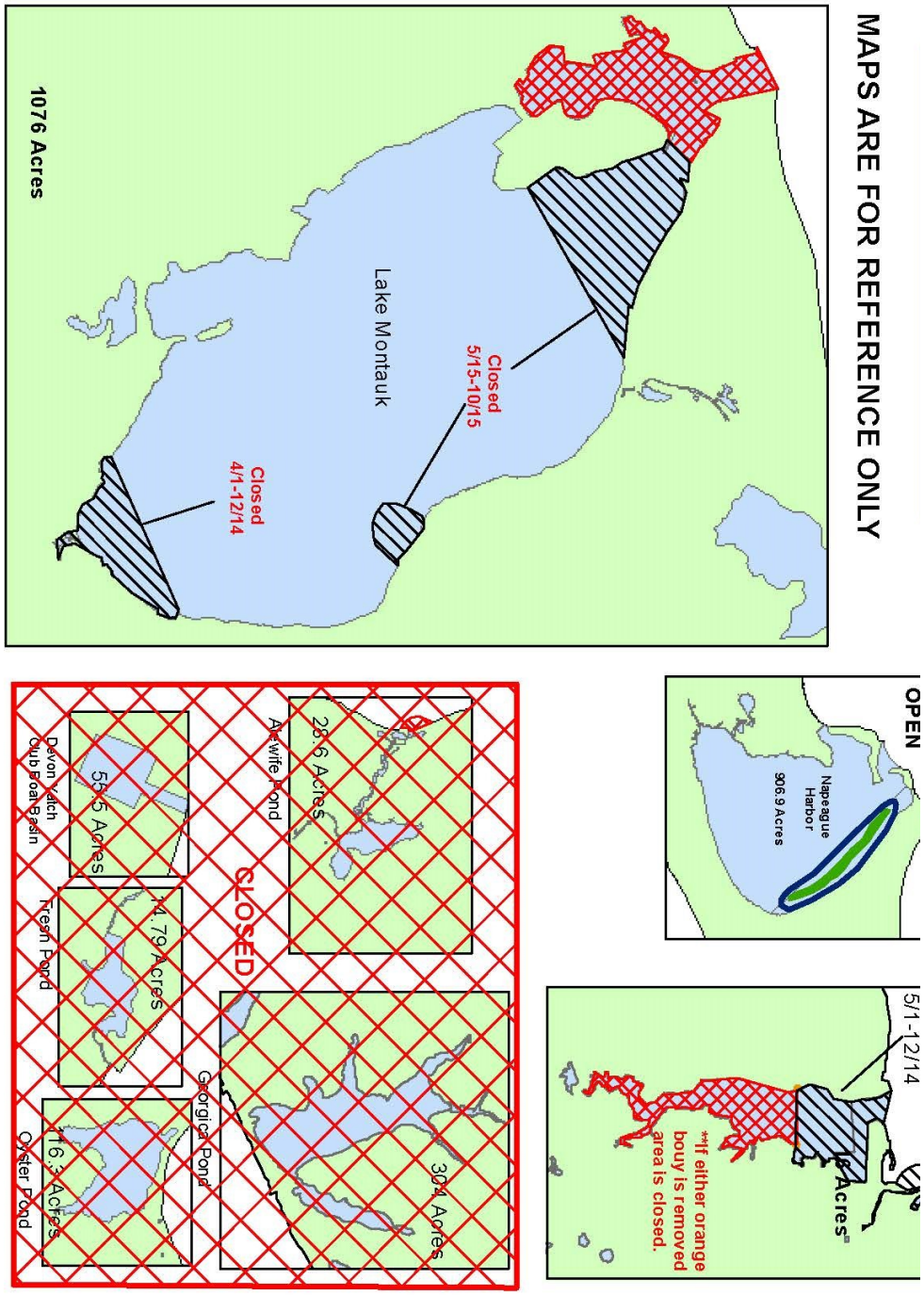
§ 213-19. Penalties for offenses

A. First violation. Failure to comply with any of the provisions of this law shall constitute a violation and shall be punishable by a fine of not less than $50 and not more than $500 or by imprisonment not to exceed 10 days, or both. The offender shall also be subject to the revocation provision of § 213-9B of this chapter.

B. Second violation. Any person who shall have been convicted of a second violation of this law within a period of 12 months shall be punished by a fine of not less than $100 and not more than $1,000 or by imprisonment not to exceed 10 days, or both. The offender shall also be subject to the revocation provision of § 213-9B of this chapter.

C. Third violation. Any person who shall have been convicted of a third violation of this law within a period of 18 months shall be punished by a fine of not less than $300 and not more than $1,500 or by imprisonment not to exceed 20 days, or both. The offender shall also be subject to the revocation provision of § 213-9B of this chapter.

D. All provisions and penalties herein contained are in addition to and in no way in contradiction or modification of any other provisions of any laws, rules or regulations applicable thereto.



§ 213-20. Enforcement

This law shall be enforced by any duly constituted law enforcement officer having jurisdiction within the Town of East Hampton.

§ 213-21. Amendment

A. In the event that the Town Board or Trustees shall propose an amendment to this chapter, the Board proposing said amendment shall forward a copy thereof to the other Board before said amendment is published for formal comment and consideration. Such other Board shall be entitled to a period of not less than 60 days to review and submit comments on the proposed amendment.

B. In the event that the reviewing Board submits comments (other than a complete approval), the Board proposing the amendment shall formally address and respond to such comments within 30 days of its receipt of the same.

C. Upon approval of the proposed amendment by the reviewing Board or upon failure of the reviewing Board to submit comments or upon the submission of a response to the comments offered by the reviewing Board, the Town Board may proceed to public hearing on the proposed amendment as originally proposed or as modified in response to the comments of the reviewing Board, upon posting and publishing notice of said hearing.

D. An amendment by the Town Board of any provision of this chapter in a manner inconsistent with the ordinances, rules or regulations of the Trustees shall not be binding upon the bottomlands over which the Trustees have control.

E. In the event that the Trustees shall amend their own ordinances, rules or regulations either without the enactment of a consistent amendment to this chapter by the Town Board or beyond the scope of the special authority set forth in § 213-18, then the Town Board shall not be responsible for enforcement of such amended ordinance, rule or regulation.

§ 213-22. Severability

The provisions of this law are declared to be severable. If any section, sentence, clause or phrase thereof shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this law, but they shall remain in effect, it being the legislative intent that this law shall stand notwithstanding the invalidity of any part.

§ 213-23. Effective date

This local law shall take effect upon filing with the Secretary of State as required by law.

Notes