

**TRUSTEES OF THE FREEHOLDERS AND  
COMMONALTY OF THE TOWN OF EAST  
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**RESOLUTION DATED OCTOBER 25, 2021 REGARDING  
THE TAKING OF SOFT  
CLAMS IN TRUSTEE WATERS**

The following Resolution was unanimously adopted by the Trustees of the Freeholders and Commonalty of the Town of East Hampton:

WHEREAS, Section §213-10 (B) of the Town Code prohibits the taking of shellfish in any manner other than by hand power; and

WHEREAS, Section §213-16 (B) of the Town Code prohibits the taking of soft clams between May 1 and August 31 of each year; and

WHEREAS, Section §213-18 of the Town Code recognizes the Trustees' authority to alter the methods, equipment and permissible dates for the taking of shellfish in such areas as the Trustees shall designate; and

WHEREAS, Section §213-8 of the Town Code authorizes the Trustees to issue Special Permits entitling holders to take shellfish from designated areas under certain conditions and as set forth in § 213-18; and

WHEREAS, the Baymen of Town of East Hampton have requested that the Trustees authorize the taking of soft clams by holders of Commercial Shellfish Permits from Trustee waters by the method known as 'churning' or "powering"; and

WHEREAS, in the past the Trustees have received similar requests and been advised that "churning", performed properly, will result in little impact of a harmful and/or serious nature and that it is possible that sets of bivalves in the target area could be advantaged, as the "churning" impacts may tend to reduce predator populations; and

WHEREAS, the Trustees have authorized the taking soft clams by "powering" or "churning" on a number of occasions in the past and those experiences have not been proven to be detrimental to the shellfish population or the environment, yet is beneficial to the economic well- being of those who rely upon town shellfish resources for their livelihoods; and

WHEREAS, to limit any harmful impact on other users and to maintain a sustainable fishery, the Trustees shall place a restriction on 'churning' or "powering"

1- from May 15 through September 15, within one hundred feet on either side of a road end or other vehicle access point to a harbor

2- at any time, any area containing eelgrass or widgeon grass, plus areas seeded with oysters within the past three years, clams within the past five years and scallops within the past year, as delineated in seeding maps published by the East Hampton Town Shellfish Hatchery; now

## **THEREFORE, BE IT RESOLVED**

1. Notwithstanding the permissible dates, and methods for the taking of soft clams set forth in Sections §213-10 (B) and §213-16 (B) of the Town Code, the Trustees hereby designate and approve the following Special Season and Designated Areas for the harvesting of soft clams by the method known as “churning” or “powering” between sunrise and sunset, on all Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, during the period commencing Monday, November 8, 2021 and ending Friday, October 28, 2022, inclusive, in all Trustee waters certified for shell fishing.

EXCEPT, within one hundred feet of a road end or other vehicle access trail or kayak rack area between May 15 and September 15 and, at any time, in any area containing eel grass or widgeon grass, and oyster gardening location and any area seeded by the East Hampton Town Shellfish Hatchery with oysters within the past three years, with hard clams within the past five years and with bay scallops within the past year as delineated on seeding maps published by the Town Shellfish Hatchery.

2. Only persons who possess a valid applicable 2021 and 2022 Town of East Hampton Commercial Shellfish License shall be eligible to participate in the special season described in Paragraph 1. The special season shall be subject to such conditions, rules and regulations as the Trustees shall impose thereon.
3. By the authorization of, and under the conditions set forth in § 213-8, Special Permits, the Trustees will issue special permits to otherwise eligible persons to participate in the special season described herein. Pursuant to Section 213-8(B), application for a special permit may be made between Tuesday, October 26, 2021 and Friday, November 5, 2021 at the Trustee Office, 267 Bluff Road, Amagansett, NY 11930, during normal business hours. Applicants must produce their valid 2021 Town of East Hampton Commercial Shellfish License and a New York State Driver’s License or other New York State Identification and pursuant to § 213-8(B)(2) applicants must, at the time of application, execute a sworn statement, 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 therefor.
4. Anyone found guilty of violating chapter 213 or the former chapter 125 within one year prior to the date of application shall be ineligible for a special permit. Further, the Trustees will strongly recommend to the Court that it revoke the special permit for any special permit holder subsequently convicted of a violation of Section 213 or the former chapter 125.
5. The special season shall authorize the taking of soft clams by the technique known as “churning” or “powering” with a propeller and only on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, during daylight hours only and only during the time frames and in the areas specified in paragraph 1. No other **out of season** method of taking is authorized.
6. No permit holder shall take more than two (2) bushels of soft clams per day from any or all of the areas described in Paragraph 1. All clams so taken shall be placed in either wire or plastic bushel baskets. No person shall possess any quantity of soft clams that do not fit flush within said baskets.
7. Any boat containing soft clams in Trustee harbors on days when

“churning” or “powering” is permitted, shall be subject to inspection by the Trustees or the Harbormaster.

8. A record be kept by each special permit holder of the quantity of soft clams harvested by location and date. This record, which will be confidential and for the purpose of Trustee understanding of the state of the resource only, shall be supplied to the Trustee office quarterly through the permitted period, either by hard or electronic copy and no later than: Period 1- January 31, 2022, Period 2- April 30, 2022, Period 3- July 31, 2022 and Period 4- October 31, 2022.
9. All other provisions of Chapter 213, Shellfish, shall remain in effect within the areas designated in this resolution.

AND BE IT FURTHER RESOLVED, this resolution shall take effect upon the filing of the same with East Hampton Town Clerk and posting as set forth in Section §213-18 of the Town Code and shall expire at sunset on October 28, 2022.

TRUSTEES OF THE FREEHOLDERS AND  
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HAMPTON

FRANCIS J. BOCK, CLERK OF THE  
TRUSTEES